

Introduced by: Mayor
Date: July 19, 1983
Hear: Nov. 15, 1983
Vote: 9 yes - 5 no
Action: Enacted with
Recon. 12-6
Final Act: Not recon 12-6
Enacted 11-15

KENAI PENINSULA BOROUGH

ORDINANCE 83-60 (Substitute)

PROVIDING FOR THE DISPOSITION OF CERTAIN BOROUGH SELECTED LANDS TO THE GENERAL PUBLIC BY LOTTERY LAND SALE TO BE KNOWN AS THE "MOOSE POINT SALE".

WHEREAS, the Borough has obtained title to lands pursuant to the municipal selection process; and

WHEREAS, the Assembly, in conjunction with the Administration and the Borough Planning Commission, has identified approximately 7,000 acres of land already patented to the Borough, together with necessary rights-of-way; and

WHEREAS, the Assembly desires to expedite the disposal to the general public of this land to be known as the "Moose Point Sale"; and

WHEREAS, the Planning Commission held a public hearing on March 28, 1983 and reviewed the proposed disposal on February 4, 1983 and on July 25, 1983; and

WHEREAS, said lands are located in North Kenai and have been through planning stages for development; and

WHEREAS, the land has been subdivided and surveyed;

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

Section 1. That the designated subdivided lands shown on Attachment A of this ordinance are classified as "sale lands". The land so classified shall be sold by lottery in substantial compliance with the terms and conditions of this ordinance. The terms and conditions of sale, together with any reservations of access, shall be incorporated into the appropriate sale documents.

Section 2. That the Mayor will fix a date and administer the sale. Sale lands not sold shall be returned to the Borough's land inventory for further disposition at a later time.

Section 3. The sales price for each parcel shall be set at 100% of the assessed value established by the Borough Assessor and published in the sales brochure prior to the time when applications are made. The Borough makes and shall make no representations as to actual market value of the parcel at the time of sale.

Section 4. That the lottery sale authorized by this ordinance shall be conducted in accordance with the following procedures and eligibility terms:

A. Any resident of this state 18 years of age or older is eligible to participate in a lottery sale.

B. Any person eligible to participate in a lottery may make application on any number of parcels; however, only one application per parcel shall be permitted by each applicant.

1. Application will be made on a single form listing each parcel on which the applicant is making application. The application shall be made upon the form provided by the Mayor and shall be filed not less than twenty-one (21) calendar days prior to the date of the lottery.
2. The application must be accompanied by a nonrefundable application fee of \$5.00 for each separate parcel listed upon the application form.
3. The application must be personally signed by the applicant except that application by power-of-attorney will be accepted accompanied by affidavit establishing that the applicant is unavailable because of active duty in the military, or attending school as a full time student outside of the state, or that applicant is unable to complete the application personally due to illness or injury.
4. Before the drawing each applicants will be mailed a ticket for each parcel listed upon the application for the purpose of the drawing.

C. The Mayor shall publish two notices in a newspaper of general circulation, of the date of the lottery, and of registration requirements. The notices shall be published at least thirty (30) days and fifteen (15) days prior to the closing date for lottery registration. Notices shall also be posted in the post offices and city halls in the Borough, and the Borough Finance Director is directed to exert efforts to publicize the sale in all communities of the Borough, however, brochures or applications will not be sent to individuals through the mail.

1. The Mayor shall provide for an independent audit of all applications and of the actual conduct of the lottery, and shall make public a list of winners, and alternates, parcel by parcel, and the purchase price.
2. The tickets for each parcel listed on the application form will be numbered and a separate drawing

for each parcel shall be made. An independent auditor shall conduct the sale, determine eligibility, and shall draw the eligible purchaser from the tickets. The independent auditor conducting the sale shall draw three tickets for each parcel, if there are three applicants for the parcel being drawn, and these shall be ranked in the order of drawing for eligibility as purchaser. If the first drawn eligible purchaser does not or can not proceed with the sale, then the alternate purchasers shall be afforded the opportunity to purchase the property in the order that their tickets were drawn.

