

Introduced by: Wiley, Brown
Date: 7/11/95
Action: Defeated
Vote: 2 Yes, 7 No

**KENAI PENINSULA BOROUGH
RESOLUTION 95-045**

**A RESOLUTION REQUESTING THE ADMINISTRATION TO TEMPORARILY
AUTHORIZE MINERAL CLAIMANTS TO USE BOROUGH LANDS**

WHEREAS, the borough controls the surface estate of lands it received from the state; and

WHEREAS, pursuant to AS 38.05.255, the state as mineral estate owner may authorize mineral claimants to use as much of the borough's surface estate as is necessary to prospect for, extract and process mineral deposits; and

WHEREAS, approximately eight mineral claimants are presently living in structures on state mining claims, which are located on borough land in Cooper Landing; and

WHEREAS, the State Division of Mining has determined that all existing structures are not necessary for mining in the Cooper Landing area, and are therefore not presently state authorized, which decision some mineral claimants are apparently planning to challenge in court; and

WHEREAS, as surface owner, the borough has the discretion to authorize the mineral claimants to continue residing on their claims, and the KPB Code provides for the issuance of temporary land use permits to temporary users of unclassified borough land upon the payment of specified fees and a bond; and

WHEREAS, many of the mineral claimants have applied to the borough for permits authorizing them to live on their mining claims, which permits have not been issued; and

WHEREAS, classification of borough land in Cooper Landing, including the lands used by these mineral claimants, is presently under consideration both as a part of the comprehensive plan process and pursuant to a petition requesting that the occupied lands be classified in a manner consistent with residential use; and

WHEREAS, evicting mineral claimants for living on borough land and shortly thereafter classifying the land to allow others to live on the same land may be inconsistent policy;

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

SECTION 1. The administration is requested to issue temporary land use permits to mineral claimants presently residing on their mineral claims situated on borough lands, upon receipt of properly completed temporary land use permit applications and fees and the mineral claimant's compliance with applicable code requirements. Any qualifying applications must be received by the borough within 30 days of the adoption of this resolution. Such permits would authorize the mineral claimants to live on their claims in presently existing structures for a period of one year, or until such time as the subject land is classified for a purpose inconsistent with residential use, whichever is sooner.

SECTION 2. The fees and bonds required for such permits shall be commensurate with those charged for other temporary land use permits.

SECTION 3. The receipt of a temporary land use permit pursuant to this resolution shall not create any preference right to acquire a property interest in the surface estate.

SECTION 4. That this resolution shall take effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
_____ DAY OF _____, 1995.

Andrew P. Scalzi, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk