

Introduced CCRC Subcommittee
Date: October 28, 1997
Hearing: November 18, 1997
Action: Enacted as amended
Vote: 8 Yes, 1 No

**KENAI PENINSULA BOROUGH
ORDINANCE 97-69**

**AN ORDINANCE AMENDING KPB CHAPTER 21.13 REGARDING COMMUNITY
CORRECTIONAL RESIDENTIAL CENTERS**

- WHEREAS,** KPB Chapter 21.13 requires any person using land within the Kenai Peninsula Borough to operate a correctional community residential center ("CCRC") to first obtain a land use permit from the borough; and
- WHEREAS,** Goal 5.5 of the Kenai Peninsula Borough Comprehensive Plan is to reduce conflicts arising from incompatible uses within the borough; and
- WHEREAS,** through ordinance 96-33 the borough assembly authorized the establishment of a task force to evaluate areas within the rural district of the borough and recommend specific areas least subject to conflicts arising from locating CCRCs; and
- WHEREAS,** the task force was formed and submitted a report to the assembly on April 8, 1997 which contained numerous recommendations and detailed information; and
- WHEREAS,** the task force recommendation was that the "Government - to - government" model be pursued for establishing a CCRC within the borough in order to best maintain local control and public involvement in the location of a CCRC; and
- WHEREAS,** the Assembly formed a CCRC subcommittee to review all task force recommendations to recommend whether they should be adopted; and
- WHEREAS,** the subcommittee has met numerous times to discuss these recommendations and, after careful consideration, the subcommittee hereby incorporates those recommendations it deems appropriate; and
- WHEREAS,** the Department of Corrections indicated at the August 4, 1997 subcommittee meeting that the Department would have no objection to the Borough prohibiting the incarceration of convicted sex offenders at any CCRC established in the Borough; and
- WHEREAS,** a 1996 Alaska Department of Corrections and University of Alaska Anchorage Justice Center (DOC-UAAJC) study on sex offender recidivism indicates that 60%

of sex offenders terminate treatment before completion, that only 10% of sex offenders complete all phases of treatment, and that untreated sex offenders have higher rates of recidivism than treated offenders; and

WHEREAS, a goal of this ordinance is to protect the vulnerable in our community, such as elderly and youth, and the elderly have been shown to be victims of particularly brutal sexual assaults and many sex offense victims are under the age of 18, and 63% of the offenders subject of the DOC-UAAJC study had committed sexual abuse against minors (SAM); and

WHEREAS, most sex offender programs in the United States regard the sexual assault offender as a poor candidate for treatment and the DOC-UAAJC study acknowledges sex offenders cannot be cured; and

WHEREAS, in exercising its implied power to protect the health, safety and welfare of the citizens of the Borough which exists in conjunction with its power to regulate land use, and in consideration of the fact that untreated sex offenders are poor candidates for rehabilitation, the subcommittee expressly joins the task force in recommending that sex offenders be barred from incarceration in any CCRC established in the Borough; and

WHEREAS, the subcommittee recognizes that in some circumstances an applicant for a permit to operate a CCRC and an applicant for a site and facility permit may not be the same person or entity; and

WHEREAS, the conditions for issuance of each type of permit would be somewhat different and therefore each type should have its own conditions as well as general requirements relevant to both; and

WHEREAS, once a location permit has been approved there is no need to repermit the location of the CCRC but there may be a need to repermit new applicants who may operate a CCRC at a previously permitted location; and

WHEREAS, the Assembly subcommittee strongly recommends that the government-to-government model be pursued by the Kenai Peninsula Borough for establishing a CCRC within the borough in order to best maintain local control and public involvement in the location of a CCRC.

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

SECTION 1. That KP.B 21.13.060 is hereby amended to read as follows:

21.13.060. Standards for correctional community residential centers.

CCRCs shall not be located within one-half geographical mile of any pre-existing: public or [LICENSED] private school, [A PRE-EXISTING LICENSED DAY CARE FACILITY, OR A PRE-EXISTING LICENSED SENIOR CITIZEN FACILITY] child care facility, multi-purpose senior center or senior housing project. The assembly may waive this requirement if any schools or facilities, as set forth above, located within one-half mile of the proposed CCRC express no objection to [EXPRESSLY NON-OPPOSE] so locating the CCRC.

