

Introduced by: Mayor
Date: June 4, 1985
Hearing: July 2, 1985
Vote:
Action: Withdrawn prior to 6/4/85

KENAI PENINSULA BOROUGH

ORDINANCE 85-40

AMENDING CHAPTER 20 OF THE BOROUGH CODE OF ORDINANCES REGARDING SUBDIVISION OF LAND WITHIN THE KENAI PENINSULA BOROUGH.

WHEREAS, Alaska Statute 29.33.150 empowers the Borough Planning Commission with authority over platting matters; and

WHEREAS, Kenai Peninsula Borough Code of Ordinance Chapter 20 has been adopted to implement that authority; and

WHEREAS, portions of Kenai Peninsula Borough Ordinance Chapter 20 have been found to be ambiguous and in need of revision;

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

Section 1. That KPB 20.04.040 is hereby repealed and a new Section 20.04.042 is enacted as follows:

20.04.040 Plats Required--Exceptions No subdivision shall be approved by the Planning Commission except upon the submission of a plat prepared in accordance with Chapters 20.12, 20.16, and 20.20 of this title except:

A. A subdivision of land where all parcels exceed 40 acres in size or its aliquot part equivalent and where the section corners and quarter section corners have been monumented is exempt from Chapters 20.12, 20.16 and 20.20 of this title. No remainder parcel may be less than 40 acres, except for those lots created by original government survey. (See Section C for waiver procedures.)

1. Within the limits of first class cities such 40 acres subdivisions may be prohibited by city ordinance.

B. The subdivision of lands coming under provisions of Alaska Statutes AS 29.33.170A is excluded from the provisions of Chapters 20.12, 20.16, and 20.20 of this title. Sufficient evidence must be presented to the Commission to support a formal finding by the Commission that:

1. Each tract or parcel of land will have adequate access to a dedicated public highway or street.

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2. Each parcel created is five acres in size or larger, and that the land is divided into four or fewer parcels.
3. The conveyance is not made for the purpose of or in connection with a present or projected subdivision development.
4. No dedication of a street, alley, thoroughfare, or other public area is involved or required.

C. In other cases, the Planning Commission may waive the preparation, submission for approval and recording of a plat if:

1. The transaction involved does not fall within the general intent of 29.33.050 through 29.33.240, and AS40.15;
2. If the transaction is not for the purpose of or in connection with a present or projected subdivision development; and
3. No dedication of a street, alley, thoroughfare, park or other public area is involved or required.

D. Waivers under Sections A, B, and C will be by resolution of the Planning Commission. The resolution will be recorded in the appropriate recording district by the Planning Director or his designee within 30 days of the action. Fees for recording will be paid by the person(s) obtaining the waiver.

E. Subdivisions may by express vote of the Commission be exempted from survey and monumentation requirements of Section 20.16.160 when substantial evidence is presented to the Commission to support a formal finding by the Commission that:

1. The land is divided into not more than four parcels inclusive of any unsubdivided remainder and that each parcel is at least five acres in size, which may include rights of way, and has a lot depth to width ratio not greater than 3:1.
2. The approximate location of each lot is readily identifiable to an individual by the presence of prominent topographic features, monumentation on adjacent subdivisions or other identifiable features sufficient to reference the property. Evidence supporting the above shall be submitted by the subdivider.
3. Any physical improvements contained within R.O.W. dedications can be constructed to the standards of this chapter.

4. A note is placed on the plat stating "a minimum 50' building setback from all property lines is required until such time as the subdivision lines are surveyed and monumented, at which time the setback will revert to standard regulations in effect.

F. Each exception shall be separately voted upon by the Planning Commission and the Planning Commission shall record in its minutes the evidence and reasons for its actions.

G. The borough administration will prepare forms or instructions for use by parties seeking waivers under subsections A or B of this section. The forms will be to advise the Planning Commission of the circumstances which require a waiver under AS 29.33.170(a) and subsection B of this section, or which would make reasonable and equitable a grant of waiver under the provisions of AS 29.33.170(b) and subsection C of this section.

Section 2. That KPB 20.04.050 A is hereby amended to read:

20.04.050 Deed of record boundary survey plan. A. Plats showing surveys of record pertaining to deeds originating prior to the effective date of Ordinance 78-59 (12/5/78), shall be prepared in the same format as required by Chapter 20.16 except as hereinafter required. Deed of Record Boundary survey plats are exempt from Chapter 20.20 of this title. A copy of the deed or deeds creating the parcel shall be submitted along with the preliminary plat before being reviewed by the Planning Commission.

Section 3. That KPB 20.04.060 is hereby amended to read:

20.04.060 Illegal Subdivisions. A. A parcel of land that may have been illegally subdivided may be submitted as a subdivision. If approved as meeting the requirements of this title and properly recorded, said parcel shall then be deemed to be an approved subdivision according to the Kenai Peninsula Borough Code of Ordinances. (Ord. 78-37 §2(part), 1979).

B. Upon determination that an illegal subdivision has been made the mayor shall cause to be recorded a "Notice of Illegal subdivision" which notice shall remain of record until such time as the subdivision is finally approved according to the requirements of this chapter.

Section 4. That KPB 20.04.070 B is hereby amended to read:

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20.04.070 Abbreviated plat procedure. B. The platting of a vacation approved by the platting authority provided that only the vacation is to be depicted and no other alteration of the plat is sought or required by a city or platting authority. When a section line vacation plat is submitted as an abbreviated plat, a note shall be placed on the plat stating when the vacation was approved.

Section 5. That KPB 20.04.070 F 1 is hereby amended to add:

- a. If the subdivision is within a first class or home rule city, the subdivider shall submit a copy of the plat to the city's planning staff or authorized person, for review. If the plat is not approved by the city's staff, the plat will be submitted by the subdivider to the Planning Commission and it will then follow the normal plat procedure.

Section 6. That a new section KPB 20.04.080 to the Borough code is hereby enacted to read:

20.04.080 Right-of-way acquisition plat. A. A plat for a subdivision created by a government agency's acquisition of a street right-of-way is subject to approval under this section only and is not subject to any other approval procedure for plats under this chapter.

B. Submission requirements. The right-of-way acquisition plat shall contain the following information.

1. The location and name of the acquisition project.
2. The approximate timetable for the acquisition and construction.
3. The dimensions and area of the acquired parcel or parcels and the remainder parcel.
4. The book and page of the recorded document used to acquire the easement or parcel.

C. Survey and Monumentation requirements for Right-of-way acquisition plats.

1. A proposed monumentation plan shall be submitted in conjunction with the preliminary plat (Subsection D) to the Borough Surveyor for approval. The minimum monumentation required will be a 5/8" x 30" reinforcement bar with appropriate cap set

on the margin of the right-of-way at all points marking the beginning and end of each curve and on tangents so that no distance between monumented points exceeds 1,320 feet. An alternate method may be proposed which shall consist of placing primary type monuments at center line points marking the beginning and end of each curve and on tangents so that no distance between monumented points exceeds 1,320 feet. The survey and monumentation shall be completed by a land surveyor or registered in the State of Alaska.

2. No remainder parcel, after acquisition of necessary right-of-way, shall be allowed which does not conform to applicable city and borough codes.
3. If construction of improvements is scheduled to follow the right-of-way acquisition, the placement of the center line monuments may be delayed until such improvements have been completed, in which case a statement designating the schedule for placing the monuments must be included on the plat.

D. Plat review.

1. The Borough Surveyor and the appropriate government agency shall review the right-of-way acquisition plat for completeness. If the proposed plat does not meet the requirements of this section, it shall be returned to the agency that submitted it with an explanation of its deficiencies. The preliminary plat will be reviewed by the Planning Commission at the appropriate meeting. The preliminary plat approval for the right-of-way acquisition plat shall be for a period of 18 months provided; however, that the Planning Commission may grant an extension of time for filing the final plat upon finding that it is in the best public interest to do so. The final plat will be recorded in the appropriate recording district.
2. Right-of-Way plats will not be subject to agency review and the Plat Committee standard statements except when right-of-way acquisition plats are within the boundaries of a city then the right-of-way plat shall be reviewed by the Advisory Planning Commission of that city.

