

Introduced by:	Mayor
Date:	09/04/01
Hearing:	09/18/01 & 10/09/01
Action:	Additional Hearing Scheduled for 09/18/01
Action:	Amended and Postponed until 10/09/01
Action:	Enacted as Amended
Date:	10/09/01
Vote:	8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2001-31**

**AN ORDINANCE AUTHORIZING THE SALE OF 25 PARCELS OF  
BOROUGH LAND BY OUTCRY PUBLIC AUCTION AND  
SUBSEQUENTLY BY OVER-THE-COUNTER SALES**

**WHEREAS,** the borough has received patent to the land listed on Attachment A of this ordinance; and

**WHEREAS,** the land has been appropriately classified for deposit into the land bank; and

**WHEREAS,** the land has been deposited into the land bank pursuant to KP.B 17.10.060(B); and

**WHEREAS,** the Planning Commission conducted a public hearing and recommended authorization of the sale of borough land by outcry auction by unanimous consent during the regularly scheduled August 13, 2001 meeting;

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

**SECTION 1.** The parcels listed on Attachment A are authorized for sale at fair market value as established by the assessing department.

**SECTION 2.** The method of disposal shall be by outcry public auction pursuant to KP.B 17.10.100(B). The date of the auction shall be October 20, 2001.

**SECTION 3.** All parcels will be conveyed by quitclaim deed. Either title insurance or another similar report must be obtained for all borough-financed sales, at the buyer's expense, showing the condition of title and that there are no unsatisfied judgments or liens against the buyer at the time of closing, the latter of which shall also be verified by the buyer. A borough approved credit report shall be required of all buyers prior to the borough's financing a sale. In the event a title report showing a reasonably acceptable condition of title cannot be obtained, then either the buyer or the borough may elect to terminate the purchase contract, in which case all monies on deposit will be refunded to the buyer.

**SECTION 4.** Upon successfully bidding or entering into an agreement to acquire the land, a down payment of ten percent (10%) of the sale price, or \$1,500.00, whichever is greater, shall be made, and the applicable terms and provisions of KPB 17.10.120 and KPB 17.10.130 shall apply.

**SECTION 5.** Pursuant to KPB 17.10.070(D), if any lands are not sold by the authorized means within ninety days, or the period specifically authorized by the ordinance, the property may be available for sale as an over-the-counter sale to be conducted as provided in KPB 17.10.100(H). The assembly authorizes exceptions to KPB 17.10.070(D) which requires that any lands not sold within 120 days after being eligible over-the-counter will revert to the land bank. These exceptions are based on the following findings of fact pursuant to KPB 17.10.230.

1. Special circumstances or conditions exist.
  - A. It is in the best interest of the borough to establish an ongoing, year-to-year, over-the-counter land sale after an outcry public auction rather than an over-the-counter sale that lasts only 120 days in order to save the expense associated with redoing the entire sale procedure.
  - B. If the borough does not sell a parcel through an outcry public auction, then it may need a longer exposure period in the market place. An ongoing, year-to-year, over-the-counter land sale will provide the longer exposure period to the market place.
  - C. An ongoing, year-to-year, over-the-counter land sale better serves the public by providing continuous opportunity to purchase public land.
  - D. The borough may add parcels to an ongoing, year-to-year, over-the-counter land sale after subsequent outcry public auctions as an efficient and effective means of marketing borough land.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this chapter.
  - A. KPB 17.10 through its numerous provisions and methodology for sale of borough land intended that borough land be sold on a regular basis. The intent of the land sale provisions was to provide the public the opportunity to purchase borough land. An ongoing, year-to-year, over-the-counter land sale serves the public better than an over-the-counter sale that lasts only 120 days and is the most practical manner of complying with the intent of this chapter.
  - B. As provided in Section 6 below, the ongoing, year-to-year, over-the-counter land sale will commence the first business day following the public outcry auction. However, any parcels bid on at the public outcry action that are not successfully

closed may be added later to the over-the-counter land sale, normally within ninety days, but after a longer period of time if circumstances warrant.

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area.
  - A. The above findings provide that an ongoing, year-to-year, over-the-counter land sale will benefit the public and not injure it.
  - B. The effect on private property in the area of borough land offered for sale through an ongoing, year-to-year, over-the-counter land sale as opposed to another land sale method will be negligible.

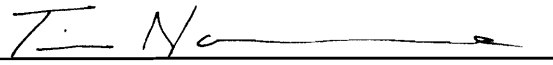
**SECTION 6.** Based on the foregoing, the mayor is hereby authorized to establish an ongoing, year-to-year, over-the-counter land sale of borough land as provided in KPB 17.10.100(H) of the parcels that are not sold at the outcry public auction.

1. The ongoing, year-to-year, over-the-counter land sale shall commence the first business day following the public outcry auction authorized in sections 1 and 2 of this ordinance. Parcels will be sold at appraised value and on the same terms as the public outcry auction.
2. The mayor may later add to the over-the-counter land sale any parcels bid on at the public outcry action that are not successfully closed, normally within ninety days, but after a longer period of time if circumstances warrant.
3. A winning bidder who fails to complete the purchase of a parcel will forfeit the right to purchase the same parcel in the over-the-counter sale.
4. All conditions in KPB 17.10.130 and KPB 17.20.240 shall apply unless clearly inconsistent with this ordinance.

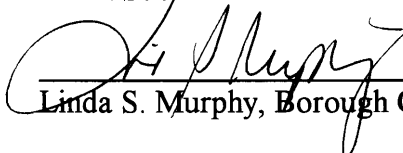
**SECTION 7.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.

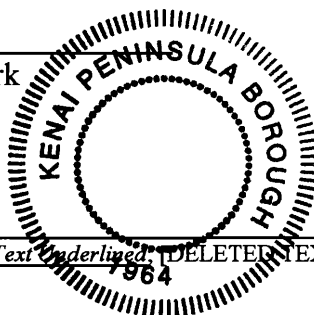
**SECTION 8.** The ordinance shall become effective immediately upon enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 9TH DAY OF OCTOBER, 2001.**

  
Timothy Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk



***SUBSTITUTE***  
**ORDINANCE 2001-31 ATTACHMENT A**

<b>Tax Parcel No.</b>	<b>General Location</b>	<b>Legal Description</b>	<b>Classification</b>	<b>Minimum Bid</b>
012-020-06	Nikiski/ Arness Dock	NE1/4 NW1/4 SE1/4, Section 36, T8N, R12W, containing 10 acres±	Light Industrial	\$88,000
012-020-07	Nikiski/ Arness Dock	E1/2 of Govt. Lot 1, Section 36, T8N, R12W, containing 11 acres±	Light Industrial	\$91,000
039-010-55	Kenai	Tract A1-A, Shoreline Heights Subdivision No. 3, Plat No. 99-05, Kenai Recording District, containing 40.52 acres more or less.	Residential	\$425,000.00
045-070-01	Kenai	NW1/4 SW1/4 NW1/4, Section 34, T6N, R11W, S.M., containing 10.00 acres more or less.	Residential	\$56,000.00
045-070-02	Kenai	Government Lot 38, Section 34, T6N, R11W, S.M., containing 2.50 acres more or less.	Residential	\$12,600.00
055-290-75	K-Beach	Tract 2B-1, Kalbea Subdivision Seawatch Addition, Plat No. 98-96, Kenai Recording District, containing 7.22 acres more or less.	Residential	\$144,500.00
055-540-17	K-Beach	Tract E, Karluk Reef Subdivision, Addition No. 1, Plat No. 85-67, Kenai Recording District, containing 2.35 acres more or less.	Residential	\$20,000.00
055-540-18	K-Beach	Tract F, Karluk Reef Subdivision, Addition No. 1, Plat No. 85-67, Kenai Recording District, containing 1.49 acres more or less.	Residential	\$16,000.00
133-021-35	Cohoe/ Kasilof	Tract E, Pettifoggers Place Subdivision, according to Plat No. 89-25, Kenai Recording District, containing 22.04 acres more or less	Residential	\$63,900.00
131-070-11	K-Beach	That portion of the NW1/4 SE1/4 lying east of Kalifornsky Beach Road, Sec. 24, T4N, R12W, S.M., Alaska, containing 39.07 acres more or less.	Residential	\$87,500.00
Assessor Parcel No. to be assigned	Tote Road	Tract 4, Tote View Subdivision, Plat No. 2001-5, containing 33.631 acres more or less.	Residential	\$35,700
Assessor Parcel No. to be assigned	Tote Road	Tract 5, Tote View Subdivision, Plat No. 2001-5, containing 37.052 acres more or less.	Residential	\$38,200
133-033-01	Kasilof	NE1/4 SW1/4, Section 4, T3N, R11W, containing 40 acres±	Residential & Preservation	\$30,000
133-082-09	Kasilof	NW1/4 SE1/4, Section 19, T3N, R11W, containing 40 acres±	Residential & Preservation	\$32,000
119-301-01	Cooper Landing	Tract 1, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 10 acres ±	Residential	\$97,300.00
119-301-02	Cooper Landing	Tract 2, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 8.279 acres ±	Residential	\$84,500.00
119-301-03	Cooper Landing	Tract 3, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 10 acres ±	Residential	\$97,300.00
119-301-04	Cooper Landing	Tract 4, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 12.079 acres ±	Residential	\$111,100.00
119-301-06	Cooper Landing	Tract 6, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 16.967 acres ±	Residential	\$131,600.00
119-301-07	Cooper Landing	Tract 7, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 15.927 acres ±	Residential	\$131,100.00

