

Introduced by: Mayor
Date: February 19, 1991
Postponed to June 4, 1991
Hearing: June 18, 1991
Vote: 1 YES, 14 NO
Action: FAILED

KENAI PENINSULA BOROUGH

ORDINANCE 91-9

REPEALING CHAPTER 17.04 OF THE BOROUGH CODE AND ENACTING A NEW CHAPTER 17.06 TO GOVERN CLASSIFICATION AND DISPOSITION OF BOROUGH LANDS

WHEREAS, it is desirable to update Title 17 of the Code of Ordinances pertaining to classification, sale, and lease of borough-owned lands; and

WHEREAS, the Mayor and Land Management personnel recommend a two-tier classification process; and

WHEREAS, lands should be classified prior to disposition of an interest in them; and

WHEREAS, flexibility in establishing terms and conditions of individual transactions should be provided;

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

Section 1. That Chapter 17.04 of the KPB Code of Ordinances is hereby repealed and a new Chapter 17.06 is enacted to read:

17.06.005 Purpose--Policy. A. The assembly hereby adopts this chapter, entitled "Land Management" to govern the classification of borough lands and the disposition of interests in those properties.

B. The assembly hereby establishes the policy that all lands of the borough will be classified in accordance with this chapter prior to disposition.

17.06.010 Classification/Reclassification of Borough lands. A. Only those lands to which the borough holds state patent, has received final approval from the state under the Municipal Entitlement Act, or has received clear title, may be classified or reclassified.

B. Lands meeting the requirements of Section 17.06.010(A) shall be classified from time to time in an

reclassification may be initiated by the borough Administration or the public and may be based on a need generated by the public, private industry, borough, state, federal or other municipality.

C. Petitions for classifying or reclassifying shall be submitted to the Land Management Officer on the appropriate form. Said form shall be completed in full and shall clearly state the description of the property, its current classification, the proposed classification and the basis for the proposed classification and by whom submitted.

D. Within 30 days of receipt of the completed form, notice of the classification shall be published one time in a newspaper of general circulation. The notice shall contain the description of the property to be classified or reclassified, the proposed classification and/or reclassification and their allowed uses, who initiated the classification, where written comments may be submitted, the last date for which written comments may be submitted, and the date, time, and location of the Planning Commission public hearing. A copy of the notice shall be sent by regular mail to all owners and/or leaseholders of property located within a radius of one-half mile of the lands to be classified. The public comment period shall not be less than fourteen (14) calendar days.

E. The Planning Commission shall hold public hearing on the classification or reclassification and make recommendations to the assembly. Recommendations shall be based on findings of fact which may include: the location of the lands, surrounding uses and ownership, existing and future access, property characteristics including topography, soils, and availability of utilities, any known encumbrances or permits, physical examination where necessary or feasible, and compatibility with the comprehensive plan or land use regulations.

F. By resolution, the assembly shall approve or disapprove the Planning Commission recommendations for classification or reclassification or return the classification or reclassification to the Planning Commission for modification.

G. The borough's Land Management Division shall be responsible for the official map depicting the current classifications.

H. Borough lands may be classified as:

1. "Sale" lands with a subclassification of:

- a. Agriculture
- b. Residential
- c. Commercial
- d. Heavy Industrial
- e. Light Industrial
- f. Recreational
- g. Preservation
- h. Government (including schools)
- i. Resource Extraction
- j. Private (noncommercial/nonindustrial including cemeteries)
- k. Utility/Transportation (not including oil and gas and electricity generation or production facilities)
- l. Waste Handling
- m. Multiple Use

2. "Short-term Lease" lands--five years or less--with a subclassification of:

- a. Agriculture
- b. Commercial
- c. Light Industrial
- d. Recreational
- e. Preservation
- f. Government (including schools)
- g. Resource Extraction
- h. Private (noncommercial/nonindustrial including cemeteries)
- i. Utility/Transportation (not including oil and gas and electricity generation or production facilities)
- j. Multiple Use

3. "Long-term Lease" lands--more than five years or less than five years that allow for extension or renewal with a subclassification of:

- a. Agriculture
- b. Residential
- c. Commercial
- d. Heavy Industrial
- e. Light Industrial
- f. Recreational
- g. Preservation
- h. Government (including schools)
- i. Resource Extraction
- j. Private (noncommercial/nonindustrial including cemeteries)

- k. Utility/Transportation (not including oil and gas and electricity generation or production facilities)
- l. Multiple Use

4. "Retain for Specific Use" lands with a subclassification of:

- a. Agriculture
- b. Residential
- c. Commercial
- d. Heavy Industrial
- e. Light Industrial
- f. Recreational
- g. Preservation
- h. Government (including schools)
- i. Resource Extraction
- j. Private (noncommercial/nonindustrial including cemeteries)
- k. Utility/Transportation (not including oil and gas and electricity generation or production facilities)
- l. Waste Handling
- m. Multiple Use

5. "Retain for Future Non-Specific Public Use" lands.

6. "Unclassified/Undesignated" lands.

17.06.020 Conditions for sale or lease. A. The mayor shall propose conditions and terms for sale or lease of properties to the assembly for approval. No sale or lease will be approved unless the land classification coincides with the proposed use and type of disposition. If the existing classification differs from that required for the particular transaction and use the land shall be classified/reclassified in accordance with the provisions of this chapter.

B. In lieu of approval of individual terms and conditions the mayor may propose and have the assembly approve general conditions and terms applicable to sales or leases of a certain type or class. Sale or lease of properly classified lands falling within such class may be made without further assembly approval of an individual sale.

C. For purposes of sale or lease lands classified as "Unclassified/Undesignated" lands must be classified before sale or lease of an interest in them.

Section 17.06.030 Definitions. In this chapter, unless the context otherwise requires:

1. "Agriculture" means lands suited for raising and harvesting crops, feeding, breeding, and management of livestock, dairying, or other farm use or any combination of these. Lands subclassified as "Agriculture" shall be rated based on the same or similar criteria as used for the "Land Evaluation and Site Assessment" prepared by the Homer and Kenai-Kasilof Soil and Water Conservation Districts. Parcels of land qualifying for this subclassification may be varied in size but must contain a minimum of 20 acres having a LESA value of 160 points.

2. "Residential" means lands suitable for development for single-family or multi-family settlement of a permanent nature. Parcels may be located adjacent to existing communities or are determined to be necessary for future community development. Parcels must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, have legal access and feasible physical access, suitable terrain and be appropriate with given surrounding uses.

3. "Commercial" means lands suitable for development or location of service-oriented facilities such as stores, offices, medical clinics, restaurants, lodges, hotels, and camper parks. Lands must be able to support on-site water and sewer systems or capable of receiving water and/or sewer service, near public utilities and be in proximity to residential areas.

4. "Heavy Industrial" means lands suitable for processing chemicals or manufacturing from or extraction of raw materials, stockyards, fish processing plants, distilleries, or uses that may discharge water, create hydrocarbons, excessive noise, odors, danger of explosions, or waste material, making them incompatible with most other land uses. Lands should not be located in or immediately adjacent to residential development; parcels should be of sizes reasonably appropriate to accommodate the activities together with sufficient buffer zones for the activity associated with this class of use. Appropriate access shall be available or feasible without going through residential areas. The lands shall be in a location that is reasonably convenient to conduct the activity.

5. "Light Industrial" means lands suitable for industrial uses that generally do not have offensive characteristics and can be conducted primarily inside

closed buildings. Such uses may include warehousing, storage inside enclosed areas, and light manufacturing not inside buildings.

6. "Recreational" means lands located in an area where the potential for recreational use exists. This may include both indoor and outdoor uses such as gun ranges, archery ranges, camping, golf course, snow machine trails, cross country trails, skiing, boating, fishing or which may provide access to those activities. Recreational does not include use of lands for amusement parks. Site conditions for any authorized use must be appropriate and suited for such uses. Lands disposed of to private parties must allow public use unless specifically waived by the Planning Commission. If lands are for sale or lease then restrictions may be imposed for appropriate uses given conditions and surrounding use. Not all activities are suitable for all sites.

7. "Preservation" means lands needed for stabilization or maintenance of natural features, historic value, known nesting areas of migratory birds or required to maintain the integrity of certain types of easements. Soils may be of such a nature as to not be usable for construction of buildings.

8. "Government" means lands that may be or are required for use by a federal, state or local governmental entity. Such uses include existing and future school sites, sites for service area facilities, or, any governmental use determined to be beneficial to the public.

9. "Resource Extraction" means lands which may be sold or leased or permitted use for the taking of sand, gravel, timber, peat, turf, topsoil, rock quarry, water, shale or such other resource having value.

10. "Private" (noncommercial/nonindustrial including cemeteries) means lands which may be of value for the location of churches, private schools, clubs, associations, nonprofit organizations, and cemeteries.

11. "Utility/Transportation" (not including oil and gas and electricity generation or production facilities) means lands which may be of value for airports, port and harbor facilities, powerlines, pipelines, utility services, rights-of-way, easements and related activities but does not include generation and production facilities for oil and gas and electricity.

12. "Waste Handling" means lands with suitable characteristics and location for the express purpose of providing facilities to handle solid waste, recyclable materials, transfer stations, junked or wrecked vehicles, demolition refuse, septic and sewage waste and industrial waste. Disposal or use of any tract so classified will be subject to determination of the tract being suitable for a particular proposed activity.

13. "Multiple Use" means lands suitable for more than one classification or subclassification based on location, size, topography or other characteristics.

Section 2. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
_____ DAY OF _____, 1991.

James W. Skogstad, Assembly President

ATTEST:

Borough Clerk