3. The purchaser shall be required to deposit with the Borough Finance Director the necessary down payment and to sign the appropriate promissory note and deed of trust within 45 calendar days of selection, or his or her rights shall be forfeited. The alternate purchasers in turn shall be afforded a 45-calendar day period to complete the transaction if the prior eligible applicants forfeit rights.
4. The Borough will cause the proper documents to be recorded in the appropriate recording district. The purchaser will pay the cost of recording and any applicable escrow fees. The warranty deed shall be made out in the name of the applicant as filed and no substitutions, alteration, or changes will be permitted, provided however that the deed may be made in the name of the applicant and spouse as tenants by the entirety. After completion of the above documents, the purchaser may sell or assign his interest in the property, subject to written notification to the Mayor or his designee.

Section 5. Notwithstanding the provisions of any other ordinances, heretofore or now in effect, all sales under this ordinance shall be made in substantial compliance with the following terms and conditions of sale:

A. Unless otherwise provided by ordinance, all sales of Borough lands may be made by payment of the purchase price in full or by installments as provided in this section.

B. All Borough lands 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 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. Conveyance by warranty deeds shall be made subject to this subsection.

C. Unless otherwise provided by ordinance all conveyances of Borough sale lands shall be by warranty deed, and balances due shall be secured by promissory note and deed of trust including additional provisions prohibiting the resubdivision of any parcel or the utilization or removal of any timber or gravel resources for any commercial purpose until the balance due is paid in full, and providing for trustees' sale upon default in payment or upon condition broken.

D. The following discounts or credits will be applied to the sales price of each parcel:

1. The 10% discount will be applied for payment in full at the time of purchase.
2. A credit against the sales price will be allowed for improvements actually constructed upon the property. The credit will be for the assessed value of improvements made upon the property up to a limit of 20% of the sales price of the parcel. To qualify for this credit, the improvements must be constructed within five (5) years of the date of selection of the purchaser. The purchaser may elect to take this credit at any time during the five year period by notifying the Borough of the date on which he wishes to take the credit. If the credit is taken at a time earlier than the end of the five year period, the purchaser will be limited to the improvements made as of the date of the election and will not be eligible for any further credit for improvements made after the election to take the credit has been made. This credit is nontransferable and may only be taken by the purchaser selected through the lottery sale.
3. A person who is a disabled American veteran, as defined in KPB 1.25.020, and is chosen to purchase a parcel in the sale is entitled to a credit of 50% of the purchase price. This 50% credit is nontransferable.
4. The combined credits or discounts provided in this section or any other sections of this ordinance may not exceed a total of 60% of the sales price.

E. The selected purchaser of any parcel must deposit with the Borough Finance Director a down payment equal to 10% of the total purchase price for each parcel.

F. Promissory notes for balances remaining unpaid for any Borough lands sold pursuant to this ordinance shall provide for equal monthly installment payments of principal together with interest at the rate of 10% per annum. The scheduled installment payments will be based upon the initial amount financed according to the following schedule:

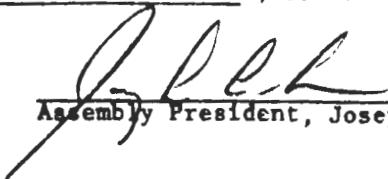
1. Less than \$30,000; up to 120 equal monthly installments.
2. \$30,000 or more but less than \$50,000; up to 180 equal monthly installments.
3. \$50,000 or more; up to 240 equal monthly installments.
4. Nothing contained herein shall prevent the prepayment of principal amounts with interest to date of payment; however, no prepayment or credit shall extend or suspend the due date of any future installments until the entire balance of principal together with interest is paid in full.
5. In the event a credit is given for improvements as provided in this ordinance or if there is a partial prepayment of principal, this shall not diminish the monthly payment amount initially established.

