

Introduced by:	Mayor
Date:	9/05/95
Hearing:	11/07/95
Postponed to:	11/21/95
Action:	Enacted as Amended
Vote:	Unanimous

**KENAI PENINSULA BOROUGH  
ORDINANCE 95-32**

**AN ORDINANCE ESTABLISHING THE KENAI RIVER SYSTEM  
HABITAT PROTECTION TAX CREDIT**

**WHEREAS,** AS 29.45.046 authorizes the Kenai Peninsula Borough to provide tax credits as partial reimbursement for the Kenai River and its tributaries for habitat protection or restoration project expenses; and

**WHEREAS,** encouraging protection of the Kenai River and its tributaries can result in preservation of the fisheries; and

**WHEREAS,** without a tax credit, the owners building such habitat protection projects would bear the entire expense of protecting the Kenai River and its tributaries even though the benefits would accrue to all citizens of the Borough;

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

**SECTION 1.** That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new Chapter 5.14 which shall read as follows:

Chapter 5.14  
Kenai River System Habitat Protection Tax Credit

**5.14.010. Purpose.**

The purpose of this chapter is to promote the health of the Kenai River system by providing tax credits as partial reimbursement for habitat protection and restoration project expenses on and adjacent to the Kenai River and its tributaries.

**5.14.020. Administration.**

A. This chapter shall be administered by the planning director and the director of assessing under the direction of the mayor.

B. Prior to beginning construction of a project for which one wishes to receive a tax credit, the property owner must submit an application for prequalification of the project to the planning director on a form provided by the planning director. This application must be accompanied

by all necessary federal, state, and local permits or approvals for the project. Within 10 business days of application, the planning director shall mail notice to the applicant as to whether the proposed project has pre-qualified. If this notice is not mailed as provided herein, prequalification is deemed denied

C. Upon completion, the applicant must schedule an inspection of the project with the planning director. Within 10 business days of this inspection, the planning director shall mail notice to the applicant whether the project as completed qualifies for the tax credit. The notice shall contain a determination of the costs being allowed. A copy shall be sent to the assessor. If this notice is not mailed as provided herein, the tax credit is deemed denied.

D. For the first tax year following completion of the project, the assessor shall provide a credit to the owner of the land upon which the project was constructed of up to 50% of the taxes levied upon that land, or the taxable interest in that land, for that year or the costs incurred on the project, whichever is less. In the second year, the assessor will provide a further tax credit of up to 50% of the taxes levied upon that land, or the taxable interest in that land, for that year or the remainder of the costs incurred on that project not previously credited, whichever is less. In the third year, the assessor will provide further tax credit of up to 50% of the taxes levied upon that land, or the taxable interest in that land, for that year or the remainder of the costs expended on that project not previously credited, whichever is less. The credit must be taken in 3 consecutive years and is limited to those 3 years regardless of the costs incurred by the applicant. Only the land value, which is defined as that value attributed to the land in the assessor's notice of assessment, is included in calculating the amount of the tax credit

E. If prequalification of the tax credit is denied, or less costs for the project are allowed than the applicant thinks appropriate, the applicant may appeal that decision to the mayor on a form provided by the mayor. Appeals shall be made within ten days of the date of notice of any decision under this section or if a notice was not mailed ten days from the date the action is deemed to be denied. In reviewing a denial, the mayor shall grant prequalification if the proposal conforms to the requirements of the ordinance. The mayor shall grant the credit if the project, as completed, substantially conforms to the plans submitted for prequalification or if the mayor determines the project conforms to the requirements of the ordinance. In reviewing an appeal requesting allowance of more costs than allowed, the mayor shall grant the request if the verifiable costs are the same as outlined in the plans submitted for prequalification or if the mayor determines the costs were necessarily incurred to complete the project as proposed.

#### **5.14.030. Limitations on tax credit.**

A. The tax credit for the protection/restoration project will only be granted for pre-approved and verified out of pocket costs. In the calculation of the out of pocket expenses, federal, state and private non-repayable grants cannot be considered. Out of pocket costs not pre-approved may be granted if shown to be necessary and they are verified in writing. Invoices or other written verification must identify the owner of the property as the ultimate purchaser.

B. The tax credit is not transferable, including but not limited to, a purchaser of the land upon which the project was constructed.

