

Introduced by:	Mayor
Date:	06/16/09
Hearing:	08/04/09
Action:	Postponed as Amended Until 08/18/09
Date:	08/18/09
Action:	Enacted as Amended
Vote:	8 Yes, 0 No 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2009-34**

**AN ORDINANCE AMENDING KPB 17.10.180 TO PROVIDE AUTHORITY TO PERMIT TEMPORARY USE OF BOROUGH LAND FOR UP TO FIVE YEARS AND TO CLARIFY THE PROCESS FOR DENIAL OF PERMIT APPLICATIONS**

- WHEREAS,** KPB 17.10.180(A) provides in part that “[a] person who wishes to use borough land for a temporary use shall apply for a nonrenewable permit on a form provided by the land management division and accompanied with the appropriate application fee as required by the fee schedule”; and
- WHEREAS,** the land management division routinely issues land use permits under KPB 17.10.180 for a variety of temporary uses; and
- WHEREAS,** KPB 17.10.180(B) provides that “[a] temporary use permit is nontransferable and is valid for a period no greater than one year from the date of issue”; and
- WHEREAS,** many land uses contemplated at the time a permit is issued extend for periods greater than one year and therefore require new permits to be issued on an annual basis; and
- WHEREAS,** expanding the authority under KPB 17.10.180 to allow land use permits to be issued for periods greater than one year, but no more than five years, would be consistent with the temporary use permitting purpose, would be an appropriate mechanism to provide for temporary land uses reasonably expected to extend beyond one year, and would facilitate more efficient management of the land management division’s land use permitting program; and
- WHEREAS,** this amendment will not preclude the land management division from issuing land use permits under KPB 17.10.180 for periods of one year or less as deemed appropriate by the land management officer; and
- WHEREAS,** it is in the best interest of the borough to clarify the process under which applications for temporary use may be denied; and
- WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of July 20, 2009 recommended enactment by unanimous consent;

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

**SECTION 1.** That KPB 17.10.180(B) is hereby amended as follows:

17.10.180(B) A temporary use permit is nontransferable and is valid for a period no greater than [ONE YEAR] five years from the date of issue.

**SECTION 2.** That KPB 17.10.180 D, E, and F are hereby amended as follows:

17.10.180

- D. If the [LAND MANAGEMENT OFFICER] mayor or designee determines a temporary use may cause damage to the borough land or expose the borough to liability arising from the proposed activity, then the [LAND MANAGEMENT OFFICER] mayor or designee may deny the application and return the application fee to the applicant; or the mayor or designee may require the applicant to provide liability insurance or post a bond in an amount and form acceptable to the borough in advance [WITH THE BOROUGH] to insure that the applicant restores the land to reasonably the same condition it was in at the time the permit was executed. The bond amount shall be not less than One Hundred Dollars (\$100). The bond shall not be released until the user has complied with all conditions of the permit upon termination or cancellation of the permit. If the mayor or designee determines the proposed temporary use to be in conflict with other use or classification of the land or adjoining land, then the mayor or designee may deny the application and return the application fee to the applicant.
- E. The borough land may be inspected at any time to insure compliance with conditions of the permit. The [LAND MANAGEMENT OFFICER] mayor or designee may, for cause and without notice to the permittee, immediately revoke a temporary use permit. The permittee whose temporary use permit has been revoked shall, within the time specified in the permit and if [NOT] no time is specified within thirty days of the revocation of the permit, remove from the borough land all improvements or chattels placed on the borough land pursuant to the temporary use. Any improvements or chattels remaining on the land after thirty days of revocation become the property of the borough and may be disposed of as surplus property in accordance with KPB Chapter 5 or by other authorized means at the expense of the permittee.

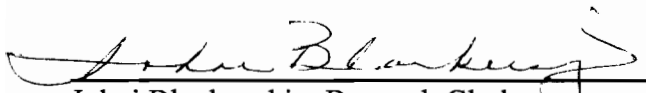
- F. The [LAND MANAGEMENT OFFICER] mayor or designee may reissue a permit if the permittee has complied with the provisions of this section and the terms of the prior permit.

**SECTION 3.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 18TH DAY OF AUGUST, 2009.**

  
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Milli Martin, Assembly President

ATTEST:

  
\_\_\_\_\_  
John Blankenship, Borough Clerk



Yes: Fischer, Knopp, Pierce, Smalley, Smith, Sprague, Superman, Martin  
No: None  
Absent: Long