SECTION 2. That KPB 21.13.030 is hereby amended to read as follows:

21.13.030. Definitions.

A. "Child care facility" means a place where child care is regularly provided for children under the age of 12 for periods of time that are less than 24 hours in duration and that is licensed pursuant to Alaska Statutes 47.35.005 et seq., excluding child care homes and child care group homes, as currently written or hereafter amended.

E. "Multi-purpose senior center" is a facility where persons 60 years of age or older are provided with services and activities suited to their particular needs. The services and activities may include, but are not limited to, health examinations, legal assistance, recreation programs, general social activities, telephone reassurance programs, nutrition classes, meals at minimum cost, counseling, protective services, programs for shut-ins and education programs, and that complies with Alaska Statutes 47.60.010-47.60.090, as currently written or hereafter amended.

H. "Private school" is a school comprised of kindergarten through 12th grade, or any combination of those grades, that does not receive direct state or federal funding and that complies with either Alaska Statute 14.45.030 or 14.45.100-14.45.130, as currently written or hereafter amended.

I. "Public school" is a school comprised of kindergarten through 12th grade, or any combination of those grades, that is operated by the State of Alaska or any political subdivision of the state.

M. "Senior housing project" means senior housing as defined for purposes of construction or operation in 15 Alaska Administrative Code 151.950(c), as currently written or hereafter amended.

The Clerk is instructed to renumber the existing subsections in this section to maintain alphabetical listing of the terms therein defined.

SECTION 3. That KPB 21.13.050 is hereby amended to read as follows:

21.13.050. Application procedure.

In order to obtain a permit, an applicant shall first complete and submit to the borough planning department a permit application [FORM], along with the appropriate fee as established by the Planning Commission. [AND REQUIRED BY THE PLANNING DEPARTMENT FEE SCHEDULE. PERMIT APPLICATIONS SHALL IDENTIFY THE APPLICANT, ANTICIPATED TYPE OF LAND USE, LOCATION AND A DESCRIPTION OF THE ANTICIPATED SIZE, SCOPE AND HOURS OF OPERATION.] In addition to those items listed below, [A]applicants shall [MUST] provide any additional [SUCH OTHER] information [AS] the Planning Director deems appropriate and necessary to determine compliance with this chapter.

A. Material Site Permit. The Material site permit application shall include:

1. Location
2. Description of anticipated size, scope and hours of operation.

B. CCRC Permit

1. Application Acceptance. Two permits must be obtained, on an application form provided by the Planning Department, prior to operating a CCRC within the boundaries of the Borough: a Site and Facility Permit and an Operation permit. No CCRC permit application will be accepted by the Borough unless a Request for Proposals or sole-source contract has been issued by the State of Alaska within the previous 180 days. In the case of issuance of a contract between a local government and the Department of Corrections, Site/Facility and Operations permits are still required.

2. CCRC Site and Facility Permit. The Site and Facility Permit application shall include:

- a) location of the proposed site; and
- b) as-built and/or conceptual drawings for all buildings and structures.

3. CCRC Operation Permit. The Operation Permit application shall include:

a) A proposed organization chart of the operation identifying the lines of responsibility and general function of the operator and staff;

b) A general description of the number and types of residents proposed;

c) A description of the major programs offered on site;

d) A general description of the security measures proposed to protect the public safety; and

e) A description of the notice procedures to be employed with respect to escapes and evasions.

4. At the discretion of the applicant, both permits under this section may be considered at the same Planning Commission meeting. If considered together, each permit must be approved, modified or disapproved by a separate vote of the Planning Commission.

SECTION 4. That KPB 21.13.080 is hereby amended to read as follows:

21.13.080. [ISSUANCE OR DENIAL OF PERMIT] Permit Considerations - public hearing required

C. In consideration of issuance of CCRC permits, the Planning Commission may include the following conditions, among others:

1. The CCRC permittee shall submit an annual report to the Planning Commission detailing continued compliance with all applicable laws and conditions of the Site and Facility and Operations permits.

