

Introduced by: Mayor at the request of the
Planning Commission
Date: 06/05/01
Hearing: 07/10/01
Action: Enacted
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2001-18**

**AN ORDINANCE MODIFYING THE REQUIREMENTS FOR VOLUNTARY PERMIT
CONDITIONS FOR CONDITIONAL LAND USE PERMITS**

- WHEREAS,** Ordinance 98-33 Substitute established procedures for voluntary permit conditions to be placed on Conditional Land Use permits for Sand, Gravel or Material sites subject to mutual agreement between the permittee and a majority of property owners within a ½ mile radius of the subject parcel; and
- WHEREAS,** in some cases the number of property owners within a ½ mile radius has been several hundred individuals; and
- WHEREAS,** KPB 21.25.050 requires the Planning Director to review an application within 21 days of receipt and if it is complete, schedule a public hearing at the next appropriate scheduled meeting; and
- WHEREAS,** the Planning Commission has found that obtaining approval from a majority of property owners within the required time frame to be exceedingly difficult; and
- WHEREAS,** the voluntary permit conditions process will be simplified if the applicant and the Planning Commission can agree to lawful conditions without approval of a majority of property owners; and
- WHEREAS,** prior to approval, the Planning Commission is required to make a finding that such conditions will be in the best interest of the borough and the surrounding property owners;

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

SECTION 1. That KPB 21.26.010 is hereby modified as follows:

21.26.010. Application procedure.

A. In order to obtain a material site permit, an applicant shall first complete and submit to the borough planning department a permit application, along with the appropriate fee as established by resolution of the planning commission and approved by the borough assembly. The application shall include the following items:

1. legal description of the parcel and identification of whether the permit is for the entire parcel or a specific location within a parcel;
2. a site plan including the location of excavation, points of ingress and egress and anticipated haul routes,

3. expected life span of the material site and, if the site is to be developed in phases, the life span and expected reclamation date for each phase;
4. the location of all wells within 300 feet of the proposed excavation site;
5. a buffer plan consistent with KPB 21.26.030;
6. reclamation plan or letter of intent required by AS 27.19; [AND]
7. the estimated distance to groundwater and the estimated depth of excavation; and
8. any voluntary permit conditions the applicant proposes. Failure to include a proposed voluntary permit condition in the application does not preclude the applicant from proposing or agreeing to voluntary permit conditions at a later time.

SECTION 2. That **KPB 21.26.020(A)(4) Voluntary Permit Conditions** is hereby modified as follows:

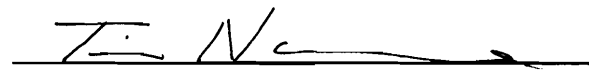
4. Voluntary permit conditions. The permittee [AND A MAJORITY OF THE PROPERTY OWNERS AND LEASEHOLDERS OF RECORD IN THE NOTICE AREA DEFINED BY KPB 21.25.060] may [MUTUALLY] agree to additional lawful permit conditions, subject to planning commission approval for CLUPs and planning director approval for Counter Permits. Allowable conditions may include protection of water sources, noise, dust, and traffic safety controls [, AND OTHER AMENABLE AGREEMENTS BETWEEN THE PARTIES].

SECTION 3. That **KPB 21.26.030(A)(7) Voluntary Permit Conditions** is hereby modified as follows:

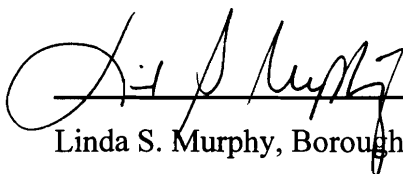
4. Voluntary permit conditions. Conditions may be included in the permit upon agreement of the permittee [AND A MAJORITY OF OWNERS AND LEASEHOLDERS OF RECORD WITHIN THE NOTICE AREA DEFINED BY KPB 21.25.060,] and approval of the planning commission for CLUPs or the planning director for Counter Permits. Such conditions must be consistent with the standards set forth in KPB 21.26.020(A) [(4)]. Planning Commission approval of such conditions shall be contingent upon a finding that the conditions will be in the best interest of the borough and the surrounding property owners. Voluntary Permit Conditions permanently apply to the subject parcel and operation, regardless of a change in ownership. A change in Voluntary Permit Conditions may be proposed at permit renewal.

SECTION 4. This ordinance shall take effect immediately upon its enactment.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 10TH DAY OF JULY , 2001.


Timothy Navarre, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk

