

0502

Introduced by: Martin
Date: August 7, 1979
Hearing: Failed Setting for hearing 8/7/79
Vote: 45 "Yes" 90 "No"
Final Action: Amended and Reintroduced
as 79-69, 11-20-79

KENAI PENINSULA BOROUGH

ORDINANCE 79-31

A BOROUGH HOMESTEAD ENACTMENT PROVIDING FOR THE ACQUISITION
OF TITLE TO BOROUGH LANDS BY HOMESTEAD AND IMPROVEMENT.

WHEREAS, the Borough has acquired, or will acquire, title
to certain state lands under the Borough's land selection
rights; and

WHEREAS, the assembly is in favor of placing certain
of these lands in private ownership; and

WHEREAS, the assembly desires to provide a procedure
for the classifying of certain Borough lands as available
for homestead entry and improvement as residential and
recreational properties; and

WHEREAS, the assembly desires to provide a mechanism
whereby residents may acquire title to lands thus entered
and improved after the requisite improvements and fees have
been paid to the Borough;

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE
KENAI PENINSULA BOROUGH:

Section 1. That Chapter 17.04 of the Borough Code of
ordinances is hereby amended by adding a new section to be
numbered 17.04.200, which shall read as follows:

17.04.200 Homesteading Upon Borough Lands--Entry and
Improvement. A. Sections 17.04.200-17.04.260 may be
cited as the "Borough Homestead Ordinance".

B. The purpose of the Borough Homestead Ordinance is to enable selected residents, as determined below, to enter upon lands patented to the Borough pursuant to the Borough Selection Act, for the purpose of improving residential and recreational sites and acquiring title to these sites.

Section 2. That Chapter 17.04 of the Borough Code of ordinances is amended by adding a new section to be numbered 17.04.210, which shall read;

17.04.210 Homestead Classification and Disposal Plan.

A. In accordance with Section 17.04.010 through 17.04.040 of this chapter, the Mayor shall present to the assembly, on or before September 1 of each year a classification plan of sale lands available for homesteading from lands for which the Borough has received patent. The amount of acreage allocated for homestead entry and improvement shall not exceed 60% of the total acreage patented to the Borough. Each plan shall be approved by ordinance.

B. The Mayor shall present annually to the assembly on or before February 1 of each year a plan for the disposal of a portion of the lands previously classified as suitable for homestead entry and disposal. The plan shall provide for the disposal of not less than 10% of total allotted acreage nor more than 20% during that year. The plan shall be approved by ordinance, and shall specify for each lot permissible uses, required improvements, all covenants imposed for the protection of other properties, and public improvements for which the applicant will be assessed.

C. After approval of the disposal plan by the assembly the land shall be available for entry and improvement in accordance with the procedures set forth in Section 17.04.220.

Section 3. That Chapter 17.04 of the Borough Code of ordinances is amended by adding a new section to be numbered 17.04.220, which shall read:

17.04.220 Application for Entry--Eligibility--Priority.

A. A natural person who has been a resident of the Borough for at least one (1) year prior to the date of his application shall be qualified to apply for participation in the Borough Homestead program. To qualify as a bona fide resident of the Borough, the person must have his primary place of residence within the Borough and must physically reside within the Borough for at least seven (7) months of each year. An applicant may also be required to furnish additional proofs of residency as the Mayor may require, including

but not limited to, voting, registration and motor vehicle registration. Persons below eighteen (18) years of age and the spouse of any person who has or is participating in the program shall not be eligible to make application.

B. All applications must be filed with the Borough Planning Department on or after March 1 of each year but not later than April 30 of each year. Each valid application shall be assigned a number and the priority of applicants shall be determined by random lottery. In the order established by lottery, applicants may select a parcel from all parcels then remaining available for selection in that year.

C. In the order established by lottery, all applicants must exercise their selection rights from all lands then available and unselected within ten (10) days after notification. If the selection is not made within ten (10) days, the applicant's priority will revert to the lowest priority number in that year's application pool. Notice of lottery results shall be published twice in a newspaper of general circulation within the Borough. Selection rights established by lottery shall not be transferable.

D. In the event of overlapping selections, the applicant with the higher priority number shall prevail and the unsuccessful applicants will be accorded an opportunity to select another parcel of property.

E. At the end of each month, the Planning Director shall notify each successful applicant of the parcel to which he is entitled to enter upon and make improvements and shall give the applicant permission to take possession of the premises immediately.

F. Any person may relinquish his selection rights for that year and may make new application for lottery participation during subsequent years.

G. Each applicant shall be entitled to select only one parcel of land under this program. Spouses who were previously ineligible for this program because of marriage to a participant in the program, but who later legally separated from the participant, may participate after separation.

Section 4. That Chapter 17.04 of the Borough Code of

ordinances is hereby amended by adding a new section, to be numbered 17.04.230, which shall read:

17.04.230 Identification of Parcels--Size--Transfer of Title. A. Each parcel of land made available for home-stead entry and approval under this program shall be ten (10) acres in size, included reserved easements and rights-of-way, unless the character of the land and its location make a larger or smaller lot size desirable.

