

Introduced by: Scalzi
Date: 6/03/97
Hearing: 7/15/97
Hearing: 8/19/97
Postponed to: 9/02/97
Action: Defeated as Amended
Vote: 4 Yes, 5 No

**KENAI PENINSULA BOROUGH
ORDINANCE 97-39**

**AN ORDINANCE AMENDING CHAPTER 21.13 REGARDING
LAND USE PERMITS FOR SAND, GRAVEL OR MATERIAL SITES**

WHEREAS, the Kenai Peninsula Borough enacted Chapter 21.13, Land Use Permits, on May 21, 1996; and

WHEREAS, since its enactment there has been confusion regarding the intent and applicability of that portion of Chapter 21.13 dealing with sand, gravel, and material sites; and

WHEREAS, to clarify the meaning and applicability of certain words within this chapter an amendment to the borough code is necessary;

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

SECTION 1. That KPB Chapter 21.13.030(F) is amended as follows:

F. "[SAND, GRAVEL OR] material site" means an area used for commercial extracting, quarrying [,STOCKPILING,] or conditioning gravel, sand [,] or rock [,PEAT, PUMICE, PUMICITE, CINDERS, LAY SOD, TOPSOIL OR OTHER SIMILAR RESOURCES].

SECTION 2. That KPB 21.13.030 is also amended by adding a new definition as follows:

I. "Commercial material site" means a site used for the extraction of material such as sand, gravel or rock for the purpose of sale or barter; and

- a. where two or more acres or 5,000 or more cubic yards of gravel or other materials are disturbed or removed on one parcel or location in any one year;
or
- b. there is a cumulative disturbed area of two acres or more at one location or on one parcel.

SECTION 3. That KPB 21.13.040 shall be amended as follows:

21.13.040 Permit required for commencement of certain land uses.

It shall be unlawful for any person to use land, or to assist another to use land, within the rural district of the Kenai Peninsula Borough for the following uses without first obtaining a permit from the Kenai Peninsula Borough in accordance with the terms of this ordinance:

- A. Correctional community residential center (CCRC); and
- B. [SAND, GRAVEL OR] Commercial material site.

SECTION 4. That KPB 21.13.070 shall be amended as follows:

21.13.070 Standards for [SAND, GRAVEL OR] commercial material sites.

The following requirements apply to permits issued for commercial [SAND, GRAVEL OR] material sites:

- A. Ground water disturbance. All permitted land use activities shall be conducted in a manner that minimizes disturbing ground water. Except as provided below, all permits shall be issued with a condition requiring the applicant to maintain a vertical distance of at least four feet above the seasonal high ground water table for the subject property. A permit may be issued without requiring the applicant to maintain this four foot vertical distance if, after a hearing, the planning commission determines that the proposed activity is not likely to reduce the seasonal high groundwater table for property within a one-half mile radius of the site, excluding the site. If the applicant provides, from a duly licensed and qualified engineer, a statement delineating all effects of de-watering on any lands and certifying that the activity as proposed, is not likely to reduce the seasonal high groundwater table level for property within one-half mile radius of the site, excluding the site, a rebuttable presumption is created that the activity will have no such effect.
- B. Buffer zone. A permit shall not be issued unless the applicant provides and maintains a buffer zone between the site boundary and the property boundary of all contiguous parcels and roads. The buffer zone shall provide and retain a basic buffer of either 50 feet of natural or improved vegetation, a minimum of six-foot earthen berm or a minimum six-foot fence. The vegetation and fence shall be of sufficient height and density to provide visual screening of the proposed use.
- C. Reclamation. A permit shall not be issued unless the application agrees to re-seed and reclaim all disturbed land upon completion of the proposed land use, or within a pre-determined time period for long term activities, so as to leave the land in a stable condition. As a condition of issuing the permit, the application shall submit a reclamation plan and post a bond to cover the anticipated reclamation costs in an amount to be determined by the planning director. This subparagraph shall not apply to [SAND, GRAVEL OR] commercial material sites for which an exemption from state reclamation plan and bond requirements for small operations has been obtained pursuant to AS 27.19.050. (Ord. 96-14 1(part), 1996.
- D. A commercial material site may not be located within 500 feet of an existing residence, measured property line to property line.

SECTION 5. That this ordinance takes effect immediately upon its adoption.

**DEFEATED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 2nd
DAY OF SEPTEMBER, 1997.**

Jack Brown, Assembly President

ATTEST:

Linda S. Murphy, Borough Clerk