

Introduced by: Popp, Navarre
Date: 05/07/02
Hearing: 06/04/02
Action: Enacted as Amended
Vote: 9 Yes, 0 No

**KENAI PENINSULA BOROUGH
ORDINANCE 2002-15**

**AN ORDINANCE AMENDING KPB CHAPTER 17.10 REGARDING GRAZING AND
AGRICULTURAL LEASES OF BOROUGH LANDS, TO DEFINE A GRAZING
CLASSIFICATION AND MAKE ASSOCIATED AMENDMENTS**

WHEREAS, the assembly enacted Ordinance 2001-16 authorizing the mayor to extend for 27.5 years certain grazing leases which were initially issued by the state on property later transferred to the borough pursuant to the Municipal Land Entitlement Act; and

WHEREAS, the borough code does not currently include a definition of grazing land for purposes of classifying property; and

WHEREAS, other properties are being considered for grazing leases and the need to classify land for grazing purposes is increasing; and

WHEREAS, when KPB Chapter 17.10 was revised to eliminate the “Resource Extraction” classification and insert “Resource Management” and “Resource Development” instead, Section 17.10.170 was inadvertently not amended to incorporate that change, and it is appropriate to correct that oversight at this time; and

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

SECTION 1. KPB 17.10.080(K) is hereby amended as follows:

- K. All borough lands shall be classified as one of the following:
 1. Agriculture
 2. Residential
 3. Commercial
 4. Heavy Industrial
 5. Light Industrial
 6. Recreation
 7. Preservation
 8. Government
 9. Resource Development
 10. Resource Management
 11. Institutional

12. Utility/Transportation
13. Waste Handling
14. Rural
15. Grazing

The classifications are specifically defined in KPB 17.10.250.

SECTION 2. KPB 17.10.140(C) is hereby amended as follows:

C. Agricultural Lease. The mayor may lease borough land for agricultural purposes according to the terms fixed by the assembly including the applicable classification, except the mayor shall not lease approved, unpatented grant land without fully disclosing the unpatented status of the land to the lessee.

1. An application to lease must be submitted with a [RANGE] ~~range~~ farm management and development plan [AND A DEVELOPMENT PLAN] which shall disclose the use, nature of improvements, an estimate of value of the improvements, and a development and construction time table.
2. The annual lease fees shall be established by the borough assessor with annual rates fixed for a minimum period of five years.
3. Lease lands shall be utilized for purposes within the scope of the application, the terms and conditions of the lease and in conformity with the lessee's [RANGE] farm management and development plan, [DEVELOPMENT PLAN,] applicable classification, and any land use of comprehensive plans. Utilization or development for other than the allowed uses shall constitute a violation of the lease, and the lease will become subject to cancellation.
4. Failure on the part of the lessee to substantially complete [HIS] the lessee's [RANGE MANAGEMENT PLAN] farm management and development plan [DEVELOPMENT PLAN OF THE LAND] within the time frame specified in the plan, or failure to [NOT] be consistent with the [PROPOSED USE AND TERMS AND] conditions of the lease [WITHIN TWO YEARS OF THE ANNIVERSARY DATE OF SAID LEASE] shall constitute grounds for cancellation. The mayor or his designee shall determine whether the plan is substantially complete and may extend these deadlines for good cause shown or when the mayor determines it to be in the borough's best interests.
5. Upon written approval of the borough, an agricultural lease may be assigned subject to the same terms and conditions of the existing lease. No agricultural lease may be assigned within two years of the anniversary date.

SECTION 3. That KPB 17.10.140(D) is enacted as follows:

D. Grazing lease. The mayor may lease borough land for grazing purposes according to the terms fixed by the assembly including the applicable

classification, except the mayor shall not lease approved, unpatented grant land without fully disclosing the unpatented status of the land to the lessee.

1. An application to lease must be submitted with a range management and development plan which shall disclose the use, nature of improvements, if any, an estimate of value of the improvements, the location of the proposed improvements, the description of the necessity for such improvements, and a statement that the improvements, as proposed, will not impair the value of the land or interfere with other reasonable uses thereof. Except as provided below, improvements of a permanent nature, such as housing, barns, sheds, slaughter houses, silos, and permanent grain or hay storage buildings, or other similar structures may not be authorized on a grazing lease. Should such structures be desired, the applicant must apply for a different form of lease in which such structures are authorized. The following uses and improvements may be authorized by the borough for use on grazing leases in a manner consistent with grazing lease uses and purposes:

a. Permanent or temporary improvement of foliage quality and species to be used for grazing purposes by the lessee and not for sale or trade.

b. Improvements to a spring to allow for an environmentally safe watering system.

c. Fences in an approved place on the leased premises are not prohibited by this provision.

d. Temporary animal facilities, such as corrals and chutes for loading animals.

e. Temporary grain or hay storage facilities, provided such facilities may be no larger than the size necessary for storing a one-year supply of feed for the animals proposed to use the lease shown in the development plan.

f. A Maximum of ten percent of standing timber may be used for authorized lease improvements. Clearing of timber, other than that which is approved as necessary for grazing purposes, or the sale of timber taken from the grazing lease premises, is prohibited.

g. Temporary living facilities such as cabins, tents, or other temporary structures as approved by the planning director, provided that the approved temporary living facilities must be removed upon the expiration of the lease.

2. The annual lease fees shall be established by the borough assessor with annual rates fixed for a minimum period of five years.

3. Lease lands shall be utilized for purposes within the scope of the application, the terms and conditions of the lease and in conformity with the lessee's range management and development plan, applicable classification, and any land use of comprehensive plans. Utilization or development by lessee for other than the allowed uses shall constitute a violation of the lease and the lease will become subject to cancellation. The mayor may contract with appropriate federal or state agencies to

cooperatively manage borough grazing leases in conjunction with, or on behalf of, the borough.

4. Failure on the part of the lessee to substantially complete the lessee's range management and development plan of the land within the time frame specified in the plan, or failure to be consistent with the conditions of the lease shall constitute grounds for cancellation. The mayor or his designee shall determine whether the plan is substantially complete and may extend these deadlines for good cause shown or when the mayor determines it to be in the borough's best interests.
5. Upon written approval of the borough, a grazing lease may be assigned subject to the same terms and conditions of the existing lease.
6. A grazing lease conveys no right, title, or interest held by the Kenai Peninsula Borough in any lands or resources and does not grant an exclusive right to use of the leased area, except as may be necessary to protect lessee's authorized assets as may be provided in the grazing lease.
7. The lessee shall not prohibit or otherwise interfere with reasonable access to the leased area for other uses as may be authorized by the borough.

SECTION 4. KPB 17.10.170 is hereby amended as follows:

Lands to be utilized for forest and timber resources shall first be classified as either "Resource [EXTRACTION] Development" or "Resource Management" and shall be subject to the terms and provisions of KPB 17.50.

SECTION 5. That KPB 17.10.250(A) is amended as follows:

A. "Agriculture" means [LANDS SUITED FOR RAISING AND HARVESTING CROPS; FEEDING, BREEDING AND MANAGEMENT OF LIVESTOCK; DAIRYING; OR, OTHER FARM USE OR ANY COMBINATION OF THESE. LANDS SUBCLASSIFIED AS "AGRICULTURE" SHALL BE RATED BASED ON THE SAME OR SIMILAR CRITERIA AS USED FOR THE "LAND EVALUATION AND SITE ASSESSMENT" PREPARED BY THE HOMER AND KENAI-KASILOF SOIL AND WATER CONSERVATION DISTRICTS. PARCELS OF LAND QUALIFYING FOR THIS SUBCLASSIFICATION MAY VARY IN SIZE] activities that result in products for human or animal use. Agriculture activities may include raising crops, animals, or grazing animals. Agriculture does not include human habitation.


SECTION 6. That KPB 17.10.250(P) is hereby enacted as follows, and the remaining subparagraphs shall be relettered appropriately:

P. "Grazing lands" means those lands which in their natural state have the physical and climatic features that make them primarily useful for the pasturing

of domestic livestock. This classification is not exclusive and may overlap any other classification thereby allowing other nonconflicting uses.

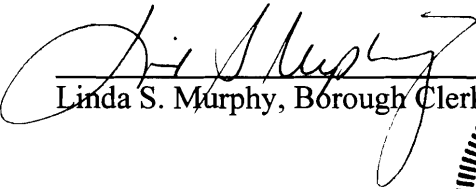
SECTION 7. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF JUNE, 2002.



Timothy Navarre, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