Section 7. That KPB 20.08.130 B is hereby amended to read:

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B. Arterial streets serve through traffic although some may also serve to provide a limited amount of access. Arterial streets are those streets which serve through traffic and which have an average annual daily traffic count of 250 or greater except, in cities where different standards apply.

Section 8. That a new section, KPB 20.08.170, to the Borough code is enacted to read:

Section 20.08.170 Unsubdivided remainder. When an existing parcel is subdivided and a portion of the parcel is not included in the subdivision plat, that portion not included is an "unsubdivided remainder."

Section 9. That KPB 20.12.020 is hereby amended to read:

20.12.020 Compliance with certain provisions required.

A. A subdivider shall prepare a preliminary plat of his proposed subdivision which shall comply with the requirements of Sections 20.12.060 and 20.12.070, and other pertinent provisions of this chapter except as provided in Section 20.04.040.

B. Preliminary plats dealing with street vacations shall not be reviewed before the vacation hearing.

Section 10. That KPB 20.16.090 is hereby amended to read:

20.16.090 Accuracy of measurements. All linear measurements shall be shown to the nearest 1/10th 1/100th foot, and angular measurements shall be at least to the nearest minute ten seconds. All lot areas shall be shown to the nearest 10 square feet or to the nearest 1/1000th 1/100th of total acres. All boundary closures shall be to a minimum accuracy of 1/5,000.

Section 11. That KPB 20.16.120 is hereby amended to read:

20.16.120 Utility easements. A. Public utilities shall be provided with a copy of the all preliminary plats by the planning director and be invited to design utility easements. Utility easements designed by a utility company shall be provided on the final plat unless the commission determines other utility easement design is preferred.

B. Plats which are affected by gas or Petroleum pipelines will be sent to the company(ies) involved and comments requested. Extra plats as required by Planning

Commission Resolution shall be submitted by the subdivider in these cases.

Section 12. That KPB 20.16.150 A is hereby amended to read:

A. The signature of all owners shown on the borough assessor's tax roll consenting to the preparation and recordation of the plat and to all dedications shown on the plat. If the subdivider finds that the tax roll is in error or is not current, the subdivider shall present to the planning director suitable evidence of other ownership, in the form of copies of recorded documents, or a title report issued by a title company after the date of the compilation of the assessor's tax roll. The owner or owners of record as shown on this title report shall sign the plat. The ownership and dedication statement required is substantially as follows:

I hereby certify that (I am) (we are) the owner(s) of the property shown and described hereon and that (I)-(we) hereby adopt this plan of subdivision, and (dedicate) (all rights-of-way) and (public areas) (to public use) and (grant all easements to the use shown).

Owner's name and address

(delete inapplicable phrases)

All owner's name and address blanks shall be provided as needed for multiple ownership. The signatures shall be notarized and a notary's acknowledgment statement (or statement(s) as needed) shall be provided as follows:

NOTARY'S ACKNOWLEDGMENT

The following persons appeared before me

Subscribed and sworn before me this ____ day of _____.

Notary Public for Alaska
My Commission Expires: _____

The multiple ownership and dedication statement with notary's acknowledgment(s) may be substituted on a separate 8-1/2 by 11 or by 14 inch sheet containing the name and

description of the plat, surveyor's name, and date. These sheets shall be recorded simultaneously with the plat and reference to same shall be made on the plat. At least one owner must still sign the plat.

Section 13. That KPB 20.16.150 C is hereby amended to add a line for the date to read:

C. Statement of Plat Approval. The following form shall be printed on the final plat to be filled in after approval by the commission:

"PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of

_____.
KENAI PENINSULA BOROUGH

By: _____ " _____ "
Authorized Official Date

(Ord. 80-37 80-37 §1, 1980; Ord. 78-37 §2(part), 1979).

Section 14. That a new sub-section, KPB 20.16.150 D, to the Borough code is enacted to read:

D. Each subdivision within a flood plain designated by the U.S. Army Corps of Engineers shall have the following statement shown on the final plat:

"The first finished and habitable floor of a building constructed within a flood plain should be built at or above the 100-year flood level."

Section 15. That a new sub-section, KPB 20.16.160 H, to the Borough code is enacted to read:

H. Section corners, 1/4 section corners, 1/16 section corners and all other primary monuments established for the purpose of controlling the location and boundary of a subdivision shall be referenced to accessory objects by bearing and distance. The reference information shall be shown on the final plat and in sufficient detail so that a monument may be accurately re-established in the original position if accidentally destroyed. The reference objects shall be selected for permanence and convenience in a manner which would be expected from a prudent land surveyor.

Section 16. That KPB 20.16.180 is hereby amended to read:

20.16.180 Administrative approval. Where preliminary plats have been approved by the planning commission, the Kenai Peninsula Borough Ordinance 85-40
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final plat may be approved by the planning director or his designee when the final plat meets the conditions of preliminary approval and complies with this title. When approved by the director, such approval shall be noted on a [NOTARIZED] form with a copy to the subdivider. The director shall report such approvals at the next regular plat committee meeting. The subdivider or director may choose to go before the planning commission.

Section 17. That KPB 20.20.060 is hereby amended to read:

20.20.060 Intersections--number required. There should be a minimum number of intersections of access streets with arterial streets or state maintained roads. Intersections shall be a minimum 250' apart unless it can be shown that a lesser distance would not create a traffic hazard in the area.

Section 18. That KPB 20.20.090 is hereby repealed and a new section KPB 20.20.092 is enacted as follows:

20.20.090 Cul-de-sacs. A. Cul-de-sacs are streets designed to have one end permanently closed and which are no more than 1,200 feet long. Cul-de-sacs shall provide at the closed end a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be able to constructed to a 4 percent grade or less.

B. If the closed end of a fully dedicated cul-de-sac is being replatted to allow for extension of the existing roadway, a public hearing shall be scheduled by the Planning Commission. Notice of the hearing shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area of the replat. Notice shall be mailed to each property owner directly affected by the replat and within a 300' radius from the boundaries of the replat as shown on the Borough tax rolls. Costs will be paid by the subdivider as set by Planning Commission Resolution.

Section 19. That a new sub-section, KPB 20.20.100 A.4, to the Borough code is enacted to read:

4. The street is within an existing section line easement, if applicable.

Section 20. That KPB 20.20.110 is hereby amended to read as follows:

20.20.110 Streets--Width requirements. The minimum right-of-way width of streets shall be as follows:

A.	Arterial	60 feet	<u>100 feet</u>
B.	Access street	60 feet	
C.	Cul-de-sac serving no more than 6 lots	50 feet	
D.	Marginal access street, serving no more than 3 lots	40 feet	
E.	Frontage road	40 feet.	

The commission shall require a building setback of at least 70 feet from the center line of all arterial streets. Additional right-of-way or easement width may be required to provide for the construction of stable side slopes.

Section 21. That KPB 20.20.180 is hereby amended to read:

20.20.180 Lots--Dimensions. A. The size and shape of lots shall be such as to provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located.

Lots shall not be less than 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the depth shall be no greater than 3 times the width.

B. Lots shall not be less than 60 feet wide on the building setback line excepting therefrom flag lots.

C. The minimum depth shall be no less than 100 feet and the depth shall be no greater than 3 times the width.

D. Where flag lots are being created, the minimum width of the flag portion of the lot shall be 25 feet. If the flag lot can be considered to be further subdivided the minimum width of the flag portion will be 40 feet. A note shall be placed on the plat restricting building within the flag portion of the lot. Where 2 unsubdividable flag lots are created and the flag portion of the lots are on a common boundary then the flags minimum widths may be 20' each.

