

Introduced by:	Drathman
Date:	07/13/99
Hearing:	08/17/99
Action:	Defeated
Vote:	4 Yes, 3 No, 2 Absent
Reconsideration:	Filed by Popp
Action:	Enacted as Amended
Action Date:	09/07/99
Vote:	6 Yes, 3 No

**KENAI PENINSULA BOROUGH
ORDINANCE 99-43**

**AN ORDINANCE AMENDING THE KPB CODE TO PROVIDE THAT APPEALS
FROM DENIED VACATION PETITIONS SHALL PROCEED TO COURT**

WHEREAS, KPB 20.28.110 provides for an administrative appeal of the denial of vacation petitions; and

WHEREAS, such appeals are not required to be heard administratively and can consume significant resources and time;

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

SECTION 1. KPB 20.28.110 is hereby amended as follows:

20.28.110. Action after denial of vacation petition.

A. [UPON D] Denial of a vacation petition[,] is a final act for which no further consideration shall be given [UNLESS THE DENIAL IS APPEALED BY THE PETITIONER TO THE CITY COUNCIL IF THE VACATION LIES WITHIN THE INCORPORATED CITY BOUNDARIES OR TO THE ASSEMBLY IF THE VACATION LIES OUTSIDE THE BOUNDARIES OF AN INCORPORATED CITY. THE APPEAL SHALL BE FILED IN WRITING WITH THE APPROPRIATE MUNICIPAL CLERK WITHIN 8 CALENDAR DAYS OF THE PLANNING COMMISSION ACTION. THE APPEAL SHALL BE CONDUCTED AS A PUBLIC HEARING AND NOTICE PROVIDED AS REQUIRED UNDER SECTION 20.28.080. ADVERTISING AND NOTICE FEES FOR THE APPEAL SHALL BE AS REQUIRED BY EACH CITY COUNCIL OR BY THE ASSEMBLY AS APPROPRIATE. THE MUNICIPAL CLERK SHALL NOTIFY THE PLANNING COMMISSION OF THE FINDINGS OF THE COUNCIL OR ASSEMBLY REGARDING THE APPEAL SO THAT FURTHER ACTION CONCERNING SURVEYING AND

PLATTING MAY BE INITIATED]. Appeals from denials of vacations must be taken within 30 days to the Superior Court at Kenai, Alaska pursuant to Part VI of the Alaska Rules of Appellate Procedure.

B. Upon denial by the planning commission, [AND WHEN NO APPEAL IS FILED OR WHEN AN APPEAL IS FILED AND DENIED,] no reapplication or petition concerning the same vacation may be filed within 1 calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

SECTION 2. KPB 21.20.230 is hereby amended as follows:

21.20.230. Jurisdiction.

A. Unless a different appellate procedure is provided by this code, the board of adjustment is authorized to hear and decide appeals from planning commission decisions.

B. [APPEALS FROM PLANNING COMMISSION DENIALS OF VACATION PETITIONS SHALL BE HEARD, BASED ON THE RECORD, BY THE ASSEMBLY IN ACCORDANCE WITH THE PROCEDURES IN KPB CHAPTER 20.28.] The assembly shall consider planning commission approved vacation petitions in accordance with the procedures in KPB Chapter 20.28.

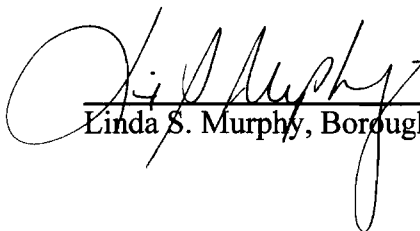
SECTION 3. That this ordinance applies to all appeals filed after the effective date of this ordinance.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 7TH DAY OF SEPTEMBER, 1999.



Ronald Wm. Drathman, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

