

ORDINANCE NO. 81-92 (Amended)

ORDINANCE CERTIFICATION

I certify that the results shown on the ordinance and on this certification are the actions taken by the assembly and the clerk in accordance with AS 29.48.150 and 29.23.080.

1. Publication has been made by publishing the ordinance title, date, time and place of hearing in a newspaper of general circulation in the borough. The notice of ordinance hearing has been mailed to each first class city clerk and each post office within the borough with a request for posting of the notice until the time of hearing.
2. Copies of the ordinance have been made available at the office of the clerk and were made available to the public at the time of public hearing.

Borough Clerk
Kenai Peninsula Borough

Date: June 16, 1982

Introduced by: Lands Committee &
Planning Comm.
Date: May 18, 1982
Hearing: Jun. 15, 1982
Vote: 12 Yes, 2 No
Action: Enacted

KENAI PENINSULA BOROUGH

ORDINANCE 81-92 (AMENDED)

PROVIDING FOR THE DISPOSITION OF BOROUGH SELECTED LANDS TO THE GENERAL PUBLIC BY LOTTERY LAND SALE.

WHEREAS, the Borough has obtained title to lands pursuant to the municipal selection process and has adopted a comprehensive land disposal ordinance; and

WHEREAS, the Assembly, in conjunction with the Administration and the Borough Planning Commission, has identified approximately 5,000 acres of land already patented to the Borough, together with necessary rights of way and desirable terms and condition of sale; and

WHEREAS, the Assembly desires to expedite the disposal of this land to the general public; and

WHEREAS, the Planning Commission held a public hearing on August 3rd, 1981, concerning disposal of this land by lottery; and

WHEREAS, approximately 5,000 acres of land located in North Kenai T9N, R9W, S.M., are currently in the planning stages for development, and a contour map has been completed for planning purposes; and

WHEREAS, the land will be subdivided and surveyed under the plan set forth in this ordinance to include aerial photography and topographic contour maps and surveyed road easements or rights of way; and

WHEREAS, House Bill 31 passed by the Twelfth Alaska Legislature, First Session, has made grant funds available to assist with land development costs, but requires a description of the method to be used for the disposal of municipal land and terms under which it will be offered to the public;

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

Section 1. That the subdivided lands shown on Attachment A of this ordinance are classified as "Sale Lands". The land

so classified shall be disposed of by Borough lottery. The terms and conditions of sale, together with any reservations of access, shall be incorporated into the appropriate sale documents.

Section 2. That the sale lands identified in Attachment A to this ordinance shall be sold by lottery in substantial compliance with the following general terms and conditions of sale:

A. The sale lots shall be placed in one of 3 categories:

1. Small lots under [20] 15 acres.
2. [20] 15 to less than [60] 30 acres.
3. [60] 30 acres and over.

Tickets for each category would be sold in a set of five (5) at twenty-five (\$25.00) dollars per set. Each individual would be allowed to buy one set of tickets for each category. The individual would be able to file on five (5) different parcels within each category. If a person's ticket is drawn in a category, he would be ineligible to win another parcel within that category.

A person could win only one parcel in each category for a maximum of three (3) parcels.

Any person 18 years of age or older, currently a resident of the State of Alaska, may file a set of applications to participate in the lottery, and no person is eligible for disposal of Borough land unless 18 years of age or older. A person may file a set of applications for purchase on his or her behalf, or on behalf of any other member of the immediate family. All applications must be made upon the form(s) provided by the Borough Finance Director, and shall be filed at locations designated by the Finance Director, as approved by the Assembly.

1. Brochures or applications will not be sent through the mail. To participate in the land lottery, applications will be available at, and accepted at: Homer City Hall, Seward City Hall, Seldovia City Hall, and Kenai City Hall.

B. All sales will be made by cash payment in full, or by real estate contract, with those persons selected in the lottery. The sale shall be at [assessed] a parcel value [of the parcel for 1982 as] determined by the Borough Assessor and published prior to the time when applications

may be made. The Borough shall make no representations as to actual market value of the parcel at the time of sale [and all parcels shall be valued on the basis of the acreage of the parcel as shown on the subdivision plat.] The acreage used as part of the determination of lot value shall be that acreage as shown on the subdivision plat.

C. The selected purchaser of any parcel must deposit with the Borough Finance Director a down payment equal to at least 10% of the total purchase price of the parcel, after an allowance for residence credit. A 10% discount will be applied to cash payment in full at the time of purchase. The principal balance shall be paid in 10 equal annual installments on all balances up to \$30,000, and in 20 equal annual installments on balances of \$30,000 or more. Simple interest at the annual rate of 10% will accrue on the unpaid balance and shall be paid annually with the principal payment.

D. Payment of principal and accrued interest shall become due and payable on September 1 of each year and shall become delinquent after October 1 of each year. There shall not be a prepayment penalty for accelerated payment of the principal balance.

E. In the event that the successful applicant in the lottery is a resident of the Kenai Peninsula Borough who has resided in the Borough for at least 12 months prior to the lottery sale, then he or she shall be allowed a credit against the purchase price of 5% for each full year of continuous residency, to a maximum credit of 10 years of continuous residency, or 50% of the sale price of the land. No tacking-on of interrupted residency will be allowed, only continuous residency.

F. Upon completion of a habitable dwelling, a credit of 80% of the purchase price at the time of the sale will be allowed. Entitlement to this credit allowance expires 5 years from the date of selection as a purchaser, but in no event shall credits authorized by this ordinance exceed 80% of the purchase price. The Finance Director shall place all funds in excess of [development costs and] 20 percent of the sales price in a trust account to be held until expiration of the five year entitlement period, and any moneys paid to the Borough in excess of 20% of the purchase price will be refunded without interest at such time as the purchaser [receives the 80%] qualifies for the credit.