B. Lots made available under this program may be used only for the following purposes:

1. The erection of a single-family dwelling unit which will become the primary residence of the applicant and his family within 5 years from the date of the lottery establishing participation, or unless waived by the Assembly.
2. The erection of residential cabins, docks, boat ramps, campsites, or other permanent improvements of a recreational nature.
3. Parcels disposed of under this program may not be used for commercial or any other purpose unless waiver is granted by the assembly upon individual application.

C. Title to the improved lot will vest in the applicant five (5) years after the date of the lottery establishing his participation if the following conditions are met:

1. The applicant has erected upon the parcel a dwelling which is his primary residence, or if the parcel is located in a remote area or other areas suitable only for recreational use, the applicant has erected such improvements as were required by the land disposal plan.
2. The applicant has paid all fees which have been assessed against the parcel for the planning and survey of the parcel and for the construction of access and any other improvements set out in the land disposal plan.
3. The applicant has abided by all covenants and restrictions placed upon the property by the land disposal plan regarding the maintenance of the property.

4. In the case of a married participant whose spouse also resides on the premises, and is not legally separated from him, title will vest as a tenancy by the entirety in the participant and the spouse, with right of survivorship.

Section 5. That Chapter 17.04 of the Borough Code of ordinances is amended by adding a new section, to be numbered 17.04.240, which shall read:

17.04.240 Preliminary Improvements to Property. A. Prior to being made available for homesteading, all lots by the Borough made available under this program shall be surveyed and platted and all necessary rights-of-way and utility easements shall be specifically reserved for future use. All rights-of-way shall be 100 feet in width and all lots shall front upon a dedicated right-of-way.

B. Where deemed necessary, the assembly may require the formation of a local improvement district for the construction of subdivision roads and other necessary utilities. The construction and maintenance costs of these improvements shall be apportioned to each lot served by the road or utility district.

C. A survey and plat fee account is hereby established. The assembly shall appropriate into this account funds sufficient to survey and plat all parcels designated for disposal in the first year of the program. Thereafter the fund shall be operated on a revolving basis and all collected tax shall be paid each year into this account for the payment of later survey and plat costs.

D. Taxes, assessments and fees shall be payable as follows:

1. All pro-rated survey and platting fees must be paid when an application is submitted or the application will not be accepted.
2. Real property taxes shall be due each year upon the selected parcel and shall be payable by the applicant.
3. The cost of constructing improvements within a Local Improvement District shall be prorated over a period of 20 years and the applicant, or owner, shall pay 5% of

the total construction cost annually, together with any apportioned interest or bonding costs. Pro-rata maintenance costs of any improvement shall be paid in full each year, and shall be billed as part of real property taxes and assessments.

Section 6. That Chapter 17.04 of the Borough Code of ordinances is amended by adding a new section, to be numbered 17.04.250, which shall read:

17.04.250 Covenants Upon Use. The land disposal plan approved by the assembly shall contain specific covenants in favor of the Borough and of all property owners within 600 feet of the lot line which establish specific wastewater disposal provisions and which establish specific standards for the maintenance of the property, for the preservation of vegetation and greenbelts, and for the quality of improvements made upon the lot. These covenants shall be contained in the deed granted by the Borough which conveys the lot and shall run with the land. Waiver of any restriction may be made only upon individual applications to the Borough Assembly.

Section 7. That Chapter 17.04 of the Borough Code of ordinances is amended by adding a new section, to be numbered 17.04.260, which shall read:

17.04.260 Transfer of Rights--Extensions of Time--Purchase of Lot. A. No participant in the Borough homestead program may commit to sale, sell or otherwise transfer his rights to use and possession of any property upon which he has entered and made improvements under this program until five (5) years have passed and the property has been deeded to the applicant by the Borough, provided that a participant may transfer at any time all or a portion of his rights to a member of the participant's immediate family who has resided on the property with the participant. Any other transfer of rights not specifically permitted by this ordinance is invalid and may be enjoined. Violation of this provision by sale or purchase shall be a misdemeanor punishable by a fine not to exceed \$500 and by imprisonment not to exceed 30 days.

B. If an applicant has not made all required improvements on the property and has not complied with all conditions within the 5-year period established by this program, the assembly may grant an extension of up to 2 years upon a showing of justifiable cause, provided that the

applicant has erected substantial improvements upon the property.

C. If the applicant is unable to meet all conditions for the grant of title within the time permitted, but has made substantial improvements to the property, the applicant shall be entitled to purchase the land at a price equal to 125% of the current assessed value of the land.

D. In the event that a participant dies before title is vested in him, all rights, requirements and conditions of participation shall vest in the participant's spouse, if that spouse was residing on the property at the time of the participant's death. If the participant was not legally married at the time of death, then all his rights, restrictions and conditions of participation shall vest in all members of the participant's immediate family who resided on the property at the time of his death.

E. All participation rights shall revert to the Borough upon the death of a participant who did not have a member of his or her immediate family residing on the property at the time of death.

F. All conditions and time limitations for the improvement of property shall not be extended by virtue of any transfer of rights.

G. After the Borough has conveyed by deed the title to the improved property, any or all title or rights in the property shall be freely transferrable. Homesteaded property may not be leased or subdivided until title has been conveyed by deed.

Section 8. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS _____ DAY OF _____, 1979.

ATTEST:

JoAnn Elson, Assembly President

Borough Clerk

Kenai Peninsula Borough
Ordinance 79-31
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