

Introduced by: Nash  
Date: July 19, 1988  
Hearing: August 16, 1988  
Vote:  
Action: Postponed & Referred  
to Planning Comm. &  
Assembly Joint Committee

KENAI PENINSULA BOROUGH

ORDINANCE 88-27 (REVISED)

AMENDING KPB TITLE 21 TO ADD A NEW CHAPTER 200 PERTAINING TO THE BURIAL, DUMPING, TRANSPORTING, STORAGE, INCINERATION, OR OTHER DISPOSAL OF POTENTIALLY HARMFUL, TOXIC OR HAZARDOUS WASTE MATERIALS, AND AMENDING KPB 10.10 PERTAINING TO THE WASTE DISPOSAL COMMISSION.

WHEREAS, KPB 21.12 prohibits noxious, injurious, or hazardous uses of land within the borough, however, such use is difficult to define; and

WHEREAS, burial, dumping, transporting, storage, incineration or other disposal of potentially harmful, toxic or hazardous waste materials on lands within the borough may not constitute noxious, injurious or hazardous use of land if properly conducted with full public knowledge; and

WHEREAS, even though Ordinance 84-50 (Amended) (Substitute) was vetoed on February 5, 1984, the Kenai Peninsula Borough Assembly nevertheless desires to establish criteria by ordinance and regulation for the burial, dumping, transporting, storage, incineration or other disposal of potentially harmful, toxic or hazardous waste materials on lands within the borough; and

WHEREAS, the Assembly desires to reinstate the Waste Disposal Commission on a more regionally representative basis, with more clearly defined authority;

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

Section 1. That KPB 21 is amended by adding a new Chapter 200 to read as follows:

21.200.010 Prohibition unless authorized -- Application for use of lands within the borough involving the burial, dumping, transporting, storage, incineration or other disposal of potentially harmful, toxic or hazardous waste materials.

A. Use of land within the borough that involves storage, other than for temporary storage of substances produced on site, or the burial, dumping, transporting, incineration, or other disposal of potentially harmful, toxic or hazardous materials

including substances known as "PCBs", asbestos, and solid waste from drilling operations and hydrocarbon contaminated solids from production operations is hereby prohibited unless the use applied for is authorized by ordinance and has been approved by the Borough Planning Commission and Borough Waste Disposal Commission, following public hearing, except as otherwise provided by codified ordinance.

B. The prohibition provided in this section applies to all potentially harmful, toxic or hazardous waste materials as defined by state or federal environmental, worker or consumer protection laws or regulations, disregarding the provisions of those laws and regulations which exclude materials only because of volume, weight or quantity of materials, other than those substances reasonably inferred by method of packaging or sale to be intended solely for hospital or individual use.

C. Application for any use of land within the borough involving any use included in this section shall be filed with the Borough Planning Department for scheduling before the Borough Waste Disposal Commission and Borough Planning Commission unless otherwise provided by ordinance.

Section 2. That KPB 10.10.030 is amended to read as follows:

10.10.030 Advisory Commission -- Duties -- New disposal plans. The Waste Disposal Commission shall review all waste disposal [PLANS AND PROPOSED SITES] applications, and compare comprehensive plans, zoning ordinances, watershed and other factors, and shall conduct public hearings and report its findings and recommendations in writing to the mayor.

Section 3. That KPB 10.10.010 is re-numbered as 10.10.035 and amended to read as follows:

10.10.035 Applications -- Approval and denial -- Authority and criteria. The mayor of the borough, after receiving advice of the Waste Disposal Commission of the borough, may [SELECT AND PROCURE SITES] approve or deny applications for solid waste disposal facilities in accordance with the policy of the borough assembly. The sites may include sites for landfill operations, intermediate disposal facilities, transfer sites, mobile and permanent incinerators, composting plants, recycling or reclamation facilities, or any site utilized for the recovery, reduction, consolidation, conversion, long-term storage, procession, or disposal of solid waste.

Section 4. That KPB 10.10.050 is amended to read as follows:

10.10.050 Waste disposal area representatives --  
Appointment -- Term of office.

A. The commission shall consist of [5 MEMBERS. THE MAYOR SHALL APPOINT ONE WASTE COMMISSION] one representative from the unincorporated area of each assembly district, and one member at large, who [IF AVAILABLE,] shall be a registered professional engineer or a person who has direct professional or work experience with solid waste disposal , to be appointed by the mayor [ . THE APPOINTMENTS WILL BE] subject to ratification of the borough assembly ; one member appointed by the council of each first-class city; one member appointed by Cook Inlet Aquaculture; and one member selected by the five oil and chemical companies doing business within the borough who have the largest assessed property valuations.

B. The term of office for a Waste Disposal Commission representative shall be for a period of 3 years, except for initial appointees appointed by the mayor who shall be appointed as follows: one for a 1 year term; two appointed for a 2 year term; and two appointed for a 3 year term.

C. A chairman and vice-chairman of the commission shall be selected annually from and by the appointed members of the commission.

Section 5. That KPB 10.10.060 is amended to read as follows:

10.10.060 Expenses. Waste Disposal Commission members appointed by the mayor shall be allowed per diem and travel expenses as provided for borough employees. The commission members appointed by the cities or corporate interest may be allowed per diem as authorized by the appointing authority.

Section 6. That KPB 10.10.070 is amended to read as follows:

10.10.070 Meetings. The Waste Disposal Commission shall meet on a [MONTHLY] quarterly basis, or more frequently if needed.

Section 7. That KPB 10.10.080 is amended to read as follows:

10.10.080 Public hearings. The Waste Disposal Commission shall conduct public hearings as necessary and where necessary to obtain public input concerning [BUT NOT LIMITED TO, WASTE DISPOSAL SITE SELECTIONS AND WASTE DISPOSAL PLANS.] the issue before them. Notice of public hearings for these purposes shall be published twice in a paper of local circulation, with the first notice being at least [TWICE] 10 days prior to the hearing.

All public hearings shall be run by the chairman of the Waste Disposal Commission. Public hearings of this nature shall be transcribed and made a part of the [MINUTES OF THE NEXT REGULARLY SCHEDULED MEETING OF THE WASTE DISPOSAL COMMISSION.] record supporting their findings of fact and recommendations concerning that issue. [THE WASTE DISPOSAL COMMISSION SHALL TAKE ALL PUBLIC COMMENTS INTO CONSIDERATION PRIOR TO MAKING ANY RECOMMENDATIONS.]

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

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1988.

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Jonathan W. Sewall, Assembly President

ATTEST:

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Borough Clerk