

Introduced by: Mayor at the  
request of  
the Lands  
Committee

Date: Mar. 16, 1982  
Hearing: Apr. 20, 1982  
Vote: 15 "Yes"; 4 "No"  
Action: ENACTED W/Recon. 5-4-82  
Final Action: ENACTED AS AM. 5-4-82

KENAI PENINSULA BOROUGH

ORDINANCE 82-23 (AMENDED)

PROVIDING FOR DISPOSAL OF CERTAIN PARCELS OF BOROUGH SELECTED  
LANDS BY NEGOTIATED SALE.

WHEREAS, the Borough has obtained title pursuant to the  
Borough Land Selection Act to certain lands suitable for  
conveyance to private parties; and

WHEREAS, the Borough has received a number of requests  
for negotiated sales of Borough selected property; and

WHEREAS, the Assembly has previously indicated its  
desire to sell Borough selected real property to private  
individuals; and

WHEREAS, there is not an established process for the  
disposition of Borough selected real property on a negotiated  
sale basis within the Kenai Peninsula Borough.

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

Section 1. Notwithstanding any other provisions of the  
Borough Code of ordinances, this ordinance shall apply to  
negotiated land sales. The Mayor shall cause a notice to the  
public to be published once a week for four (4) weeks in one  
or more newspapers of general circulation within the Central  
Peninsula, Homer and Seward areas of the Kenai Peninsula  
Borough the intent to dispose of Borough selected lands under  
the terms and conditions of this ordinance. The public  
notice shall contain the following information:

- A. Who may apply.
- B. The manner in which to apply.
- C. The last date for applications to be received.
- D. Where to apply.
- E. The prescribed filing fee of \$150.00 to cover  
advertising and other related fees.

Section 2. That within 90 days after the closing date  
for filing of applications, the Mayor shall transmit to the

Planning Commission all applications for comment and public hearing. The Planning Commission shall hold one public hearing on the applications for negotiated land sale within 30 days after the Mayor's transmittal of the applications and after 10 days' notice to the public in one or more newspapers of general circulation in the Central Peninsula, Homer and Seward areas of the Borough. The applicants will be notified by certified mail of the public hearing. The Planning Commission shall determine if the applications meet all of the specified minimum requirements and may place additional conditions as deemed necessary in the Borough's best interest. The minimum requirements for qualifying for a negotiated land sale are:

- A. That the applicant notified the Borough in the prescribed manner as set forth in Section 1 (A) through 1 (E) and within the specified time as delineated in the public notice.
- B. That one or more of the following conditions exist and will be verified by at least three notarized affidavits:
  - 1. The applicant must clearly show a valid claim to the parcel under one or more of the following conditions:
    - (a) prior continuous use which is deemed to exist if the applicant during the entire period of his or her license, or tenancy, used the land of the State or the Borough for his or her purposes as often as needed or required, without interference, protest or objection by the State or Borough; provided that prior continuous use may not be based on squatting, trespassing, or other unauthorized use or possession.
    - (b) that sale of the land could adversely affect access or decrease land value of applicant's present land or fish site. A fish site is defined as a one-family or partnership location and not the number of nets fished; provided, however, that a negotiated land sale to accommodate a fish site shall not exceed five acres, unless justified by topographical data.
    - (c) prior or existing State lease.
  - 2. The land applied for is a land-locked parcel or remnant parcel created by erosion or the

taking of land for highway right-of-way purposes.

- C. The sale of the negotiated lands will not deny access to other private or Borough lands.
- D. The applicant's previous and current years' taxes are paid in full.
- E. The applicant is 18 years of age or older and is currently a resident of the State of Alaska.

The Planning Commission shall submit its recommendations to the Assembly within 15 days after holding public hearing.

Section 3. The Assembly may authorize the Mayor to dispose of any or all of the negotiated sale lands upon the following terms and conditions:

- A. All sales will be made by immediate cash payment in full, or by real estate contract with those persons who have applied and met the requirements of Section 2 above. The sale shall be at 100% of the current year's assessed value of the parcel as determined by the Borough Assessor. 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 estimated acreage of the parcel as shown by the Borough Assessor's records.
- B. The 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 as prepared by the Borough within 30 calendar days after notification of eligibility by certified mail or his or her rights shall be forfeited. The filing of an application for purchase shall not in any way vest any right in the applicant to the land or to the use of the land. Any such unauthorized use shall constitute a trespass.
- C. The eligible purchaser of any parcel must deposit with the Borough Finance Director a down payment in the form of cash, certified check or cashier's check, equal to at least 15% of the total purchase price of the parcel. The principal balance shall be paid in 10 equal annual installments on 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 principal payment.

- D. 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 Borough. 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. In the event of a default for non-payment or other reason, the interest of the purchaser shall be forfeited.
- E. 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.
- F. 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.
- G. All parcels are sold "as is" and the purchaser shall ascertain the condition of the site and the extent of any easements, encroachments, alterations, or infringements upon the parcel.
- H. The Borough shall have the right to preserve monuments, historical sites, graveyards, cemeteries and other public interest memorabilia and to adjust the sales price and 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 other pre-existing rights may exist and that further inquiry is required.
- J. The Borough shall not permit the subdivision of any sale land upon which there exists an unpaid principal balance.
- K. The Borough may, as a condition of sale, require the combining of parcels to prevent the presence of substandard lots.

- L. In the event that more than one applicant meets all of the qualifications for a negotiated sale of the same parcel, the Borough Assembly shall decide the most equitable manner for disposal of the parcel. This may include but shall not be limited to subdivision of the parcel or sealed bid by the individuals involved.
- M. The Borough will not be liable for the surveying and platting of any properties disposed of or for the identification and provision of access to the parcels, it being expressly understood that these are responsibilities of the prospective and actual purchaser.
- N. To alleviate access problems, facilitate exchanges or other conditions of sale, the eligible purchaser may be required to plat the sale parcel in accordance with KPB Code of ordinances Chapter 20 within one year of approval of sale by the Assembly.


Section 4. Until such time as the Borough receives its entire land entitlement from the State of Alaska, the Mayor and Planning Commission may evaluate requests for negotiated sales of Borough lands.

Section 5. That this ordinance takes effect upon its adoption.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH  
ON THIS 4 DAY OF May, 1982.

  
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John C. Davis, Assembly President

ATTEST:

  
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Frances Brymer  
Borough Clerk

