



KENAI PENINSULA BOROUGH

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**DAVID R. CAREY
BOROUGH MAYOR**

MEMORANDUM

TO: Pete Sprague, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU:  David R. Carey, Borough Mayor

FROM:  John Mohorcich, Director, Donald E. Gilman River Center

DATE: May 6, 2010

SUBJECT: Amendments to Ordinance 2010-21, enacting revisions to KPB Chapter 21.18

The following amendments are proposed from review and recommendations by the KPB Cooper Landing Advisory Planning Commission and the KPB Planning Commission. These proposed amendments refer to the prior existing section of the code. The recommended amendments allow prior existing uses and structures to continue in perpetuity.

Amend proposed 21.18.090(A) by striking a portion of the second sentence as follows:

- A. Intent. There are [ACTIVITIES] uses which were conducted, and structures which were under construction, or exist and were in use before the enactment of this ordinance which would be prohibited or restricted under the terms of this ordinance or future amendments. It is the intent of this section to permit these prior existing uses [ACTIVITIES] or structures to continue but not be increased, expanded, or intensified, and to eventually be eliminated in the interest of fulfilling the purposes of this chapter. Any prior existing uses [SUCH ACTIVITIES] or structures must still comply with other applicable laws. [THE ACTIVITIES REFERENCED IN THIS SECTION SHALL BE ALLOWED IF THEY DO NOT RESULT IN SIGNIFICANT EROSION OR DAMAGE TO THE RIPARIAN HABITAT.]

Amend proposed 21.18.090(C) by striking a portion of the section as follows:

[B]C. Structures. Structures which were under construction or in use before the effective date of any provision of this chapter, but that would be prohibited or restricted under the terms of this chapter, shall be allowed to continue, provided that a structure under construction must have been [BE] substantially completed by April 16, 1998 for the Kenai River and May 16, 2002, for the anadromous streams set forth in KPB 21.18.025(A)(1)(a) through (A)(15). [WITHIN TWO YEARS OF ENACTMENT OF THIS ORDINANCE. SUCH A STRUCTURE MAY BE

MAINTAINED OR REPAIRED WITHOUT A PERMIT.] Such a structure may [ALSO] be replaced or reconstructed. ~~within two years after [ACCIDENTAL DAMAGE TO] accidental damage or destruction by fire, explosion, natural disaster, flood, [OR OTHER] casualty, force of nature, or other act or force beyond owner's control [OR ACT OF GOD]. Reconstruction or replacement not completed within two years of the date of the damage or destruction is prohibited except in compliance with current requirements.~~ Such replacement or reconstruction may only encompass the same square footage [BE UNDERTAKEN IN THE SAME SPACE] that the structure occupied prior to damage or destruction, and the structure must be more compliant with this chapter. If only a portion of a structure has been damaged or destroyed, only that portion may be repaired or replaced. The height of the original structure and area encompassed by the original footprint cannot be increased. The structure must be similar in size and use to the structure being repaired or replaced.

Amend proposed 21.18.090(E) by striking (1.) and re-number accordingly as follows:

E. Other provisions.

- [1. ANY PRIOR EXISTING ACTIVITY OR STRUCTURE WHICH IS ABANDONED FOR TWO YEARS OR MORE SHALL THEREAFTER NOT BE CONDUCTED, USED OR OCCUPIED EXCEPT IN CONFORMITY WITH THE PROVISIONS OF THIS CHAPTER.]
- ~~1. Deliberate destruction of a prior existing structure terminates the prior existing status.~~
1. The river center may require removal or cessation of abandoned uses or structures.
2. Nothing in this chapter shall prevent any change of tenancy, ownership or management of any prior existing structure.