

Introduced Wiley
Date: 9/17/96
Hearing: 10/29/96
Action: Withdrawn by Sponsor
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 96-44**

**AN ORDINANCE REPEALING PORTIONS OF ORDINANCE 96-14,
REQUIRING PERMITS FOR GRAVEL EXTRACTION WITHIN THE BOROUGH**

WHEREAS, Ordinance 96-14 was introduced at the Assembly meeting on April 16, 1996; and was duly enacted on that date; and

WHEREAS, public concern has been voiced as to whether or not adequate public notice was given with the opportunity to be heard by the public and by the industry affected prior to the passage of the ordinance; and

WHEREAS, the goal of the Kenai Peninsula Borough Comprehensive Plan is to maintain the freedom of property owners in rural areas of the Borough to make decisions and control use of their private land; to be implemented by ensuring any land use regulations are the minimum necessary to control uses which affect public health and safety or infringe on the rights of adjacent property owners; and

WHEREAS, the Assembly feels that a task force should be appointed to further study the issues as to the necessity and scope of the proposed land use regulations;

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

SECTION 1. That the following sections of Ordinance 96-14 as it pertains to gravel extraction (Enacting KPB Chapter 21.14, Land Use Permits) are hereby repealed:
21.13.030 F., G., and H.; and
21.13.040 (2.); and
21.13.070 in its entirety.

SECTION 2. That Section 21.13.080 B. is amended to read:

21.13.080. Issuance or denial of permit - Public hearing required.

- A.
- B. When the application is scheduled to be considered, the Planning Commission shall conduct a public hearing to consider the permit application, and shall either approve, modify, or disapprove the permit application. The applicant shall present substantial evidence to the Commission[, WHICH MAY INCLUDE THE ENGINEER'S CERTIFICATE REFERENCED

IN KPB 21.13.070 IF APPROPRIATE,] justifying the requested permit stating fully the grounds for the application and the facts relied upon. Those wishing to contest issuance of the permit may submit evidence and be heard at the hearing. Before granting the permit, the Commission must find at a minimum that the proposed activity complies with the requirements of this chapter, it will not be detrimental to the public welfare, and it will not be injurious to other property in the area. Planning Commission approval of these land use permits shall be by resolution. Permits shall be conditioned upon continued compliance with this chapter.

SECTION 3. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS _____ DAY OF _____, 1996.

Andrew P. Scalzi, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk