

Introduced by:	Merkes
Date:	04/17/01
Shortened Hearing:	05/01/01
Action:	Amended and Postponed until 05/15/01
Action:	Enacted
Vote:	8 Yes, 0 No, 1 Absent
Date:	05/15/01

**KENAI PENINSULA BOROUGH  
ORDINANCE 2001-12**

**AN ORDINANCE AMENDING KPB 21.44, LOCAL OPTION ZONING,  
TO BE CONSISTENT WITH KPB 21.18, ANADROMOUS STREAMS  
HABITAT PROTECTION AND DELETING SECTION 21.44.195**

**WHEREAS,** KPB 21.18 protecting anadromous stream habitat allows for certain structures within 50 feet of the shore; and

**WHEREAS,** KPB 21.44 prohibits more types of structures than are permitted by KPB 21.18 within 50 feet of the shore; and

**WHEREAS,** allowing structures as permitted by KPB 21.18 in local option districts will not undermine the purposes of KPB 21.44 and will promote anadromous stream habitat protection;

**WHEREAS,** The Planning Commission reviewed the ordinance during their regularly scheduled April 23, 2001 meeting and recommended enactment.

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

**SECTION 1.** That KPB 21.44.160(C) is hereby amended as follows:

*C. Development Standards.* Development standards apply to principle and accessory structures.

1. *Setbacks.* Setbacks shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
2. *Maximum building height.* Maximum building height shall be 2 1/2 stories above ground or 35 feet above average grade, whichever is less
3. *Minimum lot size.* Minimum lot size shall be 40,000 square feet.
4. *Drainage Ways.* Existing natural drainage ways shall be retained.
5. *Buffers.* A forested buffer of at least 20 feet shall be retained between the building site and the roadway. Dead and diseased trees which are a safety hazard or which threaten structures may be removed. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.

6. Accessory structures. Accessory structures commonly associated with residential dwellings, i.e., garages, storage sheds, greenhouses, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district.
7. *Dog Lots*: Dog lots and kennels are prohibited.

**SECTION 2.** That KPB 21.44.170(C) is hereby amended as follows:

- C. *Development Standards*. Development standards apply to principle and accessory structures:
1. *Setbacks*. Setbacks shall be 60 feet from the front yard line, 40 feet from the rear yard line, 25 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
  2. *Minimum lot size*. Minimum lot size shall be 100,000 square feet.
  3. *Drainage ways*. Existing natural drainage ways shall be retained.
  4. *Buffers*. To provide for screening, aesthetics, and the reduction of surface water run-off, no lot shall be clear-cut more than 50 percent of the total lot area except that trees may be selectively pruned and thinned, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. Undergrowth may be removed provided that the area is promptly re-seeded or sodded. A forested buffer of at least 30 feet shall be retained between the building site and the common drive or roadway. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.
  5. *Accessory Structures*. Accessory structures commonly associated with residential dwellings, i.e., garages, storage sheds, greenhouses, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district.

**SECTION 3.** That KPB 21.44.180(C) is hereby amended as follows:

- C. *Development Standards*. Development standards apply to principle and accessory structures:
1. *Setbacks*. Setbacks shall be 60 feet from the front yard line for MF units, 40 feet from the front yard line for R-1 units, 40 feet from the rear yard line for MF units, 20 feet from the rear yard line for R-1 units, 25 feet from the side yard lines for MF units, 15 feet from the side yard lines for R-1 units, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
  2. *Minimum lot size*. Minimum lot size shall be 80,000 square feet for MF units and 40,000 square feet for R-1 units.
  3. *Drainage Ways*. Existing natural drainage ways shall be retained.
  4. *Buffers*. To provide for screening, aesthetics, and the reduction of surface water run-off, no lot shall be clear-cut more than 50 percent of the total lot area except that trees may be selectively pruned and thinned, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. Undergrowth may be removed provided that the area is promptly re-seeded or sodded. A forested buffer of at least 30 feet shall be retained between the building site and the common drive or roadway. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.

5. *Accessory Structures.* Accessory structures commonly associated with residential dwellings, i.e., garages, storage sheds, greenhouses, workshops, and a single, noncommercial guesthouse per parcel, are allowed within the district.