1. ["Habitable, permanent, single-family dwelling" means a structure or mobile home suitable for

year-round occupancy with at least 194 square feet of space built or placed on a permanent masonry or treated wood foundation.] "Habitable Dwelling" means a permanent single-family structure or mobile home of at least 400 square feet of space built or placed on a permanent masonry or treated wood foundation. The dwelling must have a fixed sanitary facility or privy. Portable sanitary facilities will not qualify.

[2. It is estimated that development costs per acre will be \$400. Development costs are payable without regard to any credit allowed on the purchase price.]

G. Upon final payment of all sums due under the purchase, a warranty deed, subject to rights and reservations of record, shall be conveyed by the Borough to the purchaser. No rights shall vest in the purchaser until satisfactory completion of any contract for purchase. In the event of a default for nonpayment or other default, the interest of the purchaser shall be forfeited.

H. All parcels are sold "as is" and the purchaser shall be responsible for visiting the parcel and for ascertaining the condition of the site and the extent of any easements, encroachments, alterations, or infringements upon the parcel by other persons. The Borough shall have the right to preserve monuments, historical sites, graveyards, cemeteries and other public interest memorabilia and to adjust the sale price and the legal description of the parcel.

I. The Borough will make a reasonable effort to disclose all types of information available to the Borough to assist interested persons in determining soil conditions, wetlands, flood plains, easements and other encroachments, and in the event that certain other rights to the parcel have been previously granted by the Borough or the State of Alaska, or any previous owner, then the sale of the parcel shall be made subject to them. The purchaser shall be charged with putting himself on notice of the possibility that pre-existing rights may exist and that further inquiry is required.

J. The Planning Commission shall not permit the subdivision of any sale land upon which there exists an unpaid principal balance.

K. The harvesting of timber, or the extraction of sand or gravel for commercial purposes, will not be permitted

until the Borough transfers title to the purchaser upon payment in full for the parcel.

Section 3. The lottery for the sale of the land shall be conducted substantially in this manner:

A. Participants in the lottery must file their applications with the Borough Finance Director not less than 10 days prior to the date of the lottery. A \$25.00 nonrefundable deposit shall accompany each set of applications.

B. The Finance Director shall publish two weekly notices in a newspaper of general circulation, of the date of the lottery, and of registration requirements. The second notice to be published not less than two weeks prior to the closing date for lottery registration. Notices shall be posted in the Post Offices and City Halls in the Borough, and the Finance Director is directed to exert efforts to publicize the sale in all communities of the Borough.

C. The Borough Finance Director shall provide for an independent audit of all applications and of the actual conduct of the lottery, and shall publish a list of all of the applicants according to parcel, and shall publish a list of the purchasers, parcel by parcel, and the purchase price.

D. Every application for purchase of a parcel shall be assigned a number and a separate drawing for each parcel shall be made from those numbers. An independent auditor shall conduct the sale and shall draw the number of the eligible purchaser and two alternates. In the event that the first eligible purchaser does not, or cannot, proceed with the sale, then the alternate purchasers shall be afforded the opportunity to purchase the property in the order that their applications are drawn.

E. The first eligible purchaser shall be required to deposit with the Finance Director the necessary down payment and to sign the appropriate real estate contract and promissory note within [30 business] 45 calendar days of selection, or his or her rights shall be forfeited. The alternate purchasers in turn shall be afforded a similar period to complete the transaction if the prior eligible applicants forfeit rights. The down payment to the Borough Finance Director must be in cash or be certified or cashier's check.

F. The necessary legal documents shall be prepared by the Borough and the contract and promissory note shall be

executed within [30 business] 45 calendar days of selection as purchaser. The Borough will cause the proper documents to be recorded in the appropriate recording district of the recorder's office [at no cost to the purchaser]. The purchaser will pay the cost of recording. The real estate contract shall be made out in the name of the applicant as filed and no substitutions, alterations, or changes will be permitted. The purchaser has the right to sell or assign his interest in the real estate contract.

Section 4. The Mayor is authorized to schedule the sale upon completion of the survey and filing of the final plat, and any other conditions, the subdivision and surveying to be done in accordance with these requirements:

Phase I: Includes setting aerial photographic panels, taking aerial photographs of the area at a proper altitude to produce a 5' contour topographic map meeting national map standards, and a survey of a road easement through State lands to the property.

Phase II:

1. Design a subdivision using the following guidelines:
 - A. Lots from 2.5 acres to 80 acres containing at least 10 parcels from 60 to 80 acres, more or less.
 - B. Reserve sites for schools, public open areas, solid waste site, public facilities sites and beach access.
 - C. An area of approximately 100 acres in lots centrally located for commercial use.
2. Dig test holes.
3. Boundary survey.

Phase III: Preliminary plat:

1. Approval of design by Planning staff, Planning Commission, and Assembly.

Phase IV: Survey and clear centerline of dedicated roads. Set all corners.

Phase V: Approval of the final plat.

Phase VI: Land disposal.

1. The Mayor will fix a date and administer the sale, and all sale lands except those reserved for schools, public open areas, solid waste sites, public facilities sites and beach access will be sold; and lands not sold may be offered for sale over the counter under rules published by the Mayor, or returned to the Borough's land inventory for further disposition at a later time.

Section 5. This ordinance takes effect immediately upon its enactment, subject to its terms and conditions regarding the implementation of Borough Land Lottery No. 3.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 15th DAY OF June, 1982.


John C. Davis, Assembly President

ATTEST:


Borough Clerk