119-301-08	Cooper Landing	Tract 8, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 6.725 acres ±	Residential	\$73,100.00
119-301-09	Cooper Landing	Tract 9, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 7.0 acres ±	Residential	\$76,100.00
119-301-10	Cooper Landing	Tract 10, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 5.0 acres ±	Residential	\$60,800.00
119-301-11	Cooper Landing	Tract 11, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 5.0 acres ±	Residential	\$60,800.00
119-301-12	Cooper Landing	Tract 12, Russian Gap Subdivision, Plat No. 2001-4, Seward Recording District, containing 5.0 acres ±	Residential	\$60,800.00

Introduced by: Mayor  
Date: 09/18/01  
Hearing: 10/23/01  
Action: Enacted as Amended  
Vote: 6 Yes, 3 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2001-32**

**AN ORDINANCE AMENDING KPB 21.05.010 TO ALLOW VARIANCES FROM OTHER THAN  
AREA REQUIREMENT PROVISIONS**

- WHEREAS,** variances from land use regulations may be granted for a variety of reasons; and
- WHEREAS,** currently only variances from area requirements are allowed by KPB Chapter 21.05, while AS 29.40.040 also allows some variances from land use requirements; and
- WHEREAS,** variance provisions may not allow uses in districts where such uses are prohibited but may allow other reasonable variances which would not harm the health and safety of borough residents or undermine the original intent of the land use regulation; and
- WHEREAS,** the borough's interests would be best served by following the less restrictive statutory standards; and
- WHEREAS,** the Planning Commission meet on September 24, 2001, and voted unanimously to support this ordinance;

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

**SECTION 1.** That KPB 21.05.010 is amended as follows:

**21.05.010. Purpose.**

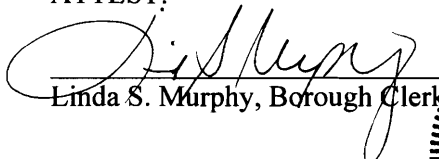
The purpose of this chapter is to grant relief from the literal application of this title where unusual individualized situations result in more stringent burdens being placed on some parcels of land than others and to prevent special hardships to individual landowners or deprivation of rights commonly enjoyed by other properties in a district. [THIS CHAPTER ALLOWS VARIANCES ONLY FROM AREA, NOT LAND USE, REQUIREMENTS.]

**SECTION 2.** This ordinance shall become effective upon its enactment.

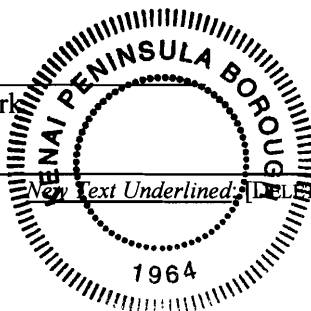
**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 23RD DAY  
OF OCTOBER, 2001.**

  
Tim Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

Kenai Peninsula Borough, Alaska



Ordinance 2001-32  
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