2. Site and Facility Permit conditions and criteria

a) The CCRC must be the principal use of the parcel of land upon which it is located.

b) New construction should be in character with the neighborhood and reflect sensitivity and respect for the surrounding environment.

c) The size of the facility shall reflect the needs of the peninsula and not exceed 25 beds.

3. Operation Permit conditions and criteria

a) The Operations permit should identify the number of beds authorized for the CCRC. If the permittee seeks to increase the number of beds, then the permittee will be required to obtain a new Operations permit.

b) The CCRC must be maintained in a safe, clean condition.

c) The CCRC shall provide the Kenai Peninsula Borough Planning Department with a

monthly report on the number of residents and any reported violations.

d) The CCRC shall provide the Kenai Peninsula Borough Planning Department with copies of all applicable State, federal, and local permits and approvals required to operate the facility.

e) Sex offenders shall not be housed at a CCRC.

f) Operation Permits are valid for only the specific RFP issued at the time of application.

g) The permittee must follow the notification procedures for escapes and evasions submitted in 21.13.050 (B)(3)(e).

h) Any entity operating a CCRC must furnish the borough with a performance bond issued by a company qualified by law to do business as a surety in the state. The bond shall be in an amount determined by the purchasing officer and on a form provided by the Borough Attorney.

SECTION 5. That KPB 21.13.085 is hereby enacted to read as follows:

21.13.085. Correctional community residential center advisory committee established.

A. When a correctional community residential center is established, the Kenai Peninsula Borough through the Mayor, in consultation with the Department of Corrections, shall appoint a CCRC advisory committee consisting of five members from the geographic area in which the center is located. Committee appointments shall be confirmed by the assembly. The committee shall act as a liaison between the community and the department regarding concerns with the center.

B. The Mayor or designee and the Department of Corrections shall develop written policies and procedures for securing citizen involvement in the CCRC establishment and operations process and recruiting members for the advisory committee from all cultural and socioeconomic segments of the community.

C. The Mayor, with Assembly approval, shall establish policies and procedures governing operations of the advisory committee. Policies and procedures shall include, but are not limited to:

1. A system for selection, terms of service, definition of task, responsibilities, and authority.

2. A provision that prior to any assignment, committee members will complete the required background investigation information and training required; and

3. A provision that committee members agree in writing to abide by facility policies.

D. The committee shall meet at least quarterly with the CCRC administrator and appropriate personnel, if necessary, from the borough and Department of Corrections.

E. In addition to the requirements of this section, the committee shall adhere to the requirements contained in A.S. 33.30.171 and other standards as may be established by the Department of Corrections.

SECTION 6. That KPB 21.13.090 is hereby amended to read as follows:

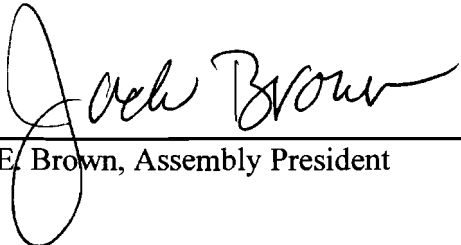
21.13.090. Notice.

Notice of the pending application shall be published two times in a newspaper of general circulation in the local area in which the land use is proposed. The notice shall also be posted in the post office(s) of the impacted community. At the beginning of the notice period a copy of the notice shall be sent by regular mail to all owners and/or leaseholders of record of residential property located with a radius of one-half mile of the subject property. The notice shall contain a description of the proposed location, the type of proposed land use, the applicant's name, where written comments may be submitted, the last date for which written comments may be submitted, and the date, time and

location of the public hearing.

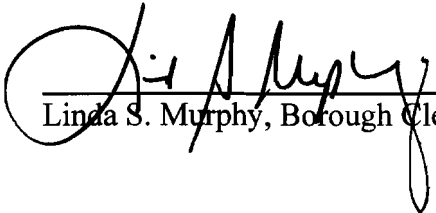
SECTION 7. That this ordinance shall be effective November 21, 1997.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18th DAY OF NOVEMBER, 1997.



Jack E. Brown, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk