



**Kenai Planning & Zoning Commission –
Work Session**

October 8, 2025 – 6:30 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

****Telephonic/Virtual Info Below****

Agenda

- A. CALL TO ORDER**
- B. INTRODUCTION – Planning & Zoning Director, Kevin Buettner**
- C. REPORTS – Quasi-Judicial Decision Making**
- D. COMMISSION DISCUSSION – Conditional Use Permits**
- E. PUBLIC COMMENT (*limited to 3 minutes per individual*)**
- F. ADJOURNMENT**

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.

Registration is required to join the meeting remotely through Zoom. Please use the link below to register:

<https://us02web.zoom.us/meeting/register/9Wamq1TFRI6Z5XHkifsU-Q>



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Acting Chair Earsley and Planning and Zoning Commissioners
FROM: Scott Bloom, City Attorney
DATE: September 29, 2025
SUBJECT: **Quasi-Judicial Decision Making**

The Planning and Zoning Commission make two types of decisions, legislative and quasi-judicial. When making recommendations to the City Council or decisions that do not directly affect individual property rights, the Commission is exercising its legislative powers. Legislative powers are generally decisions that create broad policy that applies to the public at large. Quasi-judicial decisions are decisions that apply the policy to specific cases. Commonly for the Commission, these quasi-judicial decisions involve consideration of conditional use permits.

When acting in a quasi-judicial capacity, the Commission is acting similar to a judge in a court room. The Commission's job is to determine whether the facts and law presented to it, justify the granting or denial of a conditional use permit, under the framework established in City Code and applicable case law, if any.

Kenai Municipal Code 14.20.150(a) states in relevant part that: "[t]he conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings." The applicant for a conditional use permit has the burden of establishing that the conditional use meets the following six criteria:

- (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;
- (2) The value of the adjoining property and neighborhood will not be significantly impaired;
- (3) The proposed use is in harmony with the Comprehensive Plan;
- (4) Public services and facilities are adequate to serve the proposed use;

- (5) The proposed use will not be harmful to the public safety, health or welfare; and
- (6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.¹

The function of the Commission in evaluating conditional use permits is to determine whether the requirements for a conditional use permit have been met and grant or deny the conditional use permit on the conditions supported by the substantial evidence before it. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The Commission must make specific findings supporting its conclusions.

Often proposed findings are presented by the City Planner. Courts in Alaska require that findings made by the Commission enable a reviewing court to understand why the Commission voted the way it did, on each issue presented. So, if the Commission is going to adopt the proposed findings presented by the Planner, the Commission and its members must state on the record that it is doing so and why. Similarly, if the Commission or individual members are not adopting the recommendations of the City Planner, the Commission and its members must specifically state why. There is no deference given to the Planner's recommendations, so there is no obligation to accept the Planners recommendations, there is however an obligation by the Commission and its members to explain to the applicant and public why the Commission and its members are making a decision one way or another. There is nothing wrong with disagreeing with the Planner's recommendations as long as a sufficient explanation is given. The basis of the Commission's decision, must be the six criteria the Commission is required to evaluate under City Code. Members should individually explain whether they believe each of the criteria were met and what evidence or law supports the conclusion.

Voting without explanation, or without reference to the six criteria is insufficient. Certain types of conditional use permits, such as material site extraction, and commercial marijuana establishments have additional criteria that must be considered. Buffer requirements, or distances from certain existing uses are one of the additional considerations for marijuana establishments. Kenai Municipal Code 14.20.330 provides in relevant part:

¹ KMC 14.20.150(d)(1-6).



(f) No portion of a parcel upon which any commercial marijuana establishment is located shall be permitted within the following buffer distances:

(1) One thousand (1,000) feet of any primary and secondary schools (K-12) and five hundred (500) feet of any vocational programs, post-secondary schools, including but not limited to trade, technical, or vocational schools, colleges and universities, recreation or youth centers, correctional facilities, churches, and State-licensed substance abuse treatment facilities providing substance abuse treatment; and

(2) Buffer distances shall be measured as the closest distance from the perimeter of a stand-alone commercial marijuana establishment structure to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church, correctional facility, or a substance abuse treatment facility providing substance abuse treatment. If the commercial marijuana establishment occupies only a portion of a structure, buffer distances are measured as the closest distance from the perimeter of the closest interior wall segregating the commercial marijuana establishment from other uses, or available uses in the structure, or an exterior wall if closer, to the outer boundaries of the school, recreation or youth center, or the main public entrance of a church or correctional facility, or a substance abuse treatment facility providing substance abuse treatment.

When considering conditional use permits for a marijuana establishment for example, it would be a correct statement to state, “I cannot support the conditional use permit because the proposed location is in within one thousand feet of a primary school, which is prohibited under KMC 14.20.330” and then explain what evidence was presented to you that shows the proposed marijuana establishment is within one thousand feet of a school. What is not an appropriate finding would be to state something like “I cannot support the conditional use permit because I don’t believe marijuana should be legal and there are already to many marijuana stores in Kenai.” This is not appropriate because while it may be a Commission member’s personal belief, the analysis must take place in the context of the City’s code. The City Council has already made the legislative decision to allow marijuana establishments in the City under certain criteria, and the City Council has not chosen to limit the number of allowable marijuana businesses. The Commission’s duty is to apply the regulatory frame work, or City’s Code, to the specific applicable situation.



There is not always a right or wrong answer as to whether a conditional use permit should be granted or denied. What is the most important, is that the decision by the Commission sufficiently explains why the decision was made one way or another, and how the Commission weighed the specific evidence presented before it.

It is critical that before the hearing is closed, the Commission and its members feel like they have all the information needed to make an appropriate decision and weigh the evidence. Commission members should ask any questions of the parties, the Planner or members of the public that provide comment prior to the close of the hearing.

After the presentation by the party's and public comment on a conditional use permit, the Commission is not required to vote right away. The Commission can by motion move into an adjudicative session. An adjudicative session is different than an executive session. Executive sessions are limited by State law that restricts what governmental bodies can discuss privately. An adjudicative session is only available to government bodies when acting in a quasi-judicial capacity, and allows the Commission to discuss the quasi-judicial matter before them privately to review the evidence, argument and law, and make findings. This means the Commission can meet privately to discuss the issues and evidence presented. This break from the public and parties may be beneficial and allow Commission members time to prepare findings and explain their votes. The Commission does not need to act immediately, it can continue or postpone the adjudicate session to a different day by motion.

The legal department of the City is always available to help commission members. Ideally prior to a meeting, please don't hesitate to reach out.



ZONING DISTRICTS																			
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU	WW	Notes
RESIDENTIAL																			
One-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	C²¹ N	S ¹	S² N	S² N	C²² N	P C	P	P	S²/C²¹ P	S²² /C	Disallows development in commercial & industrial zones; eliminates secondary uses
Two-, Three-Family Dwelling	N	C²⁴ N	P	P	P	P	P	P	p ²¹	S² C	C N	C N	C²² N	P C	P	P	S²/C²⁴ P	P	Disallows development in conservation, commercial, & industrial zones; eliminates secondary uses. Permits development in Mixed Use
Four-Family Dwelling	N	C²⁶ N	P	C ^{3,29}	P	N	N	P	p ²¹	S² C	C N	C N	C²² N	N	P	C	S²/C²⁶ P	P	Disallows development in conservation, commercial, & industrial zones; eliminates secondary uses. Permits development in Mixed Use
Five-, Six-Family Dwelling	N	C²⁴ N	C ³	N	P	N	N	P	p ²¹	S² C	C N	C N	N	N	P	C	S²/C²⁴ P	P	Disallows development in conservation, commercial, & industrial zones; eliminates secondary uses. Permits development in Mixed Use
Seven- or More Family Dwelling	N	C²⁴ N	C ³	N	C ³	N	N	P	p ²¹	S² C	C N	C N	N	N	P	C	S²/C²⁴ P	P	Disallows development in conservation, commercial, & industrial zones; eliminates secondary uses. Permits development in Mixed Use. Propose eliminating. Make 5+ units (sprinklers)
Mobile Home Parks ⁶	N	N	C	N	C	C	C	C	C	C	C N	C N	N	C N	N	N	C	N	Disallows development in recreation, & industrial zones;
Planned Unit Residential Development ⁷	N	C²⁴ N	C	C ²⁹	C	C	C	C P	C	C	C N	C N	N	C N	C	C	C	P	Disallows development in conservation, commercial, recreation, & industrial zones;
Townhouses ⁴	N	C ¹⁸	C ³	C ^{3,29}	C ³	C ³	C ³	C² P	C P	C	C N	C N	C²² N	C N	C	C	C P	C P	Allows development in urban residential, Central Commercial, Mixed Use & Working Waterfront. Disallows development in industrial, education, & recreation zones
Accessory Building on Parcel Without Main Building or Use (See KMC 14.20.200)	N	N	C	C	C	C	C	C	N	N	N	N	N	N	C	N	N	N	
COMMERCIAL																			
Airport Compatible Uses	P	N	N	N	N	N	N	N	C	C	C	C	N	N	N	C	C	C N	Disallow airport use near shore and not in airport/conservation zones
Adult Businesses	N	N	N	N	N	N	N	N	p ³¹	p ³¹	p ³¹	p ³¹	N	N	N	N	N	N	
Automotive Sales	C	N	C	N	N	N	N	C N	P	P	P	P	N	N	N	N	P	N	Disallow in residential areas
Automotive Service Stations	C	N	C	N	N	N	N	C	P	P	P	P	N	C N	N	N	P	C	Disallow in recreation areas
Banks	C	N	C	N	C	N	N	C P	P	P	P	C P	N	C N	C	C	P	P	Allow in RU and IH, disallow in recreation
Bed and Breakfasts	N	C	C	C	C	C	C	C	C	C	C	C	N	P N	C	C	P	C	Operate as a business, disallow in recreation