Section 6. Notwithstanding provisions of this ordinance that an applicant may make application for selection for more than one parcel, no applicant shall be entitled to purchase more than one parcel if selected. If a person is selected as an eligible purchaser for more than one parcel that person shall be entitled to select which parcel he or she will purchase. Once that choice has been made, the person's name shall be removed as an eligible purchaser or alternate purchaser from the list of persons drawn on all parcels other than the one he or she has so chosen. Such choice will be made by placing the required deposit and executing the necessary documents as specified under Section 6 C. of this ordinance within the time limits specified.

Section 7. That the Assembly of the Kenai Peninsula Borough may remove particular tracts, parcels, or lots of Moose Point Subdivision from this sale or application procedures if deemed necessary or in the public interest. Such withdrawal may be by resolution and shall be made prior to receipt of any applications under this ordinance.

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

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON
THIS 15 DAY OF November, 1983.


Assembly President, Joseph C. Arness

ATTEST:


Borough Clerk

SALE LOTS MOOSE POINT SUBDIVISION

<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>
1	37	73	108	144	180	215	254
2	38	74	109	145	181	216	255
3	39	75	110	146	182	217	256
4	40	75A	111	147	183	218	257
5	41	77	112	148	184	219	258
6	42	78	113	149	185	220	260
7	43	79	114	150	186	221	261
8	44	80	115	151	187	222	262
9	45	81	116	152	188	223	263
10	46	82	117	153	189	224	264
11	47	83	118	154	190	225	265
12	48	84	119	155	191	226	266
13	49	85	120	156	192	227	267
14	50	86	121	157	193	228	268
15	51	87	122	158	194	229	269
16	52	88	123	159	195	230	270
17	53	89	124	160	196	231	271
18	54	90	125	161	197	232	273
19	55	91	126	162	198	233	274
20	56	92	127	163	199	234	275
21	57	93	128	164	200	235	276
22	58	94	130	165	201	236	277
23	59	95	131	166	202	237	278
24	60	96	132	167	203	239	279
25	61	97	133	168	204	241	280
26	62	98	134	169	205	242	281
27	63	99	135	170	206	243	282
28	64	100	136	171	207	245	283
29	65	101	137	172	208	245	284
31	66	102	138	173	209	248	285
32	67	103	139	174	210	249	286
33	68	104	140	175	211	250	287
34	69	105	141	176	212	251	288
35	70	106	142	178	213	252	289
36	71	107	143	179	214	253	290

ATTACHMENT "A"

SALE LOTS MOOSE POINT SUBDIVISION

<u>LOT NO.</u>	<u>LOT NO.</u>	<u>LOT NO.</u>
291	330	367
296	331	368
297	332	370
298	333	371
299	334	372
300	335	373
301	336	
302	337	
303	338	
304	339	
305	340	
306	341	
307	342	
308	343	
309	344	
310	345	
311	346	
312	347	
313	348	
314	350	
315	351	
316	352	
317	353	
318	354	
319	355	
320	356	
321	357	
322	358	
323	359	
324	360	
325	361	
326	362	
327	363	
328	364	
329	366	

ATTACHMENT "A"

MOOSE POINT SUBDIVISION
PARCELS TO BE RETAINED FOR PUBLIC PURPOSES

<u>TRACT</u>	<u>TRACT</u>	<u>TRACT</u>
A	HH	U
AA	I	V
B	II	W
BB-1	J	X
BB-2	JJ	Y
C	K	Z
CC-1	KK	
CC-2	L	<u>LOTS</u>
D	L-1	30
DD	L-2	76
DD-1	L-3	177
DD-2	L-4	177A
E	L-5	240
EE	M	259
F	N	272
FF	O	292
F-1	P	293
GG	Q	294
G-1	R	295
G-2	S	349
H	T	

LOTS TO BE RETAINED FOR POSSIBLE NEGOTIATED LAND SALE

LOTS

47A
72
129
238
244
247
365
369
374
375

ATTACHMENT "A"
ORD. 83-60