



Kenai Peninsula Borough

Planning Department

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MEMORANDUM

To: Pete Sprague, Assembly President

KPB Assembly Members

Thru: David Carey, Borough Mayor *DC*

Thru: Max Best, Planning Director *MB*

From: Crista Cady, Planner *CC*

Date: June 10, 2010

RE: Ordinance 2010-23 AN ORDINANCE AMENDING CERTAIN SECTIONS OF KPB CHAPTER 21.44 BY APPROVING AN R-W, RESIDENTIAL WATERFRONT, LOCAL OPTION ZONING DISTRICT, ADDING CERTAIN DEFINITIONS, AND CLARIFYING LANGUAGE

Local option zoning (LOZ) is a mechanism that allows property owners to impose greater restrictions on land use than the borough otherwise provides. Reasons for establishing KPB 21.44 in 2000 included developing a step-by-step, user-friendly system for forming a district, and providing a "menu of different types of local option zones" from which property owners could select the most suitable type for their property and location. The formation of an LOZ may be proposed at the time of platting a subdivision, or later by property owners within an area defined by sponsors of the district, in cooperation with the planning department. The boundaries of a district are ultimately approved by the assembly.

The existing local option zone types are:

- **Single-family residential**, allowing as principal use single-family dwellings;
- **Rural residential**, allowing as principal use single family dwellings on lots approximately 2-1/2 acres in size;
- **Mixed residential**, allowing as principal use single family dwellings and up to four unit multi-family dwellings;
- **Mixed use**, allowing commercial, business, residential, institutional, and public uses as principal uses;
- **Residential conservation**, allowing a mechanism for residential planned unit developments which may increase the tax base, conserve environmentally sensitive areas, and create open space; and
- **Industrial**, allowing as principal uses light and heavy industrial uses, utility, and transportation uses.

The Intent of this ordinance is to adopt an additional zone type of **Residential Waterfront**. After ten years of administering the current LOZ code, planning staff believes the proposed new zone type may be useful in the future as more property owners seek to preserve the character of certain waterfront areas within the borough.

Since the adoption of the current code, there have been 7 LOZs approved by the assembly:

<u>LOZ Name</u>	<u>Date Approved</u>	<u>LOZ Type</u>
▪ Ten Mar Ranch	Approved 10/24/00	Single Family Residential
▪ Russian Gap	Approved 10/9/01	Rural Residential
▪ Birch and Grouse Ridge	Approved 8/3/04	Rural Residential
▪ Grandville Heights One	Approved 9/7/04	Single Family Residential
▪ Funny River Grove	Approved 11/18/08	Single Family Residential
▪ Discovery Park	Approved 9/1/09	Mixed Residential
▪ Percy Hope	Approved 9/1/09	Mixed Residential

The attached table provides a profile of the characteristics found in the current LOZ districts, as well as the proposed district.

KPB 21.44.040. *Area and petition requirements*, stipulates that a minimum of 12 lots is required to form an LOZ (except for industrial districts where only 6 lots are required). Staff supports amending this section to include a requirement that at least thirty percent of the lots within a proposed R-W LOZ must be directly adjacent to the water. At a minimum, this would allow the owners of 4 waterfront lots and 8 contiguous lots to petition the assembly for the formation of an R-W LOZ. The inclusion of more waterfront lots would allow for the inclusion of more contiguous, non-waterfront properties. The amendment necessitates adding a new Section 2 to the subject ordinance, as shown below, and renumbering the subsequent sections:

SECTION 2. *That KPB 21.44.040(A) is hereby amended as follows.*

21.44.040. Area and petition requirements.

A. Except as otherwise provided, the minimum area that may be included in a local option zoning district is 12 lots. The minimum area that may be included in a local option zoning district in an industrial district as described in KPB 21.44.200 is six lots. At least thirty percent of the lots within a proposed R-W district must be directly adjacent to the water. Two-thirds of the parcels within the proposed district must be of the average size prevailing within the proposed district. However, districts with disparate parcel sizes may be formed where 100 percent of the parcels vote in favor of the district. Lots and parcels in a petition area must be contiguous or separated only by a street, alley, right-of-way, or easement. Petitioners shall coordinate with the Planning Department to designate appropriate districts.

Consistent with current code, commercial uses in the proposed zone type which are in operation at a time a zone is formed will be granted non-conforming use status (grandfather rights). Likewise, existing structures will be legal, as preexisting the adoption of the zone. Procedures for requesting nonconforming use status are provided in the code.

The proposed new zone type is the result of many months of cooperative effort between borough staff and concerned property owners, who did not feel that any one existing zone type could provide the regulation they sought. The Residential Waterfront zone is suitable for many areas of the borough where property owners on or adjacent to