**SECTION 4.** That KPB 21.44.190(C) is hereby amended as follows:

- C. *Development Standards.* Development standards apply to principle and accessory structures:
  1. *Setbacks.* Setbacks shall be 30 feet from the front yard line, 20 feet from the rear yard line, 15 feet from the side yard lines, and 100 feet from the shore and where applicable subject to the provisions of KPB 21.18.
  2. *Minimum lot size.* Minimum lot size shall be 40,000 square feet.
  3. *Drainage Ways.* Existing natural drainage ways shall be retained.
  4. *Buffers.* A forested buffer of at least 20 feet shall be retained between the building site and the roadway. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.

**SECTION 5.** That KPB 21.44.195(C) is hereby deleted in its entirety:

**SECTION 6.** That KPB 21.44.200(B) is hereby amended as follows:

- B. *Development Standards:*
  1. *Setbacks.* Setbacks shall be 40 feet from the front yard line, 20 feet from the rear yard line, 25 feet from the side yard lines, and 100 feet from the shore and where applicable subject to the provisions of KPB 21.18.
  2. *Minimum lot size.* Minimum lot size shall be 40,000 square feet.
  3. *Drainage Ways.* Existing natural drainage ways shall be retained.
  4. *Buffers.* To provide for screening, aesthetics, and the reduction of surface water run-off, no lot shall be clear-cut more than 75 percent of the total lot area except that trees may be selectively pruned and thinned, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. Undergrowth may be removed provided that the area is promptly re-seeded or sodded. A forested buffer of at least 30 feet shall be retained between the building site and the common drive or roadway, and a forested buffer of at least 50 feet shall be retained between the Industrial and other local option zoning districts. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.

**SECTION 7.** That KPB 21.44.210(D) is hereby amended as follows:

- D. *Development Standards.* Development standards apply to principle and accessory structures:
  1. *Setbacks.* Setbacks shall be 30 feet from the front yard line, 10 feet from the rear yard line, 5 feet from the side yard lines, and 50 feet from the shore and where applicable subject to the provisions of KPB 21.18.
  2. *Maximum building height.* Maximum building height shall be 2 1/2 stories or 35 feet above average grade, whichever is less.
  3. *Minimum area.* Minimum area shall be 20 contiguous acres of gross project area in size.

4. *Minimum lot size*: Minimum lot size shall be 10,000 square feet (provided that an ADEC approved community sewer and water system is utilized).
5. *Drainage Ways*. Existing natural drainage ways shall be retained.
6. *Pollution Control*. The location and nature of the septic systems which will serve the homesites individually or collectively will assure that effluent from the septic systems will not reach the ground or surface waters in a condition which would contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters
7. *Buffers*. To provide for screening, aesthetics, and the reduction of surface water run-off, no lot shall be clear-cut more than fifty (50) percent of the total lot area except that trees may be selectively pruned and thinned, and dead and diseased trees which are a safety hazard or which threaten structures may be removed. Undergrowth may be removed provided that the area is promptly re-seeded or sodded. A forested buffer of at least 20 feet shall be retained between the building site and the common drive or roadway. This section does not require revegetation of a buffer area that was cleared before the formation date of the local option zoning district.
8. *Open Space*.
  - a. At least 50% of the gross project area shall be dedicated as permanent open space. Open space shall be restricted to prohibit development and may be:
    - i. dedicated to the public;
    - ii. retained by the former owner;
    - iii. held in common by the residents of the residential conservation district; or
    - iv. held as outlots by individual owners of the conservation district.
  - b. Lands dedicated to the public must be accepted by the planning commission as part of the platting process.
  - c. Open space shall be deed restricted to forestry, recreational and environmental protection uses. However, a sanitary waste disposal system may be located in the area provided no suitable site is available on the lot served by the system. Open space shall be contiguous.
9. *Accessory structures*. Accessory structures commonly associated with residential dwellings, i.e. garages, storage sheds, greenhouses, and workshops are allowed within the district.
10. *Dog lots*. Dog lots and kennels are prohibited.
11. *Density*: The number of platted homesites shall not exceed 150% of what would have been possible if the same land were platted in accordance with the minimum lot sizes and setbacks provided by the applicable provisions of KPB codes and ordinances. The maximum number of home sites shall be determined by dividing the gross project area of the subdivision, excluding streets, by the minimum lot size of 40,000 square feet, plus 50 percent of that number.
12. *Design standards*.
  - a. Roadways, lots and building envelopes shall be located in areas where they will have the least effect on wetlands, rivers, streams and other environmentally sensitive areas, cropland, pasture, meadow, and historic structures, and where they will retain or enhance the visual character of the rural landscape. However, in resolving conflicts between these interests, priority shall be given to protection of