[illegible]

Airports	P	P ²⁰	C	N	C ⁹	N	N	N	N	C ⁹	N	C ⁹	N	C	C	N	C ⁹	N	N	C ⁹	N	C	Disallow in residential and commercial	
Necessary Aviation Facilities	P	P	C	C ⁹	N	C ⁹	N	C ⁹	N	C ⁹	P	P	P	P	C ⁹	N	P	C ⁹	N	P	P	C	Disallow in most residential, education, and TSH zones	
Automotive Repair	P	N	C	N	C ⁹	N	N	N	N	C ⁹	P	P	P	P	N	N	N	N	N	P	C	Disallow in denser residential zones		
Gas Manufacturer/Storage	C ⁹	N	N	N	C ⁹	N	N	N	N	N	N	C ⁹	C ⁹	N	N	N	N	N	N	C	Only allow in industrial or WW zones			
Manufacturing/Fabricating/Assembly	P	N	C	N	C	N	N	N	C	C	P	P	P	N	C ⁹	C	N	C	C	Disallow in recreation areas				
Marijuana Cultivation Facility, Limited ³⁰	N	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N	N	Moved to Industrial due to definition				
Marijuana Cultivation Facility, Standard ³⁰	N	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N	N	Moved to Industrial due to definition				
Marijuana Product Manufacturing Facility ³⁰	N	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	N	N	N	Moved to Industrial due to definition				
Marijuana Testing Facility ³⁰	N	N	N	N	N	N	N	N	N	C	C	P	P	N	N	N	C	C	N	Moved to Industrial due to definition				
Mini-Storage Facility	C ⁹	P	N	C ⁹	N	N	C	N	N	C	C	P	P	P	N	N	N	C	C ⁹	P	N	Allow in ALI and CMU		
Storage Yard	C ⁹	P	N	C	N	C ⁹	N	N	N	C ⁹	C	P	P	P	N	N	N	N	C	C ³²	Allow in ALI and disallow in residential			
Warehouses	C ⁹	P	N	C ⁹	N	N	C ⁹	N	N	C ⁹	N	P	P	P	N	C ⁹	N	N	N	C	Allow in ALI and disallow in residential/recreation			
PUBLIC/INSTITUTIONAL																								
Assisted Living	N	C ⁹	N	C	C	C	C	C	C ⁹	P	C	C	C	C	C ⁹	N	C ⁹	C	C ⁹	N	C ⁹	P	C	Disallow in low density residential, recreation, and conservation. Allow in CMU and RU
Churches*	N	C	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	C	C	P	P ¹⁰	P	P	P	P					
Clinics	N	C ⁹	N	C	N	C	C	C	C ⁹	P	P	P	C	C	C ⁹	N	C	P	P	P		Allow in RU. Disallow in recreation		
Colleges*	N	C ⁹	N	C	C ²⁹	C	C	C	C	C	P	P	C	C	P	C ⁹	N	C	C	P	P	Includes adult vocational		
Elementary Schools*	N	C ⁹	C	C	C ²⁹	C	C	C	C	C	P	P	C	C	P	C ⁹	N	C	C	P	P	Merge into one PreK-12 School Category		
Governmental Buildings	P	C	C	C	C ²⁹	C	C	C	C	C	P	P	P	C ⁹	P	P	C	C	P	P	P	Allow in industrial		

High Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P	P	Merge into one PreK-12 School Category
Hospitals*	N	C	N	C	N	C	C	C	C	P	P	P	C	C	C	C	P	C	Disallow in conservation & recreation
Libraries*	N	C	N	C	C ²⁹	C	C	C	C ¹²	P	P	P	C	P	C	P	P	P	Disallow in conservation & recreation
Museums	C	C	N	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	P	P	P	Disallow in conservation & recreation
Parks and Recreation	N	P	C	N	C	N	C	N	C	N	P	N	P	N	P	N	C	N	Reclassify all as recreational or conservation
Schools	N	N	N	N	N	N	N	N	N	N	N	N	N	P	N	N	N	N	Encompasses all PreK-12 schools, including charter, vocational, & alternative
MISCELLANEOUS																			
Animal Boarding/Commercial Kennel ¹³	C	C	N	C	N	C	C	N	N	C	C	C	C	N	C	N	C	C	Disallow development in conservation & recreation
Assemblies ¹⁵ (Large: Circuses, Fairs, etc.)	P	C	N	C	N	C	C	C	C	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	C	P	N	P ¹⁵	Disallow development in conservation & recreation
Bed-and-Breakfasts	N	C	C	C	C	C	C	C	C	C	C	C	C	N	P	C	C	P	Moved to Commercial due to business type
Cabin Rentals	N	C	C	N	C	N	N	N	N	P	P	P	C	N	P	P	C	P	Moved to Commercial due to business type
Cemeteries	P	C	C	N	C	N	N	N	N	C	C	C	C	N	C	C	P	N	Existing cemeteries allowed. New cemeteries to be permitted by City at time of development
Communications Towers and Antenna(s), Radio/TV Transmitters/Cell Sites** ²⁸	C	P	C	N	C	C	C	C	C	P	P	P	P	P	C	C	N	C	Includes HAM radios
Crematories/Funeral Homes	N	N	C	N	C	N	N	N	C	C	P	C	P	C	N	C	C	P	Allow in commercial and industrial
Day Care Centers ¹²	N	C	N	C	C ²⁹	C	C	C	C	P	P	P	C	C	C	C	C	P	
Dormitories/Boarding Houses	N	C	N	C	N	C	C	C	P	P ²¹	S	C	P	P	P ²³	C	C	P	
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Farming/General Agriculture***	N	P	P	N	N	C	N	N	N	N	N	N	P	N	P	N	N	N	
Fraternal Organizations/ Private Clubs/Social Halls and Union Halls	N	N	C	N	N	C	C	C	C	P	P	P	C	N	C	P	C	P	

Greenhouses/Tree Nurseries ¹³	N	P	C	E	P	N	C	C	C	C	P	P	P	E	P	N	N	C	E	P	P	P						
Gunsmithing, Taxidermy	N	N	C	C	C	C	C	C	C	P	P	P	P	N	N	P	P	P	P									
Nursing, Convalescent or Rest Homes	N	N	E	N	N	C	C	C	P	P	P	C	C	E	N	N	C	C	P	P		Merge with Assisted Living						
Parking, Public Lots ¹²	E	P	E	N	E	N	N	E	N	N	E	N	P	E	P	E	P	E	P	E	N	N	C	C	C	C		
Personal Services ¹⁴	N	E	E	N	E	E	E	E	E	P	P	P	P	E	E	E	N	P	PUC ²²	P	P		Moved to Commercial due to business type					
Recreational Vehicle Parks	N	C	C	E	N	N	E	N	N	N	N	C	C	C	C	N	C	C	N	E	N	C						
Subsurface Extraction of Natural Resources ¹⁶	C	C	C	C	C	C	C	C	C	C	C	C	C	N	C	N	N	N	C									
Surface Extraction of Natural Resources ¹⁷	E	N	E	N	C	N	E	N	N	N	N	N	E	N	E	P	E	P	N	N	N	N	N	N				



PUBLIC NOTICE
Work Session

Notice is hereby given; the City of Kenai Planning & Zoning Commission will be conducting a work session on **Wednesday, October 8, 2025** for the purpose of discussing:

Kenai Municipal Code Section 14.20.150 Conditional Use Permits

The work session will begin at 6:30 p.m. and will be held at City Hall Council Chambers, 210 Fidalgo Avenue, Kenai, AK 99611.

The public is invited to attend and participate. Virtual and telephonic options are available. For more information, please contact Planning & Zoning Department at planning@kenai.city, 907-283-8237, or by visiting the City's website at www.kenai.city.

Jessica See, Planning Technician
Publish: September 9, 2025

CERTIFICATE OF PUBLICATION & POSTING

I, Kevin Buettner, Planning Director of the City of Kenai, do hereby certify that on the 15th day of September, 2025, I electronically mailed or caused to be published the foregoing Notice of Meeting to the Peninsula Clarion and requested that this Notice be published in the September 19th, 2025 edition of their newspaper. On the 1st day of October, 2025, the full meeting agenda was also posted at Kenai City Hall and on the internet at www.kenai.city.

Kevin Buettner
Planning Director