C. Projects which are required by state, federal, or local authorities do not qualify for the tax credit.

D. All projects must be located within 150 horizontal feet from the mean high tide line or ordinary high water line of the Kenai River or its tributaries as defined in as 29.45.046(b)(2).

E. The tax credit only applies to that portion of the taxes levied by the borough and any applicable service area and the credit would be apportioned pro rata between them based on their respective mill rates. However, if a city within the borough adopts a tax credit ordinance identical to this ordinance and the city further requests that the borough administer the city's tax credit ordinance, then the borough will do so.

F. The total tax credit available in any year is 50% of the taxes due on the land value for that year regardless of the number of projects on that property.

G. Any exemption applicable to property for which the tax credit is sought shall first be deducted from the improvement value of the property and then from the land value remaining before determining the amount of the tax credit. No tax credit may be granted during a year on property for which no taxes are due for that year.

H. Property that has been subdivided or transferred after construction of an eligible project will not be eligible for any portion of the tax credit in any year following the subdivision or transfer.

I. Neither an owner's labor, or that of volunteers, qualifies as an allowable cost for calculating a tax credit under this ordinance.

#### **5.14.040. Allowed fish habitat protection and restoration projects.**

Only the following projects may be considered for the tax credit:

A. Boardwalks constructed so that no part other than the posts upon which it rests are within 8 inches of the land. The surface must be at least 25% open to the land below and it must be made of wood, plastic, fiberglass, or aluminum. If the wood is treated, it must be certified as non-toxic to plants and animals by an independent laboratory or other appropriate agency.

B. Spruce trees cabled parallel to the river bank as a buffer between the water and the bank.

C. Steps and ladders across land adjacent to the rivers which is at least 10 degrees steep, or from any adjacent land into the water or onto a floating dock, constructed so that no part other than the posts upon which they rest are within 8 inches of the land. The surface must be at least 25% open to the land below and they must be made of wood, plastic, fiberglass or aluminum. If the wood is treated, it must be certified as non-toxic to plants and animals by an independent laboratory or other appropriate agency.

D. Floating docks issued the necessary permit or permits to build so long as the completed dock conforms to the standards applicable to the issuance of permits by permitting agencies.

E. Projects which prevent or reduce the likelihood that petroleum products, including petroleum products in water run off from roads, will enter the rivers. Where applicable, such projects must conform to any federal or state standards to be eligible for this tax credit.

#### **5.14.050. Planning department review.**

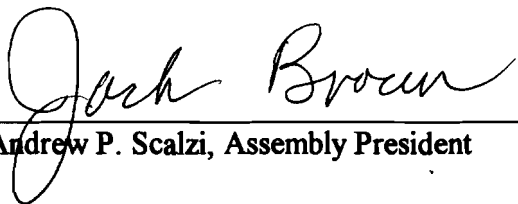
The planning director shall prepare an annual report on the number of applications received under this chapter and the action taken on them. This report shall be submitted by April 1 of each year. The report shall also contain any recommendations the planning department may have for changes in the activities eligible for the credit consistent with the purposes of this chapter. Reports or recommendations for changes may be submitted more frequently at the discretion of the mayor.

**SECTION 2.** Projects constructed or begun during calendar year 1995 before the effective date of this ordinance shall be eligible for the credit commencing in 1996 as if the ordinance had been in effect at that time. To qualify these prior legally permitted projects must meet all conditions of this ordinance for approval except for the requirement that the application be made prior to commencement of work.

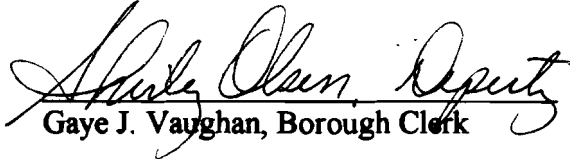
**SECTION 3.** That this ordinance becomes effective immediately upon enactment.

**SECTION 4.** That this ordinance shall sunset on December 31, 1998, unless extended by the Assembly. However, projects approved by that date will be eligible to carry forward the credit in subsequent tax years subject to the limitations set forth in this ordinance.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 21st DAY OF NOVEMBER, 1995.**

  
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Andrew P. Scalzi, Assembly President

**ATTEST:**

  
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Gaye J. Vaughan, Borough Clerk