Section 22. That KPB 20.20.190 B is hereby amended to read:

B. Lots shall contain a minimum of 40,000 square feet if both the well and the sewage disposal are to be provided on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an onsite well and sewage disposal system except that lots under 40,000 square feet and over 20,000 square feet may be permitted if the following conditions are met:

1. A statement from an engineer affixed with his seal and signature shall accompany the plat submission. The statement shall attest that the proposed lot design and associated building restrictions will assure that adequate area is available to each building site for safe on-site well and sewage disposal until such time as common or public sewer and/or water services are available.

Section 23. That KPB 20.20.190 C 2 is hereby amended to read:

2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure that adequate area is available to each building site for safe on-site well and sewage disposal until such time as common or public sewer and/or water services are available, shall accompany the plat submission.

Section 24. That KPB 20.20.230 is hereby repealed and a new section KPB 20.20.232 is enacted to read:

20.20.230 Building setbacks A. The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal district zoning contained in the borough code of ordinances or the appropriate city code.

B. A minimum 20-foot building setback shall be required for subdivisions located outside cities. The setback shall be noted on the plat in the following format:

"A building setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution of the appropriate Planning Commission."

C. The commission shall require a building setback of at least 70 feet from the center line of all arterial streets. Additional right-of-way or easement width may be required to provide for the construction of stable side slopes.

D. The Commission may require a building setback of at least 70' from the center line of any access street which may, due to foreseeable increased development, be considered an arterial street at a future date.

Section 25. That KPB 20.20.235 "Building setback within cities" is hereby repealed.

Section 26. That KPB 20.20.240 is hereby repealed and a new section KPB 20.20.242 is enacted to read:

20.20.240 Unsubdivided Remainder A. No unsubdivided remainder shall be allowed as a result of the resubdivision of a surveyed and monumented subdivision of record.

B. No unsubdivided remainder of less than 5 acres shall be allowed.

C. No unsubdivided remainder of less than a nominal 40 acres shall be permitted that does not abut on a dedicated public right-of-way.

D. Where an unsurveyed subdivision of record is resubdivided the provisions of 20.16.160 will apply to the new segregated parcels. The remainder of the original parcel may be exempt from 20.16.160 provided that:

1. The unsurveyed portion is properly designated by a lot or tract number.
2. Available record information is shown for the remaining boundaries of the unsurveyed portion.
3. The applicant requests the exemption in accordance with the provisions of Section 20.24.010.

Section 27. That this ordinance takes effect 30 days after its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 1985.

Marilyn Dimmick, Assembly President

ATTEST:

Borough Clerk

Introduced by: Mayor
Date: May 21, 1985
Hearing: June 17, 1985
Vote:
Action: Declared moot with
enactment of Ord. 85-23
transferring powers.

KENAI PENINSULA BOROUGH

ORDINANCE 85-41

AMENDING THE SOLDOTNA LAND USE MAP AND REZONE OF A PORTION OF GOVERNMENT 10, SECTION 30, T5N, R10W, S.M. (PROPOSED RIVERVISTA SUBDIVISION NO. 1) CITY OF SOLDOTNA.

WHEREAS, The Soldotna Advisory Planning Commission recommended approval of the Land Use Plan reclassification and the rezoning at the public hearing on March 27, 1985 and also approved the rezoning when the subject was reconsidered on April 10, 1985; and

WHEREAS, the Soldotna City Council reviewed the rezone request on May 1, 1985, and denied the rezone request; and

WHEREAS, the Borough Planning Commission held public hearing on April 22, 1985 and continued the hearing until May 6, 1985, and recommended approval of the Land Use Plan reclassification and the rezone;

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

Section 1. That the Land Use Map for Soldotna for the area described as a portion of Government Lot 10 (proposed Rivervista Subdivision No. 1) shall be amended from Low Density to Medium Density.

Section 2. That the Zoning Map for Soldotna for the area described as a portion of Government Lot 10, Section 30, T5N, R10W, S.M. (Proposed Rivervista Subdivision No. 1) shall be amended from R-2 to R-3.

The official zoning map for that portion of the Borough shall reflect this amendment.

Section 3. That this ordinance takes effect upon acceptance of the installation of water and sewer by the City of Soldotna.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 1985.

Marilyn Dimmick, Assembly President

ATTEST:

Borough Clerk