- waterways and their buffers, steep slopes, regulated floodplains and avoidance of a fragmented landscape.
- b. Consideration of the design of the subdivision and the open space provisions shall include the Borough Comprehensive Plan, Trails Plan and community plans, Coastal Management Plan, as well as recommendations from Alaska Department of Fish and Game and other permitting authorities.
  - c. *Building Sites*. The following standards apply to building sites.
    - i. Building sites shall include at least 2,500 square feet of buildable area excluding sites designated for sanitary systems and all areas where construction of buildings and related infrastructure is precluded by the provisions of the Borough's ordinances.
    - ii. Buildings and roads shall be located as to minimize conflicts with uses of adjacent lands.
    - iii. Building sites shall not include wetlands or floodplains.
  - d. *Roadways and Infrastructure*. The following standards apply to roadways and infrastructure:
    - i. Roadways and, where practicable, infrastructure shall not be located in open fields but shall be sited along forest edges and shall be designed to maximize the amount of forest in the conservation district which is contiguous with adjacent forested lands.
    - ii. Roadways shall follow existing contours to minimize the extent of cuts and fills.
    - iii. Roadways shall be located to minimize the amount of wetland fill.
    - iv. Where sites include linear features such as existing access roads, tree lines and fence rows, roadways shall, where practicable, follow these features to minimize their visual impact.
    - v. Road and utility crossings of anadromous streams shall be minimized and consolidated at a single location to minimize impacts to both individual stream channels and watersheds.
    - vi. Bridges and culverts shall be large enough to provide free passage to anadromous fish and shall be positioned to minimize changes in direction or velocity of stream flow.
    - vii. All driveways shall serve a minimum of two units.
    - viii. The maximum number of units served by a common driveway shall be four unless the applicant demonstrates that a greater number will promote the objectives of the residential conservation district.
    - ix. Maximum length of common driveways shall be 1,000 feet.
    - x. All roads must be constructed to Kenai Peninsula Borough standards, KPB 14.06, Appendix A.
  - e. *Site Development and Land Disturbing Activities*. Existing natural vegetation shall be preserved in areas where disturbance outside the building envelope is not essential.
13. *Procedure for Establishing a Residential Conservation District*. The procedure for establishing a residential conservation district shall be as follows:
- a. *Petition*. A petition in compliance with KPB 21.44.210 shall be submitted to the planning director.

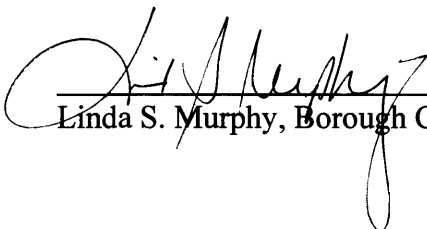
- b. *Review and Hearing.* The petition shall be submitted to the planning commission, which shall give notice and hold a public hearing. The planning commission decision shall reflect the recommendations of any federal, state or local agency with which the Borough Planning Department consults.
- c. *Findings and Conditions of Approval.* The planning commission shall make written findings as to the compliance or noncompliance of the proposed residential conservation district with each of the applicable requirements set forth in KPB 21.44.210. If the plat is granted in whole or part, the planning commission shall attach such written conditions to the approval as are required by and consistent with KPB 21.44.210. The conditions and approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, setbacks, location of septic systems and the preservation of ground cover and open space.
- d. *Planning Studies.* A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provision of KPB 21.44.210 or may be required to contribute funds to the borough to defray all or part of the cost of such studies being undertaken by the borough or any agency or person with whom the borough contracts for such work.

**SECTION 8.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 15TH DAY OF MAY, 2001.**

  
Timothy Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

