

KENAI CITY COUNCIL - REGULAR MEETING
APRIL 17, 2019 - 6:00 PM
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
<http://www.kenai.city>

A. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA APPROVAL

CONSENT AGENDA *(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

**All items listed with an asterisk (*) are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.*

B. SCHEDULED PUBLIC COMMENTS *(Public comment limited to ten (10) minutes per speaker)*

B.1. Linda Swarner – Presentation on History of Kenai Local Food Connection and How to Get Involved

C. UNSCHEDULED PUBLIC COMMENTS *(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*

D. PUBLIC HEARINGS

D.1. Ordinance No. 3059-2019 – Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds and Authorizing a Professional Services Agreement for the Design of the Alaska Regional Fire Training Facility Rehabilitation Project. (Administration)

[Ordinance No. 3059-2019.pdf](#)

D.2. Ordinance No. 3060-2019 – Increasing Estimated Revenues and Appropriations in the Terminal Improvements Capital Fund and Authorizing an Increase to the Construction Purchase Order to Blazy Construction, Inc. (Administration)

[Ordinance No. 3060-2019.pdf](#)

D.3. Resolution No. 2019-23 – Approving a Third Amendment to the Airline Operating Agreement and Terminal Area Lease and Authorizing the City to Enter into such Agreement with Corvus Airlines D/B/A Ravn Alaska. (Administration)

[Resolution No. 2019-23.pdf](#)

D.4. Resolution No. 2019-24 – Approving a Third Amendment to the Airline Operating Agreement and Terminal Area Lease and Authorizing the City to Enter into such Agreement with Grant

Aviation, Inc. (Administration)

[Resolution No. 2019-24.pdf](#)

- D.5. Resolution No. 2019-25 – Approving the Purchase of Nineteen Portable Radios and Accessories for the Police Department under a Sole Source Purchase from Motorola Solutions using Naspro ValuePoint Contract Pricing for the Total Price of \$100,027.79. (Administration)

[Resolution No. 2019-25.pdf](#)

- D.6. Resolution No. 2019-26 - Renewing Lease Land within the Airport Reserve submitted by Schilling Rentals LLC, for the property described as Lot 9A, FBO Subdivision No. 9, located at 433 N. Willow Street, Kenai, Alaska 99611 (Administration)

[Resolution No. 2019-26.pdf](#)

E. MINUTES

- E.1. *Regular Meeting of April 3, 2019

[04-03-19 Council Minutes - DRAFT.pdf](#)

F. UNFINISHED BUSINESS

- F.1. Ordinance No. 3056-2019 – Amending Kenai Municipal Code 14.22.010-Land Use Table, to Allow Business/Consumer Services and Taxidermy/Gunsmithing in RR1 Zoning District by Conditional Use Permit and Removing the Location Restriction on Professional Offices Allowed by Conditional Use Permit Within the RR1 Zone. (Council Members Peterkin & Glendening)

[Clerk's Note: This item was postponed to this meeting from the April 3, 2019 meeting. A motion to enact is on the floor.]

[Ordinance No. 3056-2019.pdf](#)

[Ordinance No. 3056-2019 Sponsor Memo.pdf](#)

[Ordinance No. 3056-2019 Amendment Memo 1.pdf](#)

[Ordinance No. 3056-2019 Amendment Memo 2.pdf](#)

G. NEW BUSINESS

- G.1. *Action/Approval – Bills to be Ratified. (Administration)

[Payments over \\$15,000.pdf](#)

- G.2. *Action/Approval – Purchase Orders Over \$15,000. (Administration)

[Purchase Orders over \\$15,000.pdf](#)

- G.3. *Action/Approval – Non-Objection to the Transfer of Ownership of Liquor License to Kenai Joe's Taphouse, LLC. (City Clerk)

[Kenai Joe's Taphouse, LLC Liquor License Transfer.pdf](#)

- G.4. *Ordinance No. 3062-2019 – Increasing FY2019 General Fund Estimated Revenues and Appropriations by \$20,859 And FY2020 General Fund Estimated Revenues And Appropriations by \$35,418 in the General Fund Parks, Recreation, and Beautification Department for the Receipt of a Grant from the United States Environmental Protection Agency Passed Through the State of Alaska Department of Environmental Conservation for Bacteria Level Monitoring on the City's Beaches during the 2019-2020 Personal Use Fishery. (Administration)

[Ordinance No. 3062-2019.pdf](#)

G.5. Action/Approval – Harbor Commission Survey. (City Clerk)
[Harbor Commission Survey.pdf](#)

H. COMMISSION/COMMITTEE REPORTS

H.1. Council on Aging

H.2. Airport Commission

H.3. Harbor Commission
[Harbor Commission Title 11 Amendment Request.pdf](#)

H.4. Parks and Recreation Commission

H.5. Planning and Zoning Commission

H.6. Beautification Committee

H.7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

J.1. City Manager
[City Manager Report - Beaver Loop Gravel.pdf](#)
[Mid-Month Reports.pdf](#)

J.2. City Attorney

J.3. City Clerk

K. ADDITIONAL PUBLIC COMMENT

K.1. Council Comments

K.2. Citizens Comments (Public comment limited to five (5) minutes per speaker)

L. EXECUTIVE SESSION

L.1. Discussion of the Kenai Visitors Center RFP, a Matter of Which the Immediate Knowledge may have an Adverse Effect upon the Finances of the City [AS 44.62.310 (c)(1)].

- L.2. Performance Evaluations of City Attorney, City Manager, and City Clerk which may be a Subject that Tends to Prejudice the Reputation and Character of the City Attorney, City Manager, and City Clerk [AS 44.62.310(C)(2)].

M. PENDING ITEMS

- M.1. Ordinance No. 3061-2019 – Amending Kenai Municipal Code 14.20.320 - Definitions, 14.20.330 - Standard for Commercial Marijuana Establishments and 14.22.010 - Land Use Table, to Incorporate Onsite Consumption of Marijuana at Retail Marijuana Establishments into the City Of Kenai's Code of Ordinances. (Legal)
[Clerk's Note: This item was Referred to the Planning & Zoning Commission for a Recommendation at their April 24 Meeting and a Public Hearing Scheduled before the City Council on May 1, 2019.]

INFORMATION ITEMS

Purchase Orders between \$2,500 and \$15,000 for Council Review
[Purchase Orders between \\$2,500 - \\$15,000.pdf](#)

Kenai Historical Society Newsletter – April 2019
[KHS Newsletter April 2019.pdf](#)

U. S. Department of the Interior – Incidental Take Regulations
[U. S. Department of the Interior.pdf](#)

Letter from the American Red Cross of Alaska
[American Red Cross of Alaska.pdf](#)

N. ADJOURNMENT

The agenda and supporting documents are posted on the City's website at www.kenai.city. Copies of resolutions and ordinances are available at the City Clerk's Office or outside the Council Chamber prior to the meeting. For additional information, please contact the City Clerk's Office at 907-283-8231.



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3059-2019

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE AIRPORT SPECIAL REVENUE AND AIRPORT IMPROVEMENTS CAPITAL PROJECT FUNDS AND AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE ALASKA REGIONAL FIRE TRAINING FACILITY REHABILITATION PROJECT.

WHEREAS, the Alaska Regional Fire Training Facility was originally constructed twenty years ago and is in need of rehabilitation to the Facility’s operations equipment and controls; and,

WHEREAS, the Federal Aviation Administration has expressed their interest in seeing the facility’s operations brought back to current standards; and,

WHEREAS, the design and construction costs for this work will be eligible under a grant from the Federal Aviation Administration; and,

WHEREAS, the City of Kenai will begin the design phase in preparation of receiving the grant; and,

WHEREAS, request for Proposals were advertised on March 14, 2019, with proposals due on April 4, 2019; and,

WHEREAS, an evaluation committee determined _____ as having provided the highest rating proposal; and,

WHEREAS, it is the Administration’s recommendation that awarding a Professional Services Agreement to _____ in the amount of _____ is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That the estimated revenues and appropriations be increased as follows:

Airport Fund:

Increase Estimated Revenues –	
Appropriation of Fund Balance	\$xxx,000

Increase Appropriations:	
Airport Training Facility – Transfer to Other Funds	\$xxx,000

Section 2. That the estimated revenues and appropriations be increased as follows:

Airport Improvement Capital Project Fund:	
Increase Estimated Revenues –	
Transfer from Other Funds	\$xxx,000
Increase Appropriations:	
Construction	\$xxx,000

Section 3. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 4. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect upon adoption.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, City Clerk

Approved by Finance: 

Introduced: April 3, 2019
Enacted: April 17, 2019
Effective: April 17, 2019



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Scott Curtin – Public Works Director
DATE: March 28, 2019
SUBJECT: Ordinance No. 3059-2019

The purpose of this memo is to recommend enactment of Ordinance No. 3059-2019 requesting an increase to the estimated revenue and appropriations in the Airport Special Revenue and Improvements Capital Project Fund and authorizing a Professional Services Agreement for the design of the Alaska Regional Fire Training Facility Rehabilitation Project.

The Alaska Regional Fire Training Facility located at 450 Daubenspeck, is 20+ years old now. The Facility provides a variety of Safety Training Services and is currently occupied and operated by Beacon Occupational Health & Safety. Individuals come from all over the state to participate in training, and the Facility even markets the services provided to organizations outside of Alaska.

Due to the aging equipment and in order to continue to provide a high level of services, the Facility needs updating and modernizing to its equipment and controls. The City released a formal Request for Proposals on March 14, 2019 with Proposals Due on April 4, 2019.

Proposals will be reviewed on April 8-9, 2019 to determine a successful proposer. With Council's approval of this Ordinance, the City will then enter negotiations for these services, anticipated to cost between 10-12% of overall Construction Costs of the project; Construction Costs yet to be determined. Design Phase is expected to take approximately 100 Days with an anticipated Construction Phase beginning in September 2019.

The City in coordination with the Federal Aviation Administration is anticipating the receipt of a grant. Staff from both agencies have walked through the facility, the FAA has expressed their support for the project, and the City is waiting to see whether the project will be funded through our typical AIP Funds or if FAA Supplemental Funding, which the City applied, for will be granted.

In either case, a grant is expected from one of those two sources.



Completion of this project will improve a unique City asset; staff and Administration believe support of this project is in the best interest of the City.

Council's support and approval is respectfully requested. Thank you for your consideration.





Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3060-2019

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING ESTIMATED REVENUES AND APPROPRIATIONS IN THE TERMINAL IMPROVEMENTS CAPITAL FUND, AND AUTHORIZING AN INCREASE TO THE CONSTRUCTION PURCHASE ORDER TO BLAZY CONSTRUCTION, INC.

WHEREAS, the City of Kenai executed a Construction Agreement with Blazy Construction, Inc. on October 1, 2018 for the Terminal Rehabilitation Project in the amount of \$10,985,994; and,

WHEREAS, council through enactment of Ordinance 3037-2018 authorized the City Manager to issue a Purchase Order in the amount of \$11,485,994 for the Contract amount of \$10,985,994 including \$500,000 of contingency funding; and,

WHEREAS, to date the City has executed two change orders totaling \$461,585.56 and the Federal Aviation Administration grant eligible portion of those Change Orders has been determined to be \$408,849.41; and,

WHEREAS, Administration is requesting appropriation of the additional eligible federal share and an increase to the authorized Purchase Order Amount to Blazy Construction, Inc. of the same amount, \$408,849.41 to replenish project contingency to \$447,263.85 and to allow for the continued processing of future change orders; and,

WHEREAS, Council will continue to be informed of Change Orders through Public Works Mid-Month Report.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. The City Manager is authorized to accept grant funding from the Federal Aviation Administration in the amount of \$408,849.41 for the grant eligible portions of Change Orders 1 & 2 to Blazy Construction, Inc.

Section 2. The City Manager is authorized to increase Purchase Order No. 116510 to Blazy Construction, Inc. by \$408,849.41

Section 3. That the estimated revenues and appropriations be increased as follows:

Terminal Improvement Capital Project Fund:

Increase Estimated Revenues –

FAA Grant

\$408,849.41

Increase Appropriations:

Construction

\$408,849.41

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.


Section 5. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect upon adoption.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, City Clerk

Approved by Finance: 

Introduced: April 3, 2019
Enacted: April 17, 2019
Effective: April 17, 2019



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www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Scott Curtin – Public Works Director
DATE: March 28, 2019
SUBJECT: **Ordinance No. 3060-2019**

The purpose of this memo is to recommend enactment of Ordinance No. 3060-2019 requesting an increase to the estimated revenue and appropriations in the Terminal Improvements Capital Project Fund and authorizing an increase to the Construction Purchase Order to Blazy Construction, Inc.

The Kenai Municipal Airport Terminal Rehabilitation Project has been underway since October 1, 2018. The Project began with \$500,000 in contingency funds for the administration to process change orders as they arise. To date \$461,585.56 of changes have been processed, largely associated with the removal of asbestos related materials. Of that amount, it has been determined that \$408,849.41 is eligible for reimbursement from the FAA through our grant.

Appropriation of these funds will replenish the projects contingency to \$447,263.85 and allow the Administration to continue to process change orders in the same manner, continuing to keep Council informed through Departmental Mid-Month reports. Staff and the Administration are in support of this appropriation; Council's support and approval is respectfully requested.

Thank you for your consideration.





Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2019 - 23

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROVING THE THIRD AMENDMENT TO THE AIRLINE OPERATING AGREEMENT AND TERMINAL AREA LEASE AND AUTHORIZING THE CITY ENTER INTO SUCH AGREEMENT WITH CORVUS AIRLINES D/B/A RAVN ALASKA.

WHEREAS, the City of Kenai is the owner and operator of the Kenai Municipal Airport; and,

WHEREAS, a recommendation of the 2007 Supplemental Planning Assessment was to update the City's airline operating agreement and terminal lease; and,

WHEREAS, Council approved Resolution No. 2008-27 establishing a new airline operating agreement and terminal lease to modernize the airport airline terminal leasing procedures and policies and increase airport operating revenue effective June 1, 2008 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2013-31 approving the First Amendment to the airline operating agreement and terminal area lease effective July 1, 2013 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2018-43 approving the Second Amendment to the airline operating agreement and terminal area lease effective July 1, 2018 for a period of twelve months in consideration of the terminal rehabilitation project; and,

WHEREAS, with the terminal rehabilitation project now scheduled for completion in February 2020, the City would have final costs along with changes to airline exclusive and joint use areas, and negotiate a five-year airline operating agreement to be effective July 1, 2021; and,

WHEREAS, it is in the best interest of the City of Kenai to authorize the City Manager to enter into such agreement with Corvus Airlines, d/b/a RAVN Alaska, on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the Kenai City Council approves the Third Amendment to the Airline Operating Agreement and Terminal Area Lease form as shown in Exhibit 1.

Section 2. That the Kenai City Manager is authorized to enter into such an agreement with Corvus Airlines, d/b/a RAVN Alaska.

Section 3. That this resolution takes effect immediately upon adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Mary L. Bondurant, Airport Manager
DATE: April 5, 2019
SUBJECT: **Resolution No. 2019-23 Approval Third Amendment to the Airline Operating Agreement and Terminal Area Lease for Corvus Airlines d/b/a RAVN Alaska**

Attached to this memo is the Third Amendment to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease for Council approval.

The original Agreement and the First Amendment to the Agreement each were for five-year terms starting June 1, 2008 and ending June 30, 2018.

Instead of negotiating another five-year agreement in 2018 due to the Terminal Rehabilitation Project, the Second Amendment term was for twelve-months, ending June 30, 2019.

The project is scheduled for completion in February 2020. At that time, the City will have the final airline allocations for exclusive and joint use space and will begin negotiations for a five-year agreement based on accurate airport operation costs.

I recommend approval of the Third Amendment to the Airline Operating Agreement with a term of twelve months, effective July 1, 2019 through June 30, 2020 under the same terms and conditions of the Second Amendment.

Thank you for your consideration.



THIRD AMENDMENT
TO THE KENAI MUNICIPAL AIRPORT AIRLINE
OPERATING AGREEMENT AND TERMINAL AREA LEASE

THIS THIRD AMENDMENT to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease (the “Third Amendment”) is made and entered into this 1st day of July, 2019, by and between the City of Kenai, Alaska (the “City”), a political subdivision of the State of Alaska, and **Corvus Airlines dba Ravn Alaska** (the “Airline”), a corporation organized and existing under the laws of the State of Washington and authorized to do business in the State of Alaska.

RECITALS

The circumstances surrounding the making of this Third Amendment are as follows:

A. City and Airline are parties to the Airline Operating Agreement and Terminal Area Lease (the “Agreement”) dated June 1, 2008 as amended by the First Amendment dated June 1, 2013 and Second Amendment dated July 1, 2016 (herein referred to as the “Agreement”), under which Airline operates an Air Transportation business and leases property at the Kenai Municipal Airport.

B. Pursuant to Section 12.20 of the Agreement, the Agreement may be amended in whole or in part without further consideration upon mutual written consent of City and Airline who both herein wish to amend the Agreement.

C. Pursuant to Section 2.1 of the Agreement, the term began on June 1, 2013 and continued for a consecutive sixty (60) month period thereafter.

D. Pursuant to Section 5.2 of the Agreement, the Landing Fee charges shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

E. Pursuant to Section 5.3 of the Agreement, rentals for the Airline’s Exclusive Use Space and Joint Use Space shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

F. Pursuant to Section 5.4 of the Agreement, the Terminal Apron Aircraft Parking and GSE Space rentals shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

Third Amendment - Airline Operating
Agreement and Terminal Area Lease

LESSOR ____
LESSEE ____

AMENDMENTS

- 1. Section 2.1 of the Agreement is amended to read in its entirety as follows:

The term of this Agreement (the "Term") shall begin on July 1, 2019 ("Commencement Date") and shall terminate in twelve (12) consecutive months thereafter (except as it may be terminated or extended in accordance with this Agreement), and the rentals, fees, and charges shall be effective on the Commencement Date, but only in the event that the Premises are then tendered to Airline ready for use and occupancy in accordance with the terms and provisions of this Agreement.

- 2. The terms of the Agreement shall continue in full force and effect except as modified by this Third Amendment.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year stated in the individual acknowledgments below.

CITY OF KENAI

CORVUS AIRLINES DBA RAVN ALASKA

By: _____
Paul Ostrander
Its: City Manager

By: _____
John Mannion
Its: Chief Financial Officer

(If Lessee is a Corporation)
ATTEST:

Name

Title

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Paul Ostrander, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public in and for Alaska
My Commission expires: _____

STATE OF ALASKA)
)ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY the foregoing instrument was acknowledged before me this ___ day of _____, 2019, by John Mannion, Chief Financial Officer of Corvus Airlines dba Ravn Alaska., an Alaska corporation, on behalf of the corporation.

Notary Public in and for Alaska
My Commission expires: _____

Approved by Kenai City Council _____

Approved as to lease form by City Attorney _____

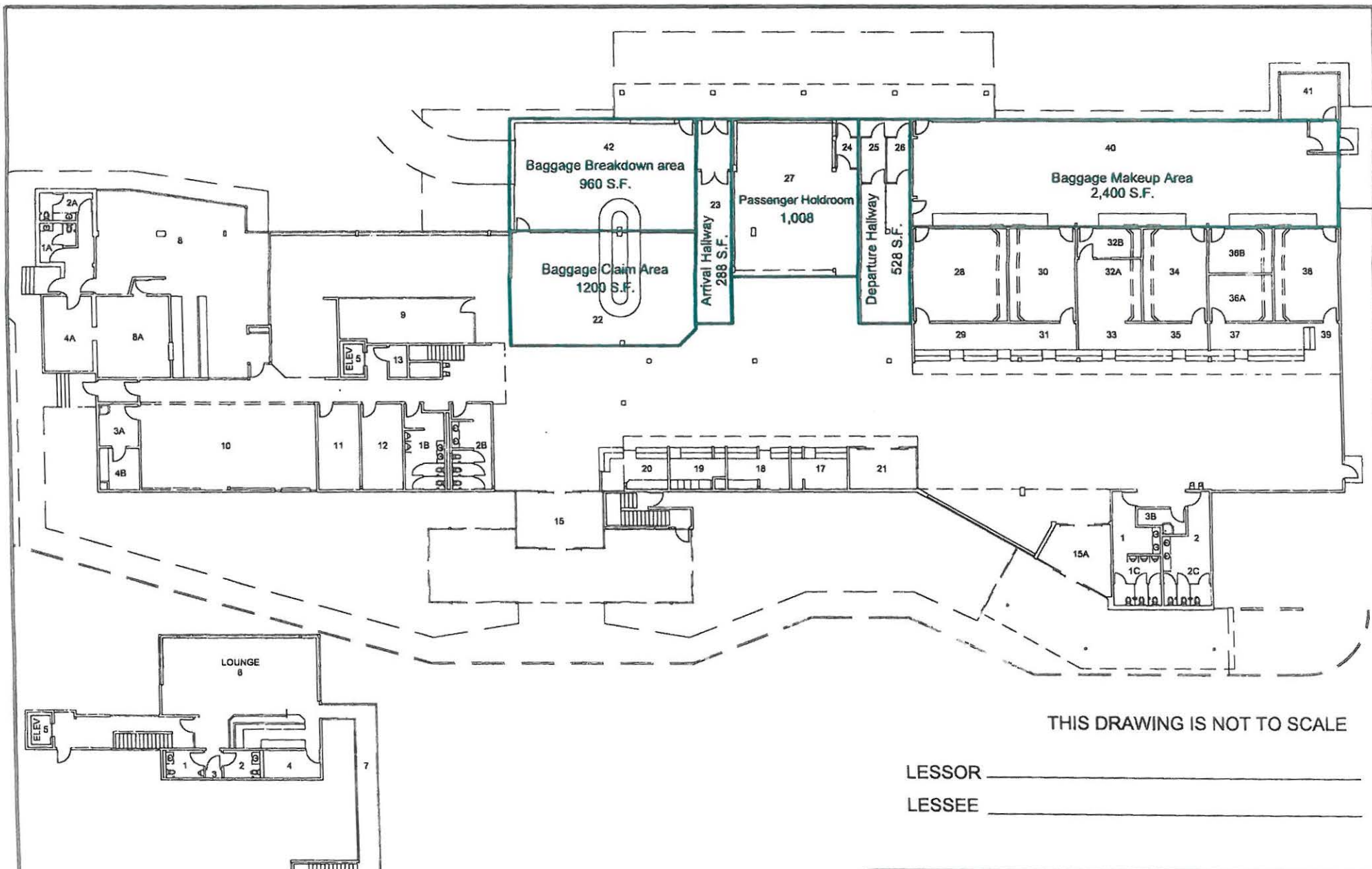
Approved by Finance Director _____

Approved by City Manager _____

Return to: **City Clerk**
210 Fidalgo Ave.
Kenai, AK 99611

Third Amendment - Airline Operating Agreement and Terminal Area Lease

LESSOR _____
LESSEE _____



THIS DRAWING IS NOT TO SCALE

LESSOR _____
 LESSEE _____

WINCE-CORTHELL-BRYSON

JOB NO: 2007.040 REVISED: TW "A" IMPROVEMENTS

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KENAI MUNICIPAL AIRPORT

EXHIBIT B JOINT USE SPACE

KENAI, ALASKA

**EXHIBIT C
AIRLINE RATE SCHEDULE**

**KENAI MUNICIPAL AIRPORT
City of Kenai, Alaska**

ENA_ExhC_2018-19_D2.123

17-May-18

Calculation of Terminal Rent, Apron Space Rent and Landing Fees

<u>Grant Aviation</u>		2018/19 Terminal Rent					
Area Description	Leased/Used Space (sq ft) (a)	(1) Base Rental Rate (psfpy) (b)	Prior Year Enplanement Percentage (c)	Allocated Preliminary Joint Rental Amount (a)x(b)x(c)	(2) Joint Rent Subsidy Reduction 20%	Rental Amount	
Exclusive use space: Room #s 34,35,36A,36B,37	1,026	\$33.85	-	-	-	\$34,732	
			Enplaned Pax 21,422				
Joint use space: Baggage make-up area	2,400	\$20.51	23.8%	\$11,732	(\$2,346)	\$9,385	
Baggage breakdown area	960	\$20.51	23.8%	\$4,693	(\$939)	\$3,754	
Baggage claim area	1,200	\$33.85	23.8%	\$9,683	(\$1,937)	\$7,747	
Passenger holdroom, arrival and departure hallways	1,824	\$33.85	23.8%	\$14,719	(\$2,944)	\$11,775	
Total Terminal Rent	7,410					\$67,394	
2018/19 Terminal Apron/GSE Space Rent							
	Space Used (sq ft)	(1) Rental Rate (psfpy)				Apron Space Rent	
Terminal Apron Aircraft Parking & GSE Space Rent	10,730	\$0.52				\$5,570	
2018/19 Landing Fees							
	(3) Projected Landed Wgt (1,000#s)	(1) Landing Fee Rate				Landing Fees	
Landing Fees	34,158	\$1.70				\$57,901	
Grant Aviation - Total Rent and Fees						\$130,865	

NOTES:

- (1) Rental rates and fees are scheduled to increase by 5% for each year of the agreement.
- (2) The Joint Rent Subsidy percentage applies a rental amount reduction provided by the Airport.
- (3) Aircraft landed weights are estimated - actual landing fees are to be based on actual weight.

**EXHIBIT C
AIRLINE RATE SCHEDULE**

**KENAI MUNICIPAL AIRPORT
City of Kenai, Alaska**

ENA_ExhC_2018-19_D2.123

17-May-18

Calculation of Terminal Rent, Apron Space Rent and Landing Fees

RAVN Alaska		2018/19 Terminal Rent				
Area Description	Leased/Used Space (sq ft) (a)	(1) Base Rental Rate (psfpy) (b)	Prior Year Enplanement Percentage (c)	Allocated Preliminary Joint Rental Amount (a)x(b)x(c)	(2) Joint Rent Subsidy Reduction 20%	Rental Amount
Exclusive use space: Room #s 28,29,30,31	1,152	\$33.85	-	-	-	\$38,998
Joint use space:			Enplaned Pax 68,444			
Baggage make-up area	2,400	\$20.51	76.2%	\$37,484	(\$7,497)	\$29,987
Baggage breakdown area	960	\$20.51	76.2%	\$14,994	(\$2,999)	\$11,995
Baggage claim area	1,200	\$33.85	76.2%	\$30,939	(\$6,188)	\$24,751
Passenger holdroom, arrival and departure hallways	1,824	\$33.85	76.2%	\$47,027	(\$9,405)	\$37,622
Total Terminal Rent	7,536					\$143,352

2018/19 Terminal Apron/GSE Space Rent

	(1) Space Used (sq ft)	Rental Rate (psfpy)	Apron Space Rent
Terminal Apron Aircraft Parking & GSE Space Rent	31,755	\$0.52	\$16,485

2018/19 Landing Fees

	(3) Projected Landed Wgt (1,000#s)	(1) Landing Fee Rate	Landing Fees
Landing Fees	127,493	\$1.70	\$216,117

RAVN Alaska - Total Rent and Fees

\$375,954

NOTES:

- (1) Rental rates and fees are scheduled to increase by 5% for each year of the agreement.
- (2) The Joint Rent Subsidy percentage applies a rental amount reduction provided by the Airport.
- (3) Aircraft landed weights are estimated - actual landing fees are to be based on actual weight.

EXHIBIT D
AIRLINE AND AFFILIATE INSURANCE REQUIREMENTS

A. Airline Liability Insurance and Comprehensive General Liability Insurance

Insurance limits of liability for Airline and each of its individual Affiliates shall be determined by the capacity in passenger seats of the largest aircraft in Airline's and its Affiliate's fleet as follows:

1. Not less than one hundred fifty million dollars (\$150,000,000) per occurrence for airlines operating aircraft of one hundred (100) seats or more;
2. Not less than one hundred million dollars (\$100,000,000) per occurrence for airlines operating aircraft of between sixty (60) and ninety-nine (99) seats;
3. Not less than fifty million dollars (\$50,000,000) per occurrence for airlines operating aircraft of between twenty (20) and fifty-nine (59) seats;
4. Not less than twenty million dollars (\$20,000,000) per occurrence for airlines operating aircraft of nineteen (19) or fewer seats;
5. Not less than five million dollars (\$5,000,000) per occurrence for airlines operating aircraft of nine (9) or fewer seats;
6. Passenger personal injury not less than twenty-five million dollars (\$25,000,000) per occurrence and in the annual aggregate with respect to non-passenger personal injury.

B. Hangar Keepers Liability Insurance (If Applicable)

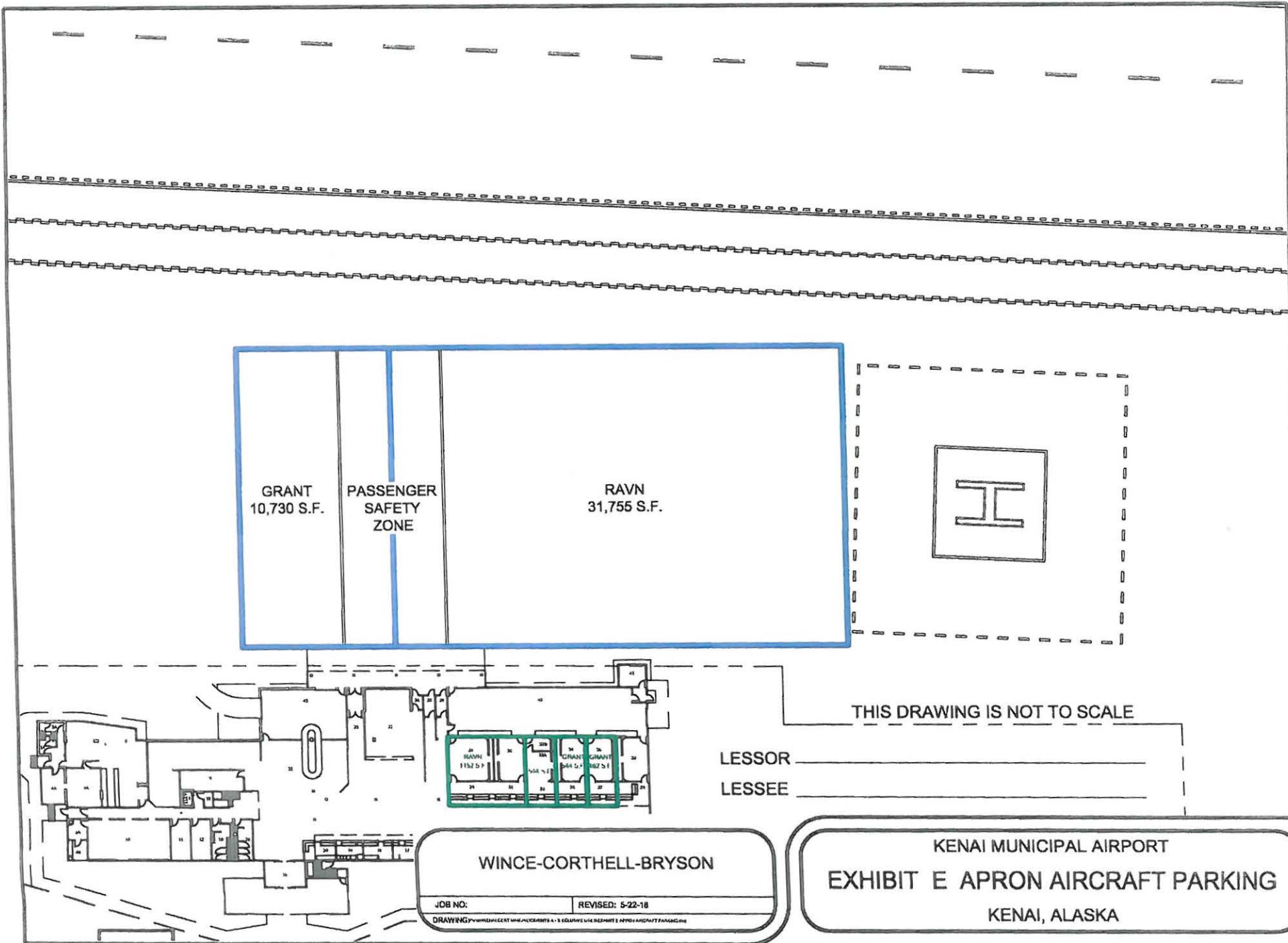
Hangar keepers liability insurance in an amount adequate to cover any non-owned property in the care, custody and control of Airline or any of its individual Affiliates on the Airport, but in any event in an amount not less than five million dollars (\$5,000,000).

C. Automobile Liability Insurance

Automobile liability insurance in an amount adequate to cover automobile insurance while on Airport premises in an amount not less than one million dollars (\$1,000,000) per person per occurrence.

D. Workers' Compensation and Employers' Liability Insurance

Statutory coverage and liability limits are required.



GRANT
10,730 S.F.

PASSENGER
SAFETY
ZONE

RAVN
31,755 S.F.

THIS DRAWING IS NOT TO SCALE

LESSOR _____

LESSEE _____

WINCE-CORTHELL-BRYSON

JOB NO: _____ REVISED: 5-22-18

DRAWING BY: WANCE-CORTHELL-BRYSON A-1 3 EQUINE LUG REPORT 1 APRON AIRCRAFT PARKING

KENAI MUNICIPAL AIRPORT
EXHIBIT E APRON AIRCRAFT PARKING
KENAI, ALASKA



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2019 - 24

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROVING THE THIRD AMENDMENT TO THE AIRLINE OPERATING AGREEMENT AND TERMINAL AREA LEASE AND AUTHORIZING THE CITY ENTER INTO SUCH AGREEMENT WITH GRANT AVIATION, INC.

WHEREAS, the City of Kenai is the owner and operator of the Kenai Municipal Airport; and,

WHEREAS, a recommendation of the 2007 Supplemental Planning Assessment was to update the City's airline operating agreement and terminal lease; and,

WHEREAS, Council approved Resolution No. 2008-27 establishing a new airline operating agreement and terminal lease to modernize the airport airline terminal leasing procedures and policies and increase airport operating revenue effective June 1, 2008 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2013-31 approving the First Amendment to the airline operating agreement and terminal area lease effective July 1, 2013 for a sixty-month period; and,

WHEREAS, Council approved Resolution No. 2018-43 approving the Second Amendment to the airline operating agreement and terminal area lease effective July 1, 2018 for a period of twelve months in consideration of the terminal rehabilitation project; and,

WHEREAS, with a February 2020 completion date for the terminal rehabilitation project, City Administration would have final costs, confirmation on changes to the airline exclusive and joint use areas, and be prepared to negotiate a five-year airline operating agreement effective July 1, 2020; and,

WHEREAS, it is in the best interest of the City of Kenai to authorize the City Manager to enter into such agreement with Grant Aviation, Inc., on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That the Kenai City Council approves the Third Amendment to the Airline Operating Agreement and Terminal Area Lease form as shown in Exhibit 1.

Section 2. That the Kenai City Manager is authorized to enter into such an agreement with Grant Aviation, Inc.

Section 3. That this resolution takes effect immediately upon adoption.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Mary L. Bondurant, Airport Manager
DATE: April 5, 2019
SUBJECT: **Resolution No. 2019-24 Approval Third Amendment to the Airline Operating Agreement and Terminal Area Lease for Grant Aviation, Inc.**

Attached to this memo is the Third Amendment to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease for Council approval.

The original Agreement and the First Amendment to the Agreement each were for five-year terms starting June 1, 2008 and ending June 30, 2018.

Instead of negotiating another five-year agreement in 2018 due to the Terminal Rehabilitation Project, the Second Amendment term was for twelve-months, ending June 30, 2019.

The project is scheduled for completion in February 2020. At that time, the City will have the final airline allocations for exclusive and joint use space and will begin negotiations for a five-year agreement based on accurate airport operation costs.

I recommend approval of the Third Amendment to the Airline Operating Agreement with a term of twelve months, effective July 1, 2019 through June 30, 2020 under the same terms and conditions of the Second Amendment.

Thank you for your consideration.



THIRD AMENDMENT
TO THE KENAI MUNICIPAL AIRPORT AIRLINE
OPERATING AGREEMENT AND TERMINAL AREA LEASE

THIS THIRD AMENDMENT to the Kenai Municipal Airport Airline Operating Agreement and Terminal Area Lease (the “Third Amendment”) is made and entered into this 1st day of July, 2019, by and between the City of Kenai, Alaska (the “City”), a political subdivision of the State of Alaska, and **Grant Aviation, Inc.**, (“Airline”), a corporation organized and existing under the laws of the State of Washington and authorized to do business in the State of Alaska.

RECITALS

The circumstances surrounding the making of this Third Amendment are as follows:

A. City and Airline are parties to the Airline Operating Agreement and Terminal Area Lease (the “Agreement”) dated June 1, 2008 as amended by the First Amendment dated June 1, 2013 and Second Amendment dated July 1, 2016 (herein referred to as the “Agreement”), under which Airline operates an Air Transportation business and leases property at the Kenai Municipal Airport.

B. Pursuant to Section 12.20 of the Agreement, the Agreement may be amended in whole or in part without further consideration upon mutual written consent of City and Airline who both herein wish to amend the Agreement.

C. Pursuant to Section 2.1 of the Agreement, the term began on June 1, 2013 and continued for a consecutive sixty (60) month period thereafter.

D. Pursuant to Section 5.2 of the Agreement, the Landing Fee charges shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

E. Pursuant to Section 5.3 of the Agreement, rentals for the Airline’s Exclusive Use Space and Joint Use Space shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

F. Pursuant to Section 5.4 of the Agreement, the Terminal Apron Aircraft Parking and GSE Space rentals shall be based on the rate and amount then currently approved by the City as provided in Exhibit C.

AMENDMENTS

- 1. Section 2.1 of the Agreement is amended to read in its entirety as follows:

The term of this Agreement (the "Term") shall begin on July 1, 2019 ("Commencement Date") and shall terminate in twelve (12) consecutive months thereafter (except as it may be terminated or extended in accordance with this Agreement), and the rentals, fees, and charges shall be effective on the Commencement Date, but only in the event that the Premises are then tendered to Airline ready for use and occupancy in accordance with the terms and provisions of this Agreement.

- 2. The terms of the Agreement shall continue in full force and effect except as modified by this Third Amendment.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year stated in the individual acknowledgments below.

CITY OF KENAI

GRANT AVIATION, INC.

By: _____
Paul Ostrander
Its: City Manager

By: _____
Robert M. Kelley
Its: President

(If Lessee is a Corporation)
ATTEST:

Name

Title

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Paul Ostrander, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public in and for Alaska
My Commission expires: _____

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY the foregoing instrument was acknowledged before me this ___ day of _____, 2019, by Robert M. Kelley, President of Grant Aviation, Inc., an Alaska corporation, on behalf of the corporation.

Notary Public in and for Alaska
My Commission expires: _____

Approved by Kenai City Council _____

Approved as to lease form by City Attorney _____

Approved by Finance Director _____

Approved by City Manager _____

Return to: **City Clerk**
210 Fidalgo Ave.
Kenai, AK 99611

Third Amendment - Airline Operating
Agreement and Terminal Area Lease

LESSOR ____
LESSEE ____



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2019 – 25

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, APPROVING THE PURCHASE OF NINETEEN PORTABLE RADIOS AND ACCESSORIES FOR THE POLICE DEPARTMENT UNDER A SOLE SOURCE PURCHASE FROM MOTOROLA SOLUTIONS USING NASPO VALUEPOINT CONTRACT PRICING FOR THE TOTAL PRICE OF \$100,027.79.

WHEREAS, the City of Kenai received and accepted a grant award from the State of Alaska Department of Public Safety in the amount of \$100,000 for the purchase of portable radios and accessories for the Police Department (Ordinance 3057-2019); and,

WHEREAS, the Police and Fire Departments both have complete inventories of Motorola Radios, have personnel with experience working on and programming the Motorola Radios, and have accessories in place for managing these radios; and,

WHEREAS, funds are sufficient to replace 19 radios, or approximately 40% of those used by the Police and Fire Departments and this partial replacement makes purchasing very similar equipment critical to maintenance and operations; and,

WHEREAS, the granting authority does not have procurement standards for these funds that would preclude a sole source procurement method for the purchase of these radios; and,

WHEREAS, Motorola is the only source for the Motorola APX 6000 radios to be purchased and those radios are covered in NASPO Valuepoint contract pricing that is standardized and ensures the lowest price available on the products; and,

WHEREAS, KMC 7.15.070(b)(1) allows the City of Kenai to purchase equipment without giving an opportunity for competitive bidding if the equipment can only be furnished by a single dealer or which has a uniform price wherever bought.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1. That effective April 17, 2019, the Police Department is authorized to purchase Motorola radios and accessories in the amount of \$100,027.79.

Section 2. That the City Manager is authorized to make a sole source purchase, per City Code, in lieu of the City conducting a competitive bid process.

Section 3. That the City Manager is authorized to issue a purchase order in the amount of \$100,027.79 for purchase Motorola portable radios and accessories.

Section 4. That this resolution takes effect April 17, 2019.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



"Village with a Past, City with a Future"

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Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: David Ross, Police Chief

DATE: April 8, 2019

SUBJECT: **Resolution No. 2019-25 – Resolution approving the sole source purchase of public safety radios from Motorola Solutions.**

The Police Department applied for and received a grant through the State of Alaska Department of Public Safety in the amount of \$100,000 for the purchase of portable radios and accessories for the Police Department. The City accepted and appropriated those grant fund under ordinance 3057-2019.

This memo is intended to support the resolution for a sole source purchase in the amount of \$100,027.79 for those radios and accessories from Motorola Solutions. The \$27.79 difference between the grant amount and the purchase order request will be covered by the police operating budget.

There are a number of reasons to use a sole source with Motorola for this purchase. KPD and KFD are both fully equipped with Motorola radios, and their personnel have experience working on and programming the Motorola radios. The departments also have accessories in place for managing these radios. These funds are sufficient to only replace 19 radios or approximately 40% of the portable radios in use by the departments. This partial replacement further necessitates the need to purchase like equipment for both maintenance and operations. The portable radios that are currently in use by both departments (Motorola) have proven extremely reliable, with availability of maintenance from the vendor when required. The Motorola APX6000 radios to be purchased are covered under the NASPO Valuepoint contract that is standardized and ensures the lowest price available on the products.

The State of Alaska Department of Public Safety does not have procurement standards for these funds that would preclude a Sole Source Procurement Method for the purchase of these radios.



Page 2 of 2
Resolution 2019-25

I am respectfully requesting consideration of the resolution authorizing the purchase from Motorola Solutions in the amount of \$100,027.79



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2019 - 26

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA APPROVING THE EXECUTION OF A RENEWAL OF LEASE OF AIRPORT RESERVE LANDS USING THE STANDARD LEASE FORM BETWEEN THE CITY OF KENAI AND SCHILLING RENTALS, LLC, FOR LOT 9A, FBO SUBDIVISION NO. 9.

WHEREAS, the current lease between Schilling Rentals, LLC, and the City of Kenai for Lot 9A, FBO Subdivision No. 9, will expire on May 31, 2019; and,

WHEREAS, Schilling Rentals, LLC, submitted an application for renewal of lease for a term of 33 years based upon an investment amount of \$224,475; and,

WHEREAS, Schilling Rentals, LLC, has leased the subject property from the City of Kenai since May 2014 for the purpose of supplying parking for aircraft, providing for access of service vehicles, and the transport of aircraft to the adjacent hangar located on Lot 11A; and,

WHEREAS, Schilling Rentals, LLC, is current on obligations to the City of Kenai and required improvements in their existing lease; and,

WHEREAS, the use proposed is compatible with Kenai Municipal Code for zoning within the Airport Light Industrial Zone and the City of Kenai Comprehensive Plan; and,

WHEREAS, the use proposed is compatible and conforms with the Airport Land Use Plan, Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations; and,

WHEREAS, at their regular meeting on April 10, 2019, the Planning and Zoning Commission reviewed the lease renewal application submitted by Schilling Rentals, LLC and recommended approval by the City Council; and,

WHEREAS, the Airport Manager reviewed the lease renewal application submitted by Schilling Rentals, LLC and recommended approval by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1: That a Renewal of Lease of Airport Reserve Lands is approved and the City Manager is authorized to execute a lease renewal between the City of Kenai, Lessor, and Schilling Rentals, LLC, Lessee, for a term of 33 years; and,

Section 2: That the resolution takes effect immediately upon passage.

ADOPTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 17th day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Elizabeth Appleby, City Planner
DATE: April 11, 2019
SUBJECT: **Resolution No. 2019-26 – Execution of a Renewal of Lease of Airport Reserve Lands Between the City of Kenai and Schilling Rentals, LLC**

Schilling Rentals, LLC (Schilling Rentals), submitted an application to the City for a renewal of the lease set to expire on May 31, 2019 on Lot 9A, FBO Subdivision. The application requests a term of 36 years, however, after confirming the investment amount of \$224,475 against the term table in Kenai Municipal Code (KMC) 21.10.080, the City and the applicant are in agreement to a term of 33 years.

Schilling Rentals also leases the adjacent property on Lot 11A that has a green-colored hangar. Lot 9A would support the hangar operations of the adjacent parcel. The original lease application notes the parcel uses will involve supplying parking for aircraft, providing for access of service vehicles, and the transport of aircraft to the adjacent hangar located on Lot 11A. Schilling Rentals included photos in their application to demonstrate improvements (gravel and site preparation work) that have been done during the five years of their current lease. Schilling Rentals is current on rent payments and obligations to the City.

The parcels are within the Airport Light Industrial (ALI) Zone per Kenai Municipal Code (KMC) 14.20.065. The intent of the ALI Zone is to protect the viability of the Kenai Municipal Airport as a significant resource to the community by encouraging compatible land uses and reducing hazards that may endanger the lives and property of the public and aviation users. The proposed use by Schilling Rentals is a permitted use in the ALI Zone and is a compatible land use.

The Imagine Kenai 2030 Comprehensive Plan outlines goals, objectives, and action items for the City, including this one pertaining to the Kenai Municipal Airport:



- Objective T-1: *Support future development near or adjacent to the airport when such development is in alignment with the Kenai Municipal Airport's primary mission, "To be the commercial air transportation gateway to the Kenai Peninsula Borough and Cook Inlet."*

The proposed use by Schilling Rentals complies with the Imagine Kenai 2030 Comprehensive Plan in that it supports development on lease lots and the development is in alignment with the Kenai Municipal Airport's marketing strategy.

The Airport Land Use Plan was developed to identify the highest and best uses of Kenai Municipal Airport land. The Airport Land Use Plan discusses leasing land and enhancing opportunities for local economic development. The proposed use by Schilling Rentals complies with the Airport Land Use Plan.

The Planning and Zoning Commission recommended approval of the lease renewals during their April 10, 2019 meeting. The Airport Commission was scheduled to review the lease at their April 11, 2019 meeting, but did not have a quorum. Mary Bondurant, Airport Manager, reviewed the lease application and found them to be compliant with the Airport Land Use Plan, Airport Layout Plan, Federal Aviation Administration regulations, Airport Master Plan, Airport Improvement Program grant assurances, and Airport operations.

Resolution No. 2019-26 would grant the approval of the Kenai City Council for the City Manager to enter into a renewal of lease of land within the Airport Reserve between the City of Kenai and Schilling Rentals for Lot 9A, FBO Subdivision No. 9.

Thank you for your consideration.



City of Kenai
Kenai Municipal Airport
Land Lease Application

RECEIVED

CITY OF KENAI

DATE 2-15-19

Application for:
PLANNING DEPARTMENT

- New Lease
- Amendment
- Extension/Renewal

DAB

Application Date: 8/13/18 2/15/19

Applicant Information

Name of Applicant: Schilling Rentals, LLC

Mailing Address: 420 North Willow Street City: Kenai State: AK Zip Code: 99611

Phone Number(s): Home Phone: () Work/ Message Phone: (907) 283 7556

E-mail: (Optional) duane@uptownmotel.com

Name to Appear on Lease: Same

Mailing Address: City: State: Zip Code:

Phone Number(s): Home Phone: () Work/ Message Phone: ()

E-mail: (Optional)

Type of Applicant: Individual (at least 18 years of age) Partnership Corporation
 Limited Liability Company (LLC) Government Other _____

Description of Property and Term Requested

Legal Description of Property: FBO Sub No 9 Lot 9A

Does the Property Require Subdivision? (if Yes, answer next two questions) YES NO

Are you prepared to be responsible for all costs associated with subdivision? YES NO

Do you believe the proposed subdivision would serve other Airport purposes? YES NO

Do you have or have you ever had a lease with the City of Kenai? YES NO

If Yes, please provide description of property leased (e.g. legal or physical description):
General Aviation Apron Sub 3 Lot 1A Blk 4; GAA Sub 1 amended Lot 2 Blk 2; GAA Sub 3 Lot 3 Blk 2; FBO Sub 9 Lot 11A;

Is this application for renewal or term extension of an existing lease? YES NO

If Yes, please provide a description of the property leased:
Property used for aircraft parking, loading, and support facilities for the hangar and office space on the adjacent Lot 11A

Lease Term Requested: 45 36 DAB Starting Date: June 1st, 2019

Proposed Use and Activities

Proposed Use (check one): Aeronautical Non-Aeronautical

Do you plan to construct new or additional improvements? YES NO

Will the proposed improvement change or alter the use under an existing lease? YES NO

If yes, what is the new proposed use?

What is the type (e.g. building, land) and nature (e.g. maintenance, new construction) of the proposed improvement?

see attached pic of improvements

What is the estimated amount of investment in the construction of new permanent improvements on the premises?
\$180,000 in land improvements completed Summer 2018

\$224,475.00 JAB

List of proposed use and business activities:

Aircraft parking/staging & associated employee vehicle parking


Lease Extension or Renewal*

*This section not required for new lease or amendment applications

Method to determine value of improvements/term for a lease renewal or expiring lease:

- Professional estimate of the remaining useful life of the principle improvement on the property
- Market value appraisal of the principle improvement on the property
- Purchase price of improvements

Submitting an application for a lease does not give the applicant a right to lease or use the land requested in the application. The application shall expire twelve (12) months after the date the application has been made if the City and the applicant have not, by that time, entered into a lease, unless the City Council for good cause grants an extension for a period not to exceed six (6) months. The City has no obligation to amend, renew or extend a lease and may decline to do so upon making specific findings as to why a lease renewal, extension, or amendment is not in the best interest of the City

Signature:		Date:	8/13/2018
Print Name:	Michael Schilling	Title:	Member

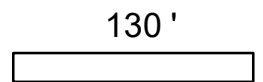
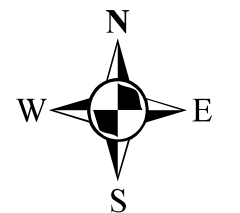
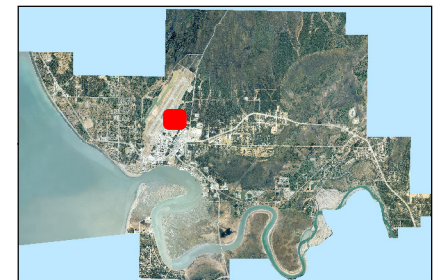






Lot 9A
FBO Subdivision No. 9
(Kenai Peninsula Borough
Parcel Number
04336047)

433 North Willow Street



1 inch equals 104 feet

The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 4/1/2019

**KENAI CITY COUNCIL – REGULAR MEETING
APRIL 3, 2019 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
MAYOR BRIAN GABRIEL, PRESIDING**

MINUTES

A. CALL TO ORDER

A Regular Meeting of the Kenai City Council was held on April 3, 2019, in City Hall Council Chambers, Kenai, AK. Mayor Gabriel called the meeting to order at approximately 6:00 p.m.

1. Pledge of Allegiance

Mayor Gabriel led those assembled in the Pledge of Allegiance.

2. Roll Call

There were present:

Brian Gabriel, Mayor	Robert Molloy
Henry Knackstedt	Tim Navarre
Jim Glendening	Robert Peterkin
Glenese Pettey	

A quorum was present.

Also in attendance were:

**Student Representative Tristan Summers
Paul Ostrander, City Manager
Scott Bloom, City Attorney
Jamie Heinz, City Clerk

3. Agenda Approval

Mayor Gabriel noted the following revisions to the packet:

Add to item G.6.	Schedule Special Meetings <ul style="list-style-type: none">• Calendar of Meetings
Add to item G.7.	Schedule Special Meetings <ul style="list-style-type: none">• Calendar of Meetings

MOTION:

Council Member Molloy **MOVED** to approve the agenda with the requested revisions to the packet and requested **UNANIMOUS CONSENT**. Council Member Knackstedt **SECONDED** the motion.

4. Consent Agenda

MOTION:

Council Member Knackstedt **MOVED** to approve the consent agenda and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

Mayor Gabriel opened for public hearing; there being no one wishing to be heard, the public hearing was closed.

It was requested item G.4., Ordinance No. 3061-2019, be pulled from the consent agenda.

VOTE: There being no objections, **SO ORDERED.**

All items listed with an asterisk () are considered to be routine and non-controversial by the council and will be approved by one motion. There will be no separate discussion of these items unless a council member so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the General Orders.

B. SCHEDULED PUBLIC COMMENTS

1. **Mark Griffin** – Past, Present and Future of the Kenai Golf Course

Mr. Griffin was not present to speak.

C. UNSCHEDULED PUBLIC COMMENTS – None.

D. PUBLIC HEARINGS

1. **Ordinance No. 3056-2019** – Amending Kenai Municipal Code 14.22.010-Land Use Table, to Allow Business/Consumer Services and Taxidermy/Gunsmithing in RR1 Zoning District by Conditional Use Permit and Removing the Location Restriction on Professional Offices Allowed by Conditional Use Permit Within the RR1 Zone. (Council Members Peterkin & Glendening)

MOTION:

Council Member Peterkin **MOVED** to enact Ordinance No. 3056-2019 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened the public hearing.

Greg Anderson spoke against the ordinance noting the changes in noise and traffic to his residential neighborhood, which allowed certain businesses by conditional use. He suggested the businesses could be in other areas, which allowed businesses, and where there were vacant spaces.

Ron Carlson spoke in favor of the ordinance noting he had wanted to open a small gunsmithing business in his shop, which was in an RR1 zone. He added that he understood the RR1 zone had limitations and a Conditional Use Permit could ensure the neighborhood feel.

Kellie Kelso spoke against the ordinance due to the process noting those that lived in the RR1 zones had not been notified by mail that the ordinance was being considered.

There being no one else wishing to be heard, the public hearing was closed.

There was discussion regarding the effect of the ordinance providing the ability to apply to conditionally allow certain businesses that do not impact the intent of the RR1 Zone, the process the ordinance is following, and notice to residents.

MOTION TO POSTPONE:

Vice Mayor Navarre **MOVED** to postpone to the April 17 Council Meeting and Council Member Molloy **SECONDED** the motion.

MOTION TO AMEND POSTPONEMENT:

Council Member Molloy **MOVED** to amend postponement to the May 1 Council Meeting for an additional public hearing and to send it back to the Planning and Zoning Commission for a recommendation to be considered at their next meeting.

The motion to amend postponement died for lack of a second.

VOTE ON POSTPONEMENT:

YEA: Knackstedt, Gabriel, Glendening, Pettey, Navarre, Molloy

NAY: Glendening, Peterkin

**Student Representative Summers: YEA

MOTION PASSED.

2. **Ordinance No. 3057-2019** – Accepting and Appropriating a Grant from the State of Alaska Department of Public Safety for Crime Prevention and Response and Equipment for the Purchase of Portable Radios and Accessories for the Police Department, and to Purchase Supplies in Support of the D.A.R.E Programs Conducted by the Police Department in Local Elementary Schools. (Administration)

MOTION:

Council Member Knackstedt **MOVED** to enact Ordinance No. 3057-2019 and Council Member Molloy **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

Appreciation was expressed for acquiring the grant.

VOTE:

YEA: Knackstedt, Gabriel, Glendening, Pettey, Molloy, Peterkin, Navarre

NAY:

**Student Representative Summers: YEA

MOTION PASSED UNANIMOUSLY.

3. **Ordinance No. 3058-2019** – Amending Provisions in Kenai Municipal Code Title 7 – Finance, Taxation, and Business Affairs of the City, including Investment of Monies – Scope and Objectives 7.22.010; Land Sale Permanent Funds – General Fund Land Sale Permanent Fund 7.30.005; Investments 7.30.020; Investments 7.30.020; Investments 7.30.020; and Investments 7.30.020 for Updates to Management Practices for the City’s General Land Sale and Airport Land Sale Permanent Funds. (Administration)

MOTION:

Council Member Molloy **MOVED** to enact Ordinance No. 3058-2019 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

The Finance Director was thanked for his work to bring forth the Ordinance; it was noted the changes would work well for the City in the coming years.

Clarification was provided on the recommendations being made for draws, investment strategy, and allocations to maintain the integrity of the funds, making them sustainable for the next generation.

VOTE:

YEA: Knackstedt, Gabriel, Glendening, Pettey, Molloy, Peterkin, Navarre

NAY:

**Student Representative Summers: YEA

MOTION PASSED UNANIMOUSLY.

There was no objection to a suspension of the rules to allow Assembly Member Smalley speak.

There was discussion regarding the State’s FY2020 budget and associated policy changes.

4. **Resolution No. 2019-19** – Supporting the Kenai Peninsula College. (Vice-Mayor Navarre)

MOTION:

Vice Mayor Navarre **MOVED** to adopt Resolution No. 2019-19 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

The sponsor was thanked for bringing forth the Resolution.

Clarification was provided that the reduction in funding in the Governor's proposed budget was to the entire University of Alaska system and, if it was approved by the legislature, it would be a Board of Regents decision how that would affect the different facilities.

There was no objection to all Council Members signing the resolution.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

5. **Resolution No. 2019-20** – Supporting the Continued Operation of Sentenced Facilities at Wildwood Correctional Complex. (Council Member Peterkin)

MOTION:

Council Member Peterkin **MOVED** to adopt Resolution No. 2019-20 and Council Member Pettey **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

Clarification was provided that the House Finance Committee didn't recommend sending prisoners out of state and found revenue and cost savings to support the recommendation.

There was no objection to all Council Members signing the resolution.

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

6. **Resolution No. 2019-21** – Authorizing the Award of a Construction Agreement for the Waste Water Treatment Plant Blowers Replacement / DO Analyzer Installation Project. (Administration)

MOTION:

Council Member Glendening **MOVED** to adopt Resolution No. 2019-21 and Council Member Knackstedt **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

Clarification was provided regarding the amounts of the bids being near what the Public Works Director expected, the amount of the deductive alternate, alternate plans for the deductive alternate, and tracking cost savings.

VOTE:

YEA: Knackstedt, Gabriel, Glendening, Pettey, Molloy, Peterkin, Navarre

NAY:

****Student Representative Summers: YEA**

7. **Resolution No. 2019-22** – Authorizing the City Manager to Enter into an Amended Bar and Lounge Concession Agreement with the Kenai Municipal Airport. (Administration)

MOTION:

Council Member Molloy **MOVED** to adopt Resolution No. 2019-22 and Council Member Glendening **SECONDED** the motion.

Mayor Gabriel opened the public hearing; there being no one wishing to be heard, public hearing was closed.

Council Member Peterkin disclosed familial relationship with the owners of the bar and lounge. The Mayor noted there was a potential conflict and ruled that Council Member Peterkin would not vote on the matter.

Clarification was provided regarding certain costs that would still be incurred while the business was shut down and negotiations that were ongoing.

Appreciation was expressed for the operators working with the City during the renovation project.

VOTE:

YEA: Knackstedt, Gabriel, Glendening, Pettey, Molloy, Navarre

NAY:

**Student Representative Summers: YEA

MOTION PASSED UNANIMOUSLY.

E. MINUTES

- 1.*Regular Meeting of March 20, 2019

Approved by the consent agenda.

F. UNFINISHED BUSINESS – None.

G. NEW BUSINESS

1. ***Action/Approval** – Bills to be Ratified.(Administration)

Approved by the consent agenda.

2. ***Ordinance No. 3059-2019** – Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds and Authorizing a Professional Services Agreement for the Design of the Alaska Regional Fire Training Facility Rehabilitation Project. (Administration)

Introduced by the consent agenda and public hearing set for April 17.

3. ***Ordinance No. 3060-2019** – Increasing Estimated Revenues and Appropriations in the Terminal Improvements Capital Fund and Authorizing an Increase to the Construction Purchase Order to Blazy Construction, Inc. (Administration)

Introduced by the consent agenda and public hearing set for April 17.

4. ***Ordinance No. 3061-2019** – Amending Kenai Municipal Code 14.20.320 - Definitions, 14.20.330 - Standard for Commercial Marijuana Establishments and 14.22.010 - Land Use Table, to Incorporate Onsite Consumption of Marijuana at Retail Marijuana Establishments into the City Of Kenai's Code of Ordinances. (Administration)

MOTION:

Council Member Glendening **MOVED** to introduce Ordinance No. 3061-2019 and refer it to the Planning and Zoning Commission for a recommendation and schedule it for a public hearing before City Council on May 1. Council Member Peterkin **SECONDED** the motion.

It was requested that the question be divided and the introduction and referral to the Planning and Zoning Commission be voted on separately from the date was scheduled for public hearing before City Council.

Upcoming meeting dates and noticing requirements were discussed.

VOTE ON INTRODUCTION AND REFERRAL:

UNANIMOUS CONSENT was requested.

VOTE: There being no objections, **SO ORDERED.**

VOTE ON THE MAY 1 DATE FOR PUBLIC HEARING BEFORE CITY COUNCIL:

YEA: Knackstedt, Glendening, Pettey, Navarre

NAY: Gabriel, Molloy, Peterkin

****Student Representative Summers: NAY**

MOTION PASSED.

5. **Action/Approval** – Donation Request for the Kenai River Festival. (Mayor Gabriel)

MOTION:

Council Member Knackstedt **MOVED** to approve a \$300 donation and Council Member Molloy **SECONDED** the motion. **UNANIMOUS CONSENT** was requested.

VOTE: There being no objections, **SO ORDERED.**

6. **Discussion** – Schedule Special Meetings to Conduct Annual Performance Evaluations for the City Attorney, City Clerk, and City Manager. (Mayor Gabriel)

It was decided a Special Meeting would be held on Tuesday, April 23rd, beginning at 4:30 p.m. for annual performance evaluations for the City Attorney, City Manager, and City Clerk.

It was asked that an Executive Session be included on the April 17th agenda to begin discussions.

7. **Discussion** – Schedule a Work Session to Review and Discuss the Fiscal Year 2020 City of Kenai Budget. (Mayor Gabriel)

It was decided the work session would be held on Thursday, April 18th, beginning at 2:00 p.m.

H. COMMISSION/COMMITTEE REPORTS

1. Council on Aging – It was noted the March for Meals event was very successful; next meeting April 11.
2. Airport Commission – No report; next meeting April 11.
3. Harbor Commission – No report; next meeting April 8.
4. Parks and Recreation Commission – No report; next meeting April 4.
5. Planning and Zoning Commission – It was reported that on March 27 the Commission had a work session for training with the City Attorney and City Clerk regarding parliamentary procedure, open meetings act, and quasi-judicial matters. During their meeting on the same day, they approved a plat to vacate a lot line and discussed the ordinance regarding RR1 uses; next meeting April 10.
6. Beautification Committee – No report; next meeting April 9.
7. Mini-Grant Steering Committee – It was reported a meeting was being set up; report at next meeting.

I. REPORT OF THE MAYOR

Mayor Gabriel reported on the following:

- Attended the town hall meeting hosted by the House Finance Committee;
- Traveled to Juneau with the City Manager and met with legislators and commissioners about the State's budget and associated policy amendments.

J. ADMINISTRATION REPORTS

1. City Manager – P. Ostrander reported on the following:
 - Proposals received for the marketing portion of the Visitor Center RFP but not the facility management portion; developing best path forward;
 - Met with the Kenai Performers Group to discuss alternative properties to suit their needs;
 - Upcoming staff meetings regarding impacts to them with the FY2020 budget;
 - The final package for the Bluff Erosion Project went to Washington D.C. on April 3rd; expect signed directors report by the end of the month.
2. City Attorney – No Report.

3. City Clerk – J. Heinz reported she attended a tour of the Anchorage Election Center - Vote by Mail facility as a part of the Kenai Peninsula Borough Election Stakeholder Group, noted the upcoming Employee Appreciation Dinner, and revealed the newly designed website.

K. ADDITIONAL PUBLIC COMMENT

1. Citizens Comments (*Public comment limited to five (5) minutes per speaker*)

Greg Anderson spoke against the onsite consumption regulations noting the State's regulations were vague. He added that there had not been a server permit established in the regulations as there was with alcohol and that he had disliked the thought that a car could be pulling out of a retail establishment and not know how intoxicated the driver was.

2. Council Comments

Council Member Pettey thanked the members of the public that testified; attended March for Meals; looked forward to working on the budget.

Council Member Glendening thanked those that testified; asked if the City of Kenai was open for business, how to get to where we said yes.

Council Member Peterkin noted March for Meals was a great event; noted the upcoming Cook Inlet Regional Citizen's Advisory Council annual meeting.

Student Representative Summers reported on a recent choir concert and noted prom was upcoming.

Council Member Molloy noted he appreciated the reports provided by the Cook Inlet Regional Citizen's Advisory Council's president; thanked the public for testifying; thanked Mayor Gabriel and the City Manager Ostrander for their efforts in Juneau.

Council Member Knackstedt enjoyed the March for Meals event; noted the upcoming Kenai Historical Society meeting; expressed frustration with the State's budget and process.

Vice Mayor Navarre noted the great March for Meals event; looked forward to working on the budget.

L. EXECUTIVE SESSION – None.

M. PENDING ITEMS

N. ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 9:57 p.m.

I certify the above represents accurate minutes of the Kenai City Council meeting of April 3, 2019.

Jamie Heinz, CMC
City Clerk

***The student representative may cast advisory votes on all matters except those subject to executive session discussion. Advisory votes shall be cast in the rotation of the official council vote and shall not affect the outcome of the official council vote. Advisory votes shall be recorded in the minutes. A student representative may not move or second items during a council meeting.*



Sponsored by: Council Member Jim Glendening and
Council Member Robert Peterkin

CITY OF KENAI

ORDINANCE NO. 3056-2019

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, AMENDING KENAI MUNICIPAL CODE 14.22.010-LAND USE TABLE, TO ALLOW BUSINESS/ CONSUMER SERVICES AND TAXIDERMY/GUNSMITHING IN RR1 ZONING DISTRICT BY CONDITIONAL USE PERMIT AND REMOVING THE LOCATION RESTRICTION ON PROFESSIONAL OFFICES ALLOWED BY CONDITIONAL USE PERMIT WITHIN THE RR1 ZONE.

WHEREAS, Kenai Municipal Code 14.20.080 provides that the RR Zone, including the RR1 Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment separating residential structures to preserve the rural, open quality of the environment preventing health hazards in areas not served by public water and sewer and prohibit uses that would violate the residential character of the environment and generate heavy traffic in predominantly residential areas; and,

WHEREAS, the main distinction of the RR1 Zone as differentiated from the RR Zone, is prohibiting multifamily dwellings beyond a four-family dwelling and only allowing four-family dwellings by conditional use; and,

WHEREAS, the purpose of conditional uses is to recognize that some uses may be compatible with designated principal uses in specific zoning districts provided certain conditions are met, intended to assure the proposed use is compatible with the surroundings; and,

WHEREAS, currently, the RR1 Zone allows four-family dwellings, limited marijuana cultivation facilities, professional offices, many public and institutional uses, bed and breakfasts, day care centers and surface extraction of natural resources, many with proximity limitations to the Kenai Spur Highway; and,

WHEREAS, 'business and consumer services' is defined in KMC 14.20.320 as the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines 'gunsmith' a person who repairs, modifies, designs, or builds firearms; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines 'taxidermy' as the act of mounting or reproducing dead animals, fish, and/or birds for display; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines "profession" as an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued

by an institution of high learning, e.g., Doctor of Medicine, and “office” as a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government; and,

WHEREAS, many business and consumer services, professional offices, gunsmithing, and taxidermy business can be run out of single family dwellings with negligible traffic and impact on surrounding properties; and,

WHEREAS, many business and consumer services, professional offices, gunsmithing and taxidermy are compatible with the residential character and location of the RR1 zones and should be allowed through a conditional use permit; and,

WHEREAS, removing the restrictions on the location of professional offices by conditional use within the RR1 zone will allow more opportunity for the location of low impact businesses within the RR1 zone; and,

WHEREAS, Kenai Municipal Code 14.05.010 states the City of Kenai Planning and Zoning Commission will act in an advisory capacity to the Kenai City Council regarding the Kenai Zoning Code; and,

WHEREAS, on _____, the Planning and Zoning Commission held a public hearing on PZ Resolution No. _____ and recommended the City Council _____ this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. Amendment of Section 14.22.010 of the Kenai Municipal Code: That Kenai Municipal Code, Section __14.22.010- Land Use Table, is hereby amended as follows:

14.22.010 Land [U] Use [T]Table.

LAND USE TABLE

KEY: P = Principal Permitted Use
 C = Conditional Use
 S = Secondary Use
 N = Not Permitted

NOTE: Reference footnotes on following pages for additional restrictions

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
RESIDENTIAL																	
One-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	S ²	S ²	C ²²	P	P	P	S ¹ /C ²¹
Two-, Three-Family Dwelling	N	C ¹⁸	P	P	P	P	P	P	P ²¹	S ¹	C	C	C ²²	P	P	P	S ¹ /C ²¹
Four-Family Dwelling	N	C ¹⁸	P	C ^{3, 29}	P	N	N	P	P ²¹	S ¹	C	C	C ²²	N	P	C	S ¹ /C ²¹

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
RESIDENTIAL (continued)																	
Five-, Six-Family Dwelling	N	C ¹⁸	C ³	N	P	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Seven- or More Family Dwelling	N	C ¹⁸	C ³	N	C ³	N	N	P	P ²¹	S ¹	C	C	N	N	P	C	S ¹ /C ²¹
Mobile Home Parks ⁶	N	N	C	N	C	C	C	C	C	C	C	C	N	C	N	N	C
Planned Unit Residential Development ⁷	N	C ¹⁸	C	C ²⁹	C	C	C	C	C	C	C	C	N	C	C	C	C
Townhouses ⁴	N	C ¹⁸	C ³	C ³ , 29	C ³	C ³	C ³	C ³	C	C	C	C	C ²²	C	C	C	C
Accessory Building on Parcel Without Main Building or Use (See KMC 14.20.200)	N	N	C	C	C	C	C	C	N	N	N	N	N	N	C	N	N
COMMERCIAL																	
Airport Compatible Uses	P	N	N	N	N	N	N	N	C	C	C	C	N	N	N	C	C
Automotive Sales	C	N	C	N	N	N	N	C	P	P	P	P	N	N	N	N	P
Automotive Service Stations	C	N	C	N	N	N	N	C	P	P	P	P	N	C	N	N	P
Banks	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Business/Consumer Services	C	N	C	[N]C	C	N	N	C	P	P	P	C	N	C	C	C	P
Commercial Recreation	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Guide Service	C	N	C	N	C	N	N	C	P	P	P	P	N	P	P	C	P
Hotels/Motels	C	N	C	N	C	N	N	C	P	P	P	C	N	C	P	C	P
Lodge	C	N	C	N	C	N	N	C	P	P	P	C	N	P	P	C	P
Marijuana Cultivation Facility, Limited ³⁰	N	N	C	C	C	C	C	C	N	C	C	C	N	N	N	C	N
Marijuana Cultivation Facility, Standard ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	N
Marijuana Product Manufacturing Facility ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	N	N
Marijuana Testing Facility ³⁰	N	N	N	N	N	N	N	N	C	C	P	P	N	N	N	C	C
Professional Offices	C	N	C	C ^[29]	C	N	N	P	P	P	P	P	N	C	P	P	P
Restaurants	C	N	C	N	C	N	N	C	P	P	P	C	N	C	C	C	P
Retail Business	C	N ²⁶	C	N	C	N	N	C	P	P	P	P	S ²⁴	S ²⁴	C	C	P
Retail Marijuana Store ³⁰	N	N	N	N	N	N	N	N	N	C	C	C	N	N	N	C	C

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RJ	CC	CG	IL	IH	ED	R	TSH	LC	CMU
COMMERCIAL (continued)																	
Theaters	N	N	C	N	C	N	N	C	P	P	C	C	N	P	C	C	P
Wholesale Business	C	N	C	N	C	N	N	C	C	P	P	P	N	S ²⁴	C	C	N
INDUSTRIAL																	
Airports	C	P ²⁰	C	N	C	N	N	C	C	C	C	C	N	C	N	N	C
Necessary Aviation Facilities	P	P	C	C	C	C	C	C	P	P	P	P	C	P	C	P	P
Automotive Repair	P	N	C	N	C	N	N	C	P	P	P	P	N	N	N	N	P
Gas Manufacturer/Storage	C ⁹	N	N	N	C	N	N	N	N	N	C ⁹	C ⁹	N	N	N	N	N
Manufacturing/Fabricating/Assembly	P	N	C	N	C	N	N	C	C	P	P	P	N	C	C	N	C
Mini-Storage Facility	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	C	C
Storage Yard	C	N	C	N	C	N	N	C	C	P	P	P	N	N	N	N	C
Warehouses	C	N	C	N	C	N	N	C	N	P	P	P	N	C	N	N	N
PUBLIC/INSTITUTIONAL																	
Assisted Living	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Churches*	N	C	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	C	C	P	P ¹⁰	P	P	P
Clinics	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	P	P
Colleges*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Elementary Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Governmental Buildings	P	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	C	P	P
High Schools*	N	C	C	C ²⁹	C	C	C	C	P	P	C	C	P	C	C	C	P
Hospitals*	N	C	C	N	C	C	C	C	P	P	P	C	C	C	C	C	P
Libraries*	N	C	C	C ²⁹	C	C	C	C ¹²	P	P	P	C	P	C	P	C	P
Museums	C	C	C	C ²⁹	C	C	C	C	P	P	P	C	P	C	P	C	P
Parks and Recreation	N	P	C	C ²⁹	C	C	C	C	P	P	P	P	P	P	P	C	P
MISCELLANEOUS																	
Animal Boarding/Commercial Kennel ¹³	C	C	C	N	C	C	N	N	C	C	C	C	N	C	N	C	C
Assemblies ¹⁵ (Large: Circuses, Fairs, etc.)	P	C	C	N	C	C	C	C	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	P ¹⁵	C	P	N	P ¹⁵
Bed and Breakfasts	N	C	C	C	C	C	C	C	C	C	C	C	N	P	C	C	P

ZONING DISTRICTS																	
LAND USES	ALI	C	RR	RR-1	RS	RS-1	RS-2	RU	CC	CG	IL	IH	ED	R	TSH	LC	CMU
MISCELLANEOUS (continued)																	
Cabin Rentals	N	C	C	N	C	N	N	N	P	P	P	C	N	P	P	C	P
Cemeteries	P	C	C	N	C	N	N	N	N	C	C	C	N	C	C	N	N
Communications Towers and Antenna(s), Radio/TV Transmitters/Cell Sites** 28	C	P	C	N	C	C	C	C	P	P	P	P	P	C	C	C	C
Crematories/Funeral Homes	N	N	C	N	C	N	N	C	C	C	C	C	N	C	C	C	C
Day Care Centers ¹²	N	C	C	C ²⁹	C	C	C	C	P	P	P	C	C	C	C	P	P
Dormitories/Boarding Houses	N	C	C	N	C	C	C	P	P ²¹	S	C	P	P ²³	C	C	C	P
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Farming/General Agriculture***	N	P	P	N	N	N	N	N	N	N	N	P	N	P	N	N	N
Fraternal Organizations/ Private Clubs/Social Halls and Union Halls	N	N	C	N	C	C	C	C	P	P	P	C	N	C	P	C	P
Greenhouses/Tree Nurseries ¹³	N	C	C	N	C	C	C	C	P	P	P	C	N	C	C	C	P
Gunsmithing, Taxidermy	N	N	C	[N]C	C	C	C	C	P	P	P	P	N	C	P	P	P
Nursing, Convalescent or Rest Homes	N	N	C	N	C	C	C	C	P	P	C	C	C	C	C	C	P
Parking, Public Lots ¹²	C	C	C	N	C	C	C	C	C	C	C	C	C	C	C	C	C
Personal Services ²⁵	N	C	C	N	C	C	C	C	P	P	P	P	C	C	P	P/C ²⁷	P
Recreational Vehicle Parks	N	C	C	N	C	N	N	C	C	C	C	C	N	C	C	N	C
Subsurface Extraction of Natural Resources ¹⁶	C	C	C	C	C	C	C	C	C	C	C	C	N	C	N	N	N
Surface Extraction of Natural Resources ¹⁷	C	C	C	N	C	N	N	C	N	C	C	C	N	C	N	N	N

* See 42 USCA Sec. 2000cc (Religious Land Use and Institutionalized Persons Act of 2000)

** See 42 Telecommunications Act of 1996, Sec. 704(a)

*** See, however, the limitations imposed under KMC [3.10.070](#)

Footnotes:

1 Allowed as a secondary use except on the ground floor of the part of the building fronting on collector streets and major highways. Commercial or industrial which falls under the

landscaping/site plans requirements of KMC Chapter [14.25](#) shall include any secondary uses in the landscaping and site plans.

2 One (1) single-family residence per parcel, which is part of the main building.

3 Allowed as a conditional use, subject to satisfying the following conditions:

a The usable area per dwelling unit shall be the same as that required for dwelling units in the RS Zone;

b The site square footage in area must be approved by the Commission;

c Yards around the site, off-street parking, and other development requirements shall be the same as for principal uses in the RR Zone;

d Water and sewer facilities shall meet the requirements of all applicable health regulations;

e The proposed dwelling group will constitute a residential area of sustained desirability and stability, will be in harmony with the character of the surrounding neighborhood, and will not adversely affect surrounding property values;

f The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces, and recreational and community activities;

g There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;

h The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;

i The property adjacent to the proposed dwelling group will not be adversely affected.

4 See "Townhouses" section.

5 See "Mobile Homes" section.

6 Allowed as a conditional use, subject to "Mobile Homes" section; and provided, that any mobile home park meets the minimum Federal Housing Authority requirements.

7 See "Planned Unit Residential Development" section.

8 Allowed as a conditional use; provided, that the proposed location and the characteristics of the site will not destroy the residential character of the neighborhood.

9 Allowed as a conditional use; provided, that all applicable safety and fire regulations are met.

10 Provided that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line.

11 Allowed as a conditional use; provided, that no part of any building is located nearer than thirty (30) feet to any adjoining street or property line; and provided further, that the proposed location and characteristics of the use will not adversely affect the commercial development of the zone.

12 Allowed as a conditional use; provided, that the following conditions are met:

- a** The proposed location of the use and the size and characteristics of the site will maximize its benefit to the public;
- b** Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.

13 Allowed as a conditional use; provided, that setbacks, buffer strips, and other provisions are adequate to assure that the use will not be a nuisance to surrounding properties. The Commission shall specify the conditions necessary to fulfill this requirement. Animal boarding and commercial kennels require a kennel license (see KMC Chapter [3.15](#)).

14 Allowed as a conditional use; provided, that no indication of said use is evident from the exterior of the mortuary.

15 Allowed; provided, that the following conditions are met:

- a** An uncleared buffer strip of at least thirty (30) feet shall be provided between said use and any adjoining property in a residential zone.
- b** Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on the public streets.

16 See “Conditional Uses” section.

17 See “Conditional Use Permit for Surface Extraction of Natural Resources” section.

18 **Conditional use allowed only on privately held property.** Not allowed on government lands.

19 Reserved.

20 The airport related uses allowed under this entry are aircraft approach and departure zones pursuant to KMC [14.20.070\(a\)](#), except that for properties contained inside the airport perimeter fence or having access to aircraft movement areas, taxiways or parking aprons, FAA authorized uses are allowed.

21 Developments for use shall be the same as those listed in the Development Requirements Table for the RU/TSH Zones.

22 **Allowed as a conditional use in conjunction with a permitted use in the ED Zone.** For example, housing for teachers or students for a school in the zone.

23 Allowed as an accessory use in conjunction with a permitted use in the ED Zone. For example, a dormitory used to house students for a school or educational facility.

24 Retail businesses allowed as a secondary use in conjunction with the primary use (e.g., a gift shop or coffee shop within another business).

25 Art studios, barbers, beauticians, tattoo parlors, dressmakers, dry cleaners and self-service laundries, fitness centers, photographic studios, tailors, tanning salons and massage therapists.

26 Food services are allowed on a temporary or seasonal basis of not more than four (4) months per year.

27 Personal services not set forth in the below matrix are conditional uses.

Limited Commercial Zone		
Personal Services	Permitted (P)	Conditional Use (C)
Art Studios	X	
Barbers	X	
Beauticians	X	
Dressmakers	X	
Dry Cleaners		X
Fitness Centers	X	
Massage Therapist		X
Photographic Studios	X	
Self-Service Laundries		X
Tailors	X	
Tanning Salons	X	
Tattoo Parlors		X

28 Communications tower/antenna(s) allowed as a principal permitted (P) use if the applicable conditions set forth in KMC [14.20.255](#) are met or a conditional use (C) if the applicable conditions set forth in KMC [14.20.150](#) and [14.20.255](#) are met.

29 Use allowed only for those parcels that abut the Kenai Spur Highway. The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.

30 See marijuana regulations, KMC [14.20.230](#)—Home Occupations, [14.20.320](#)—Definitions, [14.20.330](#)—Standards for Commercial Marijuana Establishments.

Section 2. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 3. Effective Date: That pursuant to KMC 1.15.070(f), this ordinance shall take effect 30 days after enactment.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 3rd day of April, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Introduced: March 6, 2019
Enacted: April 3, 2019
Effective: May 3, 2019



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Council Members Jim Glendening and Robert Peterkin
DATE: February 28, 2019
SUBJECT: **Ordinance No. 3056-2019 – Amending Kenai Municipal Code 14.22.010-Land Use Table**

The intent of this Ordinance is to conditionally allow for low impact compatible uses in the RR1 Zoning Districts, specifically business and consumer services, gunsmith and taxidermies, and expand the location options for professional offices within the zone. These uses generally have low traffic flow and would allow for expanded business opportunities without disrupting the character and nature of the RR1 zones. Any exceptions for business plans that would have a high traffic volume or impact on the neighborhoods can be excluded through the conditional use permitting process.

The City has very recently had two inquiries from individuals wanting to start businesses in the RR1 zone. One was a resident wishing to do gunsmithing from his home, and another wanting to locate a new professional office in the RR1 zone.

The proposed change to the Land Use Table needs to be considered by the Planning and Zoning Commission, and it is requested that, after introduction, this Ordinance be referred by Council to the Planning and Zoning Commission for consideration and a recommendation. A public hearing at the Council level will need to be postponed until after the Planning and Zoning Commission has made a recommendation.





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STAFF REPORT

To: Planning & Zoning Commission

From: Elizabeth Appleby, City Planner

Date: March 22, 2019

Subject: Resolution PZ2019-11-Recommended Kenai City Council Enact Ordinance 3056-2019 Amending Kenai Municipal Code 14.22.010 – Land Use Table to Allow Business/Consumer Services and Taxidermy/Gunsmithing in Rural Residential 1 (RR-1) Zone by Conditional Use Permit and Removing the Location Restriction on Professional Offices Allowed by Conditional Use Permit within the RR-1 Zone

GENERAL INFORMATION

During their regular meeting on March 6, 2019, the Kenai City Council voted to refer Ordinance No. 3056-2019 – Amending Kenai Municipal Code (KMC) 14.22.010 Land Use Table to the City of Kenai Planning and Zoning Commission for consideration and a recommendation. Ordinance No. 3056-2019 would amend *KMC 14.22.010 Land Use Table* to allow business/consumer services and taxidermy/gunsmithing as conditional uses within the Rural Residential (RR-1) Zone. Currently these uses are not permitted within the RR-1 Zone. Ordinance No. 3056-2019 would also remove the location restriction on professional offices from the RR-1 Zone. Professional offices would remain a conditional use within the RR-1 Zone. Ordinance No. 3056-2019 would only modify permitted land uses within the RR-1 Zone and would not alter the City of Kenai Zoning Map or the intent of the RR-1 Zone. The memorandum and draft ordinance provided from the City Attorney to City Council for Ordinance No. 3056-2019 are attached to this staff report as references.

The City of Kenai Planning and Zoning Commission acts in an advisory capacity to the Kenai City Council on the Kenai Zoning Code as specified in *KMC 14.05.010 Duties and powers* under *Title 14 Planning and Zoning Commission*. The Kenai City Council will consider Ordinance No. 3056-2019 once the City of Kenai Planning and Zoning Commission has provided a recommendation through Resolution PZ2019-11. Both the City Council and the Planning and Zoning Commission will consider their respective ordinance and resolution through public hearings as required by City Code.

The RR-1 Zone is in two parts of the City. This staff report refers to these two parts as the “western portion” and the “eastern portion”. The western portion of the RR-1 Zone contains 109 parcels.

The eastern portion of the RR-1 Zone contains 32 parcels. Ordinance 3056-2019 would not change the City Zoning Map or amend the location or boundaries of the RR-1 Zone and would only amend the Land Use Table for the RR-1 Zone. Several maps are attached to this staff report as reference points for the location of the RR-1 Zone.

Much of the western portion of the RR-1 Zone has City water and sewer connections available. Land in the Rural Residential (RR) Zone is to the north. Land in the Conservation (C) Zone is to the immediate west, with General Commercial (CG) Zone land farther west. Land zoned RR and Suburban Residential (RS) are to the east. The Kenai Spur Highway borders most of the southern edge of the RR-1 Zone. Across the Kenai Spur Highway are Kenai Central High School, the Kenai Middle School, the Challenger Learning Center, and land in the RS Zone.

The eastern portion of the RR-1 Zone does not have City water and sewer connections available. The eastern portion of the RR-1 Zone is surrounded by the RR Zone to the north, south, and east. Land to the west is zoned Limited Commercial (CL). Visible on the close-up map to the southeast is a rough private road leading from Wortham Avenue to Strawberry Road. The City has received repeated complaints of trash and debris at the end of Wortham Avenue and Johnisee Court. The City received approval from the property owner to install a trench and dirt/rock to block vehicles from entering both ends of this rough private road last year.

Public Notice, Public Comment

The proposed change to City Code was referred to the Kenai Planning and Zoning Commission from the Kenai City Council. Pursuant to *KMC 14.20.280, Public hearing and notifications*, City staff published notice of the Planning and Zoning Commission public hearing in the *Peninsula Clarion* and posted notice in three public places. *KMC 14.20.280 Public hearings and notifications* states:

When a public hearing is to be held about a proposed zoning ordinance amendment involving a change in the text or major district boundary changes, no notification of neighboring property owners shall be required, but notices shall be displayed in at least three (3) public places.

No public comments have been submitted to the City of Kenai as of March 22, 2019.

ANALYSIS

Land Use Definitions

KMC 14.20.320 Definitions specifies the meaning of several terms in the zoning code, including the meaning of land uses. Relevant land use definitions for the proposed Ordinance 3056-2019 are the following:

“Business/Consumer Services” means the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

“Gunsmith” means a person who repairs, modifies, designs, or builds firearms.

“Profession” means an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g., Doctor of Medicine.

“Office” means a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

“Taxidermy” means the act of mounting or reproducing dead animals, fish, and/or birds for display.

Land Use Table

KMC 14.22.010 Land Use Table specifies uses in the different zones of the City. The land uses of “Gunsmithing/Taxidermy” and “Business/Consumer Services” are shown as “Not Permitted (N)” in the RR-1 Zone.

The City may not issue permits for non-permitted uses. The City currently may not accept a conditional use permit application for the uses of gunsmithing, taxidermy, or business/consumer services in the RR-1 Zone.

Over the past year, the Planning and Zoning Department for the City of Kenai has fielded calls regarding currently non-permitted uses in the RR-1 Zone from residents wanting to have home-based businesses that would largely blend into the existing neighborhood. Two individuals have contacted the City asking about restrictions on starting gunsmithing businesses in the RR-1 Zone. One person was asking for a potential future use on his property in his retirement and the second person had asked so that he could obtain his business license and open his business as soon as it was legal for him to do so on property he currently owns. A third person contacted the City with interest in purchasing property within the RR-1 Zone who wanted to ensure the counseling services he intended to provide out of his home would be a legal use. The seller of that property also contacted the City to inquire about limitations on the use of the property impacting the sale. If Ordinance 3056-2019 is enacted, the City could issue a conditional use permit for gunsmithing /taxidermy or business/consumer services if the Planning and Zoning Commission deemed criteria for issuance was met by the applicants during a public hearing.

The use of “Professional Offices” is currently shown as a “Conditional Use (C)” in the RR-1 Zone, with the following location restriction in footnote 29 of the Land Use Table:

²⁹ Use allowed only for those parcels that abut the Kenai Spur Highway. The access to any such parcel must be either from: (a) driveway access on the Kenai Spur Highway; or (b) driveway access from a dedicated right-of-way and that driveway access is not more than two hundred seventy-five (275) feet as measured from the constructed centerline of the Kenai Spur Highway to the center of the driveway access as shown on an as-built drawing/survey of the parcel.

The use of Professional Offices is allowed with a conditional use permit for the approximately 14 percent (14%) of parcels within the RR-1 Zone that are with 275 feet of the Kenai Spur Highway. Potentially, additional parcels could meet the location restriction for a conditional use permit with driveway access, and the 14% was calculated by buffering the centerline of the Kenai Spur Highway out 275 feet and counting the number of parcels within the RR-1 Zone that fell within

that distance. There are 141 parcels in the RR-1 Zone and 20 of those parcels are within 275 feet of the Kenai Spur Highway, with 19 in the western part of the RR-1 Zone and 1 in the eastern part of the RR-1 Zone. For parcels that cannot meet the location restriction, the use is not permitted. If Ordinance 3056-2019 is enacted, locations within the RR-1 Zone could apply for a conditional use permit for a professional office without needing to meet the location restriction requirements.

Intent of the RR-1 Zone

KMC 14.20.080 Rural Residential Zones (RR, RR-1 Zones) states the intent for the RR Zone and the RR-1 Zone is to provide for low density residential development in a form which creates a stable and attractive residential environment. Specifically, these zones separate residential structures to an extent which will preserve the rural, open quality of the environment, prevent health hazards in areas not served by public water and sewer, and prohibit uses which would violate the residential character of the environment or generate heavy traffic in predominantly residential areas. The main distinction of the RR-1 Zone as differentiated from the RR Zone is prohibiting multifamily dwellings beyond a four-family dwelling and only allowing four-family dwellings by conditional use. Currently, the RR-1 Zone allows four-family dwellings, limited marijuana cultivation facilities, professional offices, many public and institutional uses, bed and breakfasts, day care centers and surface extraction of natural resources, many with proximity limitations to the Kenai Spur Highway.

Professional offices, gunsmithing, and taxidermy are businesses that may be operated with little impact to traffic or neighborhood aesthetics. Ordinance 3056-2019 would make these uses conditionally permitted. If an application for this type of businesses would not meet the intent of the RR-1 Zone, it could be excluded through the conditional use permit process. Conditional use permits require a public hearing and property owners within 300 feet must be notified by the City of the conditional use permit application. The purpose of conditional uses is to recognize that some uses may be compatible with designated principal uses in specific zoning districts provided certain conditions are met, intended to assure the proposed use is compatible with the surroundings.

Comprehensive Plan

The RR-1 Zone is in two parts of the City. These areas are summarized under General Information. Ordinance 3056-2019 would not change the City Zoning Map.

The Land Use Plan map on p. 61 of the 2016 Imagine Kenai 2030 Comprehensive Plan classifies the western portion of the RR-1 Zone as Suburban Residential (one parcel is classified as Institutional). The eastern portion of the RR-1 Zone is classified as Low Density Residential. Suburban Residential Land Use Classification is intended for single-family and multi-family residential uses that are urban or suburban in character and where public water and sewer services are required or planned. The Low Density Residential Land Use Classification is intended for single-family low-density residential development with on-site water supply and wastewater disposal systems being typical. The difference of the classification of the RR-1 Zone in the Land Use map is likely related to their differing access to City water and sewer. The western portion of the RR-1 Zone has City water and sewer services available and the eastern portion of the RR-1 Zone does not. Both portions of the RR-1 Zone have access from the Kenai Spur Highway. The conditional use permit process would consider water, sewer, and other utilities and their capacity

to support a proposed use. The Land Use Plan describes the City's vision of a generalized desirable pattern of land uses, but it is not a zoning ordinance. Ordinance 3056-2019 would be consistent with the Land Use Plan classifications, particularly because the Land Use Table changes would still require a conditional use permit.

Goal 2-Economic Development of the Comprehensive Plan states a vision of Kenai having a wide variety of job opportunities, a quality of life and a financial climate that encourages businesses to start of up, expand, or relocate to Kenai, and a built environment based on standards that sustain a long-term economic viability. Objective ED-2 is to implement business-friendly regulations for private investment. Ordinance 3056-2019 would make the Land Use Table for the RR-1 Zone more business-friendly while still meeting the intent of the zone to separate residential structures from uses that would generate heavy traffic. Goal 3-Land Use has a vision for the City to implement a forward-looking approach to community growth and development by establishing zoning districts that reflect the needs of each district and provide areas suited to current and probable future growth. Objective LU-2 promotes the infill of existing and improved subdivision lots, LU-3 is to review existing zoning codes to determine if they address current and future land uses, and LU-5 is to support development outside of the major employment centers that provide a mix of retail, service, and residential uses. Ordinance 3056-2019 supports Goal 3-Land Use objectives by allowing for some residents to operate low-neighborhood-impact businesses from their homes and to make use of parcels that can readily connect or are already connected to City water, City sewer, and the principal arterial roadway of the Kenai Spur Highway.

Summary of Analysis

Ordinance 3056-2019 does not change the City Zoning Map, amend the Comprehensive Plan, or change the intent of the RR-1 Zone. It would allow for appropriately-scaled business development within the RR-1 Zone that meets the intent of the zone and is consistent with the goals and objectives of the Comprehensive Plan and the Land Use Plan. Business/consumer services, taxidermy/gunsmithing, and professional offices are businesses that may be successfully developed without generating heavy traffic or changing the character of the RR-1 Zone. The uses would be conditionally-allowed, and would need to meet the review criteria for issuance of a conditional use permit, including a review during a public hearing that the use would meet the intent of the zoning district, that neighboring property and the neighborhood will not be significantly impaired, and that public services and facilities are adequate to serve the proposed use. Ordinance 3056-2019 will contribute to the economic viability of the City of Kenai while still maintaining the neighborhood integrity of the RR-1 Zone.

RECOMMENDATIONS

City staff finds Ordinance No. 3056-2019 meets the intent of the Zoning Code and is consistent with the Comprehensive Plan. City staff advises the Planning and Zoning Commission to recommend approval of Ordinance No. 2056-2019 to the Kenai City Council by passing Resolution No. PZ2019-11.



*Failed
3-27-19
Web*

**CITY OF KENAI
PLANNING AND ZONING COMMISSION
RESOLUTION NO. PZ2019 – 11**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI TO **RECOMMENDING** THE COUNCIL OF THE CITY OF KENAI ENACT ORDINANCE 3056-2019 AMENDING KENAI MUNICIPAL CODE 14.22.010 – LAND USE TABLE TO ALLOW BUSINESS/CONSUMER SERVICES AND TAXIDERMISTRY/GUNSMITHING IN RURAL RESIDENTIAL 1 (RR-1) ZONING DISTRICT BY CONDITIONAL USE PERMIT AND REMOVING THE LOCATION RESTRICTION ON PROFESSIONAL OFFICES ALLOWED BY CONDITIONAL USE PERMIT WITHIN THE RURAL RESIDENTIAL 1 (RR-1) ZONING DISTRICT

WHEREAS, Kenai Municipal Code 14.20.080 provides that residential zones, including the RR-1 Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment separating residential structures to preserve the rural, open quality of the environment preventing health hazards in areas not served by public water and sewer and prohibit uses that would violate the residential character of the environment and generate heavy traffic in predominantly residential areas; and,

WHEREAS, the main distinction of the RR-1 Zone as differentiated from the RR Zone is prohibiting multifamily dwellings beyond a four-family dwelling and only allowing four-family dwellings by conditional use; and,

WHEREAS, the purpose of conditional uses is to recognize that some uses may be compatible with designated principal uses in specific zoning districts provided certain conditions are met, intended to assure the proposed use is compatible with the surroundings; and,

WHEREAS, currently, the RR-1 Zone allows four-family dwellings, limited marijuana cultivation facilities, professional offices, many public and institutional uses, bed and breakfasts, day care centers and surface extraction of natural resources, many with proximity limitations to the Kenai Spur Highway; and,

WHEREAS, KMC 14.20.320 defines business/consumer services as the provision of services to others on a fee or contract basis, such as advertising and mailing; building maintenance; employment service; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines 'gunsmith' a person who repairs, modifies, designs, or builds firearms; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines 'taxidermy' as the act of mounting or reproducing dead animals, fish, and/or birds for display; and,

WHEREAS, Kenai Municipal Code 14.20.320 defines "profession" as an occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g., Doctor of Medicine, and "office" as a room or group of

rooms used for conducting the affairs of a business, profession, service, industry, or government; and,

WHEREAS, business and consumer services, professional offices, gunsmithing, and taxidermy business can be operated out of single-family dwellings with negligible traffic and impact on surrounding properties; and,

WHEREAS, many business and consumer services, professional offices, gunsmithing and taxidermy are compatible with the residential character and location of the RR-1 Zone and should be allowed through a conditional use permit; and,

WHEREAS, removing the restrictions on the location of professional offices by conditional use within the RR-1 Zone will allow more opportunity for the location of low impact businesses within the RR-1 Zone; and,

WHEREAS, Kenai Municipal Code 14.05.010 states the City of Kenai Planning and Zoning Commission will act in an advisory capacity to the Kenai City Council regarding the Kenai Zoning Code; and,

WHEREAS, on March 27, 2019, the Planning and Zoning Commission held a public hearing on Resolution No. PZ2019-11 and recommended the City Council pass this Ordinance.

NOW, THEREFORE, BE IT RECOMMENDED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA:

Section 1. That the Kenai City Council enact Ordinance 3056-2019, based on the following findings:

- a. Ordinance 3056-2019 meets the intent of the RR-1 Zone.

The RR-1 Zone is to provide for low density residential development in a form which creates a stable and attractive residential environment separating residential structures to preserve the rural, open quality of the environment preventing health hazards in areas not served by public water and sewer and prohibit uses that would violate the residential character of the environment and generate heavy traffic in predominantly residential areas. Business/consumer services, taxidermy/gunsmithing, and professional offices are businesses that may be successfully developed without generating heavy traffic or changing the character of the RR-1 Zone. Connections to public water and sewer exist in much of the western portion of the RR-1 Zone.

- b. Ordinance 3056-2019 is consistent with the 2016 Envision Kenai 2030 Comprehensive Plan.

The proposed ordinance is consistent with the Land Use Plan identifying much of the RR-1 Zone as Suburban Residential. Allowing for business/consumer services and gunsmithing/taxidermy with a conditional use permit and removing the location restriction on professional offices within the RR-1 Zone supports the goals and objectives for Goal 2-Economic Development and Goal 3-Land Use. The ordinance specifically supports Objective ED-2 to implement business-friendly regulations, Objective LU-2 to promote the infill of existing developed lots, Objective LU-3 to review zoning codes to address current

and future land uses, and LU-5 to support development outside of major employment centers that provides a mix of retail, service, and residential uses.

- c. The purpose of conditional uses is to recognize that some uses may be compatible with designated principal uses in specific zoning districts provided certain conditions are met, intended to assure the proposed use is compatible with the surroundings, and business/consumer services, gunsmithing/taxidermy, and removing the location restriction on professional offices would allow for some uses that may be compatible with the RR-1 Zone.

The conditional use permit process, which requires a public hearing and notification of property owners within 300-feet, would review proposed uses against the following review criteria: consistency with the intent of the RR-1 Zone, property values and the neighborhood would not be significantly impaired, consistency with the Comprehensive Plan, adequate public services and utilities, public safety, health, and welfare, and any specific conditions deemed necessary by the Planning and Zoning Commission. Ordinance 3056-2019 will contribute to the economic viability of the City of Kenai while still supporting the intent RR-1 Zone

Section 2. That a copy of Resolution PZ2019-11 be forwarded to the Kenai City Council.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF KENAI, ALASKA,
this 27th day of March, 2019.

JEFF TWAIT, CHAIRPERSON

ATTEST:

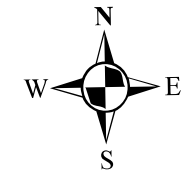
JAMIE HEINZ, CMC, CITY CLERK

11x17 Size
Maps and Plats

in the

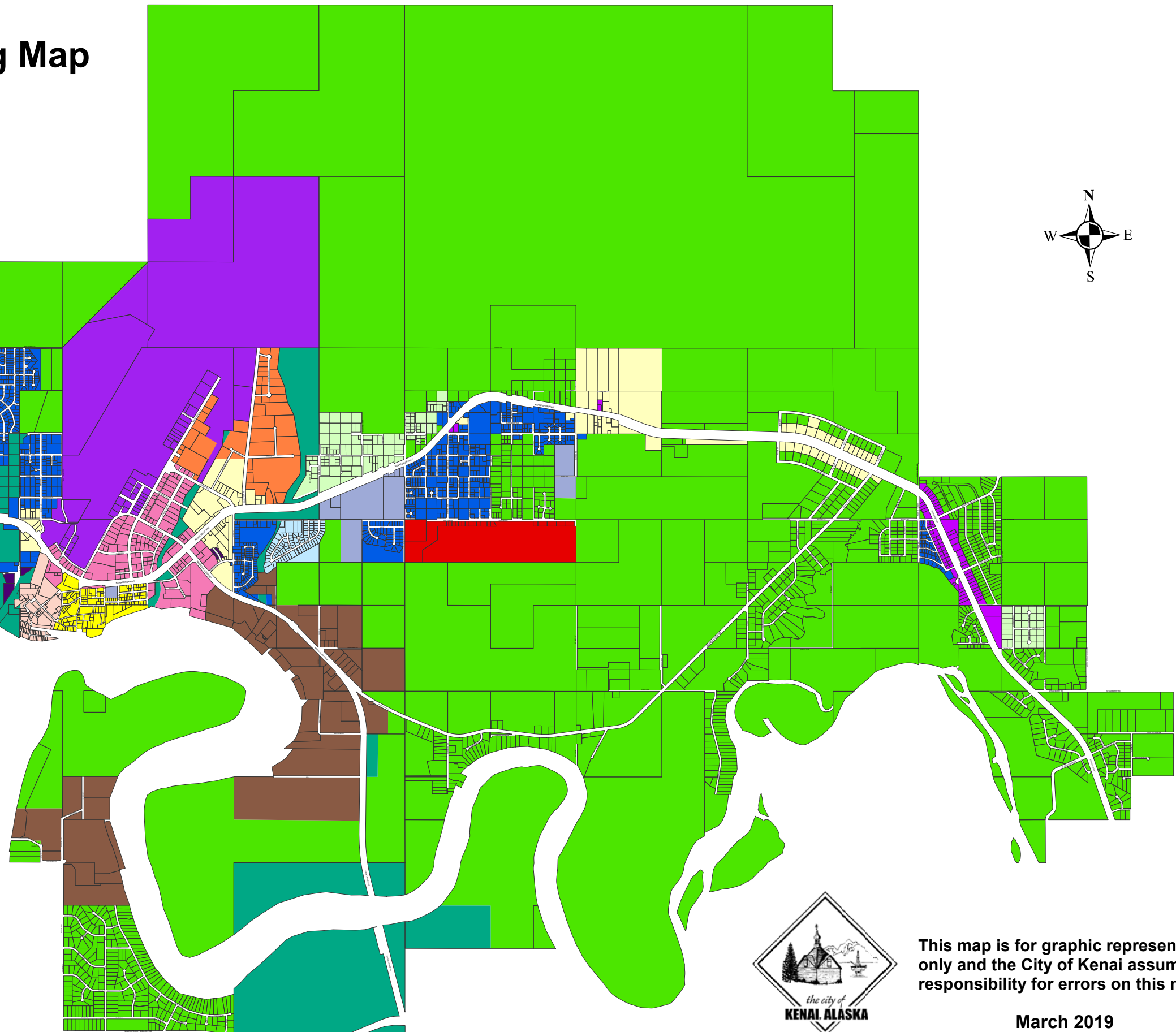
City of Kenai Planning and Zoning Commission
March 27, 2019 Meeting Packet

City of Kenai Zoning Map



Zoning

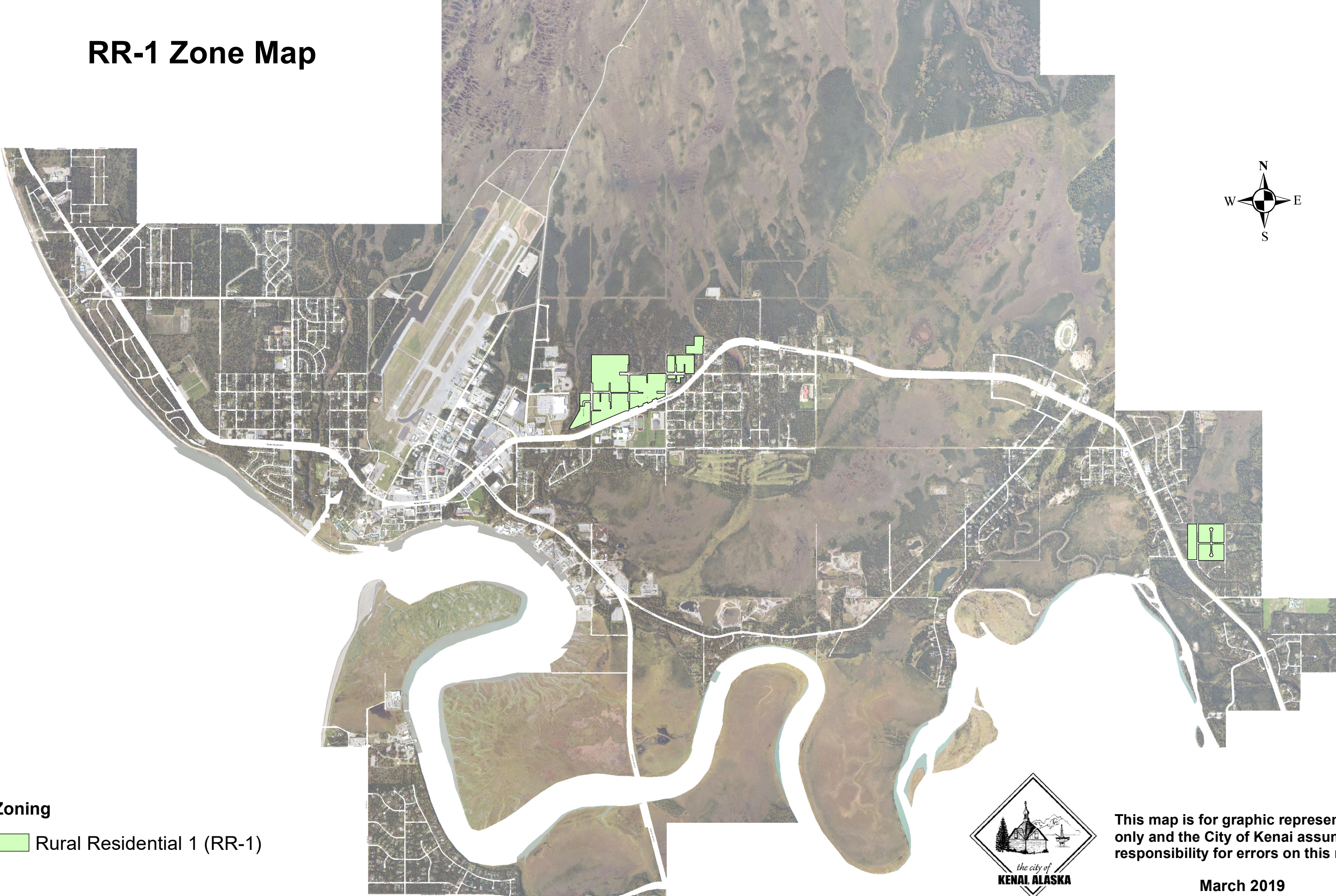
- Airport Light Industrial (ALI)
- Conservation (C)
- Education (ED)
- Rural Residential (RR)
- Rural Residential 1 (RR-1)
- Suburban Residential (RS)
- Suburban Residential 1 (RS-1)
- Suburban Residential 2 (RS-2)
- Urban Residential (RU)
- Townsite Historic (TSH)
- Central Commercial (CC)
- Limited Commercial (LC)
- General Commercial (CG)
- Central Mixed Use (CMU)
- Light Industrial (IL)
- Heavy Industrial (IH)
- Recreational (R)



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.

March 2019

RR-1 Zone Map



Zoning

 Rural Residential 1 (RR-1)



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.

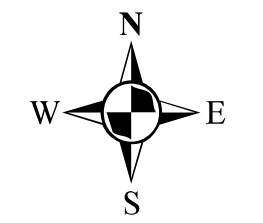
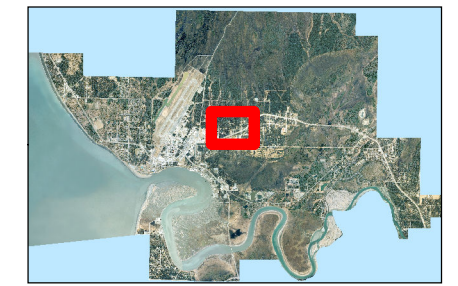
March 2019



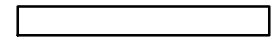
RR-1 Zone: Western Portion

Zoning

- Airport Light Industrial (ALI)
- Conservation (C)
- Education (ED)
- Rural Residential (RR)
- Rural Residential 1 (RR-1)
- Suburban Residential (RS)
- Suburban Residential 1 (RS-1)
- Suburban Residential 2 (RS-2)
- Urban Residential (RU)
- Townsite Historic (TSH)
- Central Commercial (CC)
- Limited Commercial (LC)
- General Commercial (CG)
- Central Mixed Use (CMU)
- Light Industrial (IL)
- Heavy Industrial (IH)
- Recreational (R)



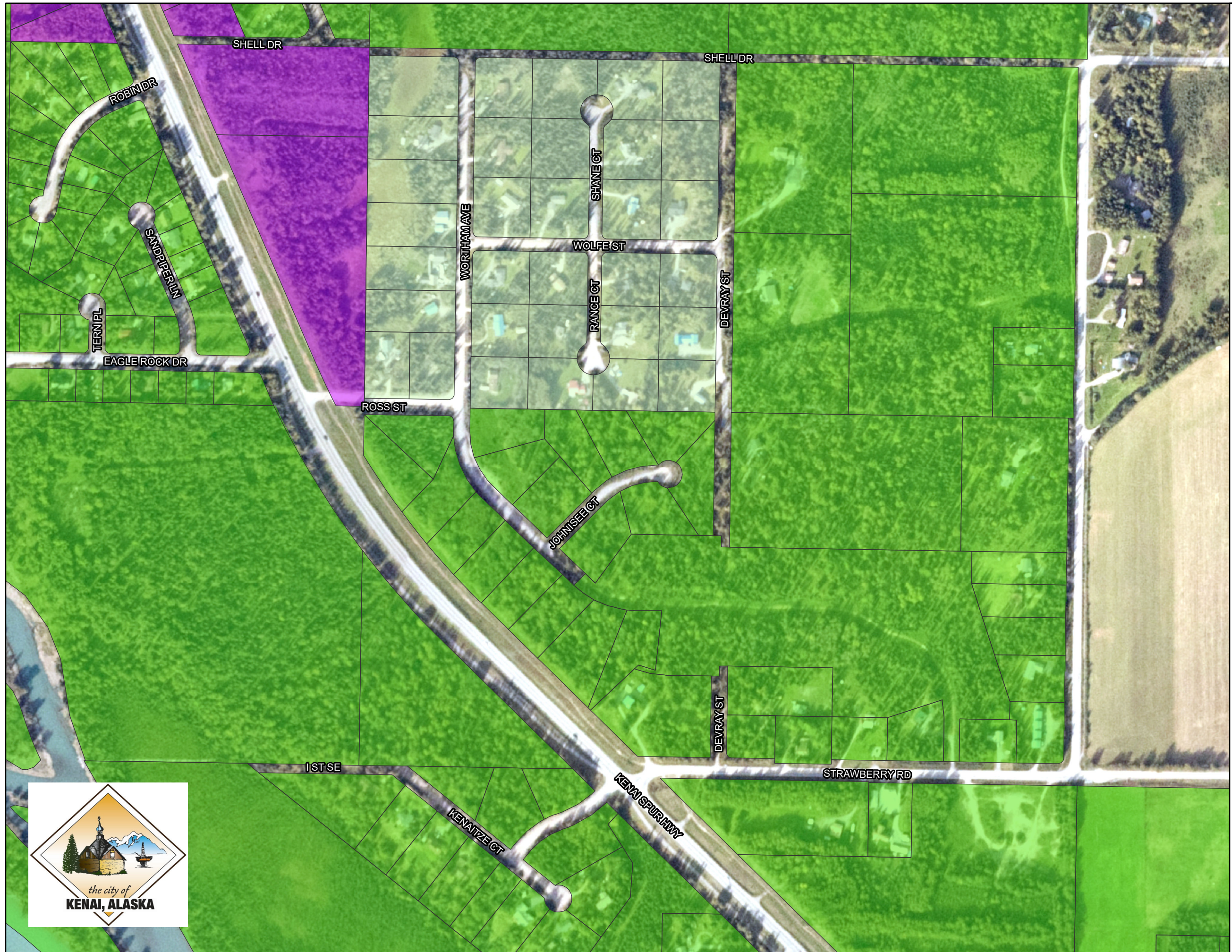
480'



1 inch equals 366 feet

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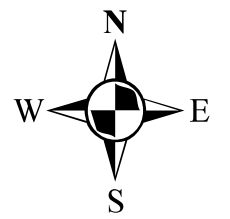
Date: 3/21/2019



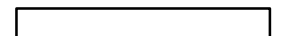
RR-1 Zone: Eastern Portion

Zoning

- Airport Light Industrial (ALI)
- Conservation (C)
- Education (ED)
- Rural Residential (RR)
- Rural Residential 1 (RR-1)
- Suburban Residential (RS)
- Suburban Residential 1 (RS-1)
- Suburban Residential 2 (RS-2)
- Urban Residential (RU)
- Townsite Historic (TSH)
- Central Commercial (CC)
- Limited Commercial (LC)
- General Commercial (CG)
- Central Mixed Use (CMU)
- Light Industrial (IL)
- Heavy Industrial (IH)
- Recreational (R)



440'



1 inch equals 333 feet

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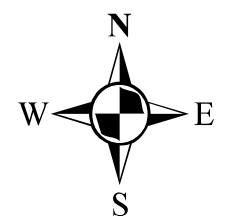
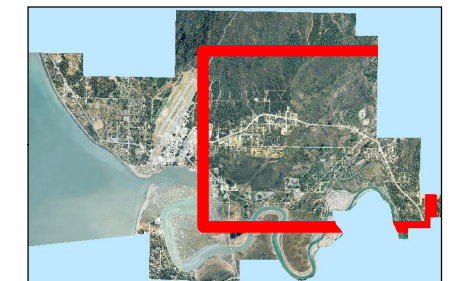
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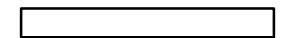
RR-1 Zone and Kenai Spur Highway 275-Foot Centerline Buffer

Legend

- Rural Residential 1 (RR-1) Zone
- Kenai Spur Highway 275-Foot Buffer



2,600'



1 inch equals 1,977 feet

The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Date: 3/21/2019



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 www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Council Members Jim Glendening and Robert Peterkin
DATE: April 9, 2019
SUBJECT: **Ordinance No. 3056-2019 – Amending Kenai Municipal Code 14.22.010-Land Use Table**

There are six residential zoning districts in the City of Kenai:

- Urban Residential (RU)
- Suburban Residential (RS)
- Suburban Residential - 1 (RS-1)
- Suburban Residential - 2 (RS-2)
- Rural Residential (RR)
- Rural Residential - 1 (RR-1)

Table 1. Number (#) of Uses in Residential Zones

Zone	# of Conditional Uses	# of Principal Permitted Uses	# of Not Permitted Uses
RU	48	9	10
RS	53	6	8
RS-1	29	4	34
RS-2	28	4	35
RR	55	6	6
RR-1	18	4	45

Kenai Municipal Code 14.22.010 (KMC) Land Use Table gives 67 categories of land use and the RR-1 Zone has 18 conditional uses. All other residential zones of the City allow for at least 28 conditional uses.

There are currently no footnotes in the land use table that limit conditional uses to home occupation permits by zone. Conditional use permits must be approved by the Planning and Zoning Commission with a public hearing. A conditional use permit requires a public notice in a

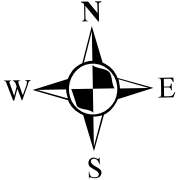


newspaper of general circulation, notice to property owners within three-hundred feet (300') periphery of the affected parcel, and notice must be posted on the property so as to be visible from adjacent streets. Conditional use permits may not be issued if the use would significantly impair the neighborhood or be inconsistent with the purposes and intent of the zoning district. Ordinance No. 3056-2019 does not change the intent or purpose of the RR-1 Zone.

With the exception of the RU Zone, all residential zones have in their intent to prohibit uses that would generate heavy traffic and violate the residential character of the environment. The 2016 Imagine Kenai 2030 Comprehensive Plan states in goal Land Use-3 to, "Review existing zoning and subdivision codes to determine if they address current and future land uses adequately." The Land Use Plan shows the western part of the RR-1 Zone to be within the Suburban Residential Zone, and the western part of the RR-1 Zone to be within the Rural Residential Zone. The change to the land use table would more adequately address the current and future land uses needs of the RR-1 Zone.

Thank you for your consideration of this additional analysis for Ordinance No. 3056-2019.

RR-1 Zone and Land Use Plan Map










Suburban Residential in Land Use Plan (RR-1 Zone)

Rural Residential in Land Use Plan (RR-1 Zone)

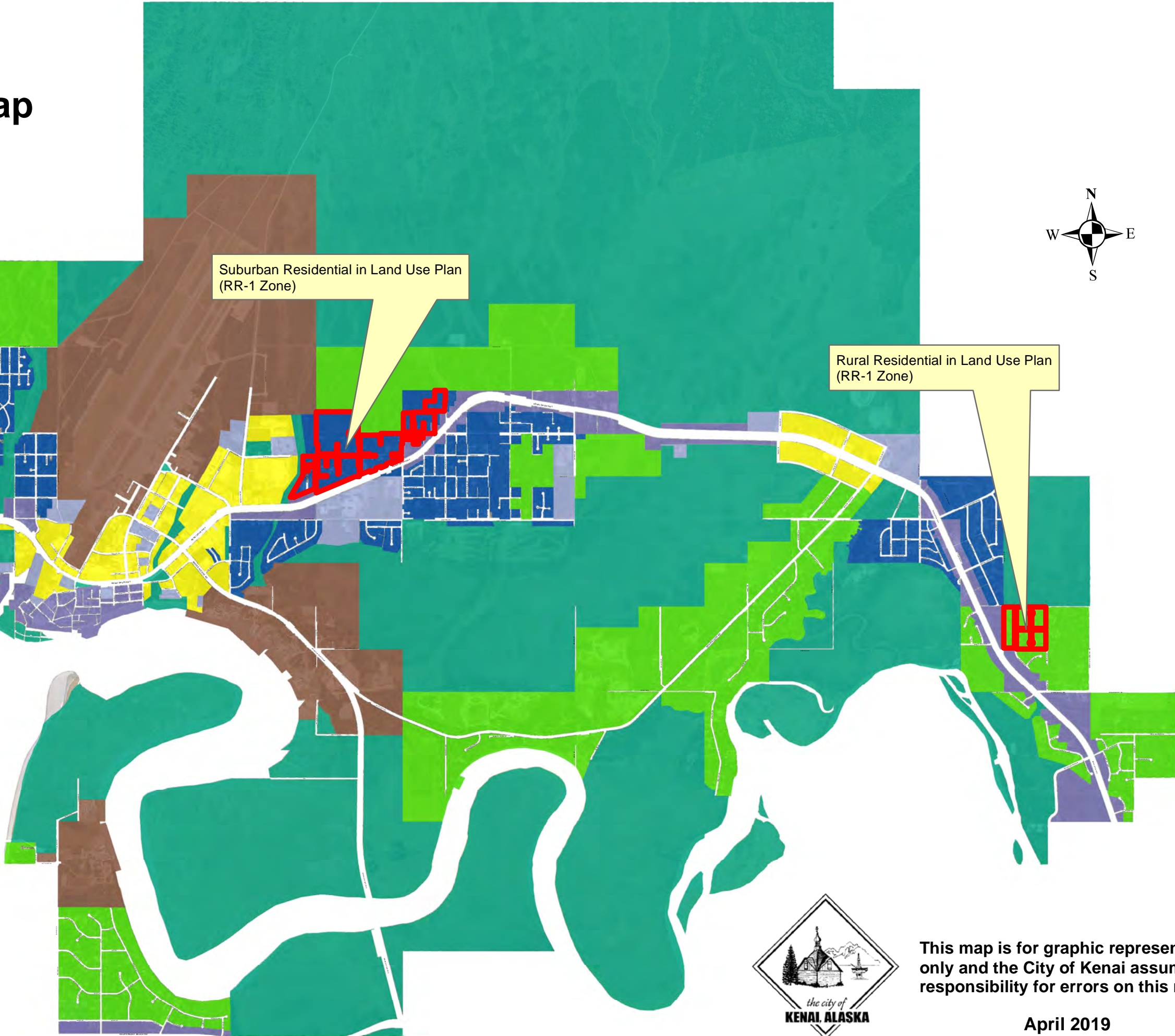
Legend

Land Use Plan

-  Commercial
-  Conservation
-  Industrial
-  Institutional
-  Mixed Use
-  Rural Residential
-  Suburban Residential

Zoning

-  Rural Residential 1 (RR-1)



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.

April 2019



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, CMC, City Clerk
DATE: March 28, 2019
SUBJECT: **Ordinance No. 3056-2019**

This memo requests amendments to be made to Ordinance No. 3056-2019 to reflect the Planning & Zoning Commission's recommendation. On March 27, 2019, the Planning & Zoning Commission held a public hearing for the purpose of making a recommendation on Ordinance No. 3056-2019 as directed by City Council. Resolution No. PZ2019-11 was the legislation associated with this recommendation and was written to recommend approval of Ordinance No. 3056-2019. Adoption of this resolution failed.

The last whereas clause of Ordinance No. 3056-2019 needs to be amended to reflect what took place at the Planning & Zoning Commission's meeting. It is recommend the following amendments be made:

WHEREAS, on **March 27, 2019**, the Planning and Zoning Commission held a public hearing on PZ Resolution No. **PZ2019-11** and recommended **did not recommend** approval of Ordinance No. 3056-2019 to City Council.





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MEMORANDUM

TO: Mayor Gabriel, Council Members,
Student Representative, Administration
FROM: Council Member Molloy *RM*
DATE: April 9, 2019

SUBJECT: Ordinance No. 3056-2019, Amending Kenai Municipal Code 14.22.010-Land Use Table for the RR1 Zone

There are several potential amendments to this ordinance for Council's consideration that are set out in the accompanying **Table of Potential Amendments - Ordinance No. 3056-2019**. If approved, the first amendment would adopt the City Clerk's recommended amendment to reflect what took place at the Planning & Zoning Commission's 3/27/19 meeting. If approved, the other amendments together would:

(1) **Add a new Footnote 31.** Uses designated with "C31" would be allowed only for a use with a home occupation permit.

The Kenai Zoning Code permits home occupations that are compatible with other permitted uses and with the residential character of a neighborhood, and that are clearly secondary or incidental to the residential use of the main building and any accessory structures. "**Home Occupation**" means an "accessory use carried out for remuneration by a resident in the resident's dwelling unit" (the main residential building and any accessory building or structure on the parcel).

(2) **Retain Footnote 29.** Uses designated with "C29" would continue to be allowed only for those parcels that abut the Kenai Spur Highway, with driveway access on the Kenai Spur Highway or from a dedicated right-of-way not more than 275 feet from the centerline of the Kenai Spur Highway.

(3) Gunsmithing/Taxidermy, Business/Consumer Services, and Professional Offices would have their designations changed to "**C29 or C31.**" Uses designated "**C29 or C31**" would allow all of these uses as a conditional use:

- (a) With a home occupation permit on any parcel within the RR1 Zone; **OR**
- (b) As a larger business, only on those parcels that abut the Kenai Spur Highway.

Copies of three RR-1 Zone Maps and KMC 14.20.230 Home Occupations are also included.

Council's support of these amendments is respectfully requested.

Table of Potential Amendments to Ordinance 3056-2019

Planning & Zoning Commission's Action

The City Clerk recommended that the last Whereas clause of Ordinance No. 3056-2019 be amended to reflect what took place at the Planning & Zoning Commission's 3/27/19 meeting.

Move to amend the last Whereas clause of on page 2 of Ordinance No. 3056-2019 as follows:

"WHEREAS, on **March 27, 2019**, the Planning and Zoning Commission held a public hearing on PZ Resolution No. **PZ2019-11** and did not recommend [RECOMMENDED] approval of Ordinance No. 3056-2019 to City Council."

Footnotes

Move two amendments:

(1) Move to amend Footnotes on pages 7-8 of the Ordinance to add a Footnote 31 to read:

"31. Use allowed only with a home occupation permit."

(2) Move to amend page 3 of the Land use table for Professional Offices to restore Footnote 29.

Gunsmithing/Taxidermy

Move to amend page 5 of the Land use table for Gunsmithing/Taxidermy to change "N" to **"C29 or C31."**

With the amendments on Footnotes, this amendment would allow Gunsmithing and Taxidermy as a conditional use in the RR1 Zone (1) on any parcel as a home occupation business with a home occupation permit; OR (2) on any parcel that abuts the Kenai Spur Highway.

Business/Consumer Services

Move to amend page 3 of the Land use table for Business/Consumer Services to change "N" to **"C29 or C31."**

With the amendments on Footnotes, this amendment would allow Business/Consumer Services as a conditional use in the RR1 Zone (1) on any parcel as a home occupation business with a home occupation permit; OR (2) on any parcel that abuts the Kenai Spur Highway.

Professional Offices

Move to amend page 3 of the Land use table for Professional Offices to be **"C29 or C31."**

With the amendments on Footnotes, this amendment would allow Professional Offices as a conditional use in the RR1 Zone (1) on any parcel as a home occupation business with a home occupation permit; OR (2) on any parcel that abuts the Kenai Spur Highway.

For Consistency Purposes:

Move four amendments:

(1) Move to amend the 9th Whereas clause on page 2 of the Ordinance as follows:

“WHEREAS, **[MANY]** business and consumer services, professional offices, gunsmithing, and taxidermy business can be run out of single family dwellings with negligible traffic and impact on surrounding properties; and,”

(2) Move to amend the 10th Whereas Clause on page 2 of the Ordinance as follows:

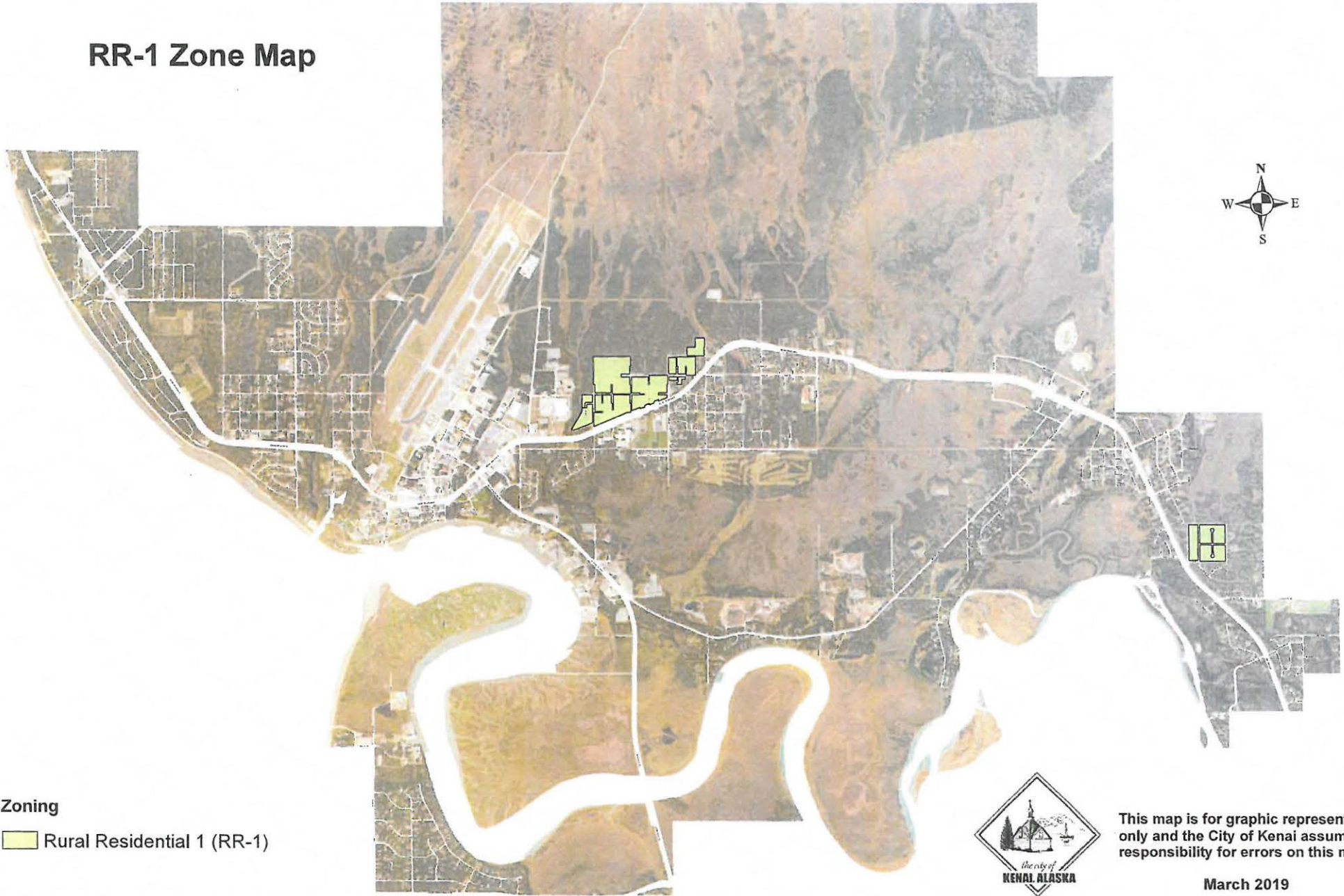
“WHEREAS, **[MANY]** business and consumer services, professional offices, gunsmithing and taxidermy are compatible with the residential character and location of the RR1 zones either as a home occupation or when located on parcels that abut the Kenai Spur Highway, and should be allowed through a conditional use permit with the use allowed for a home occupation or on those parcels that abut the Kenai Spur Highway as provided in Footnotes 29 and 31; and,”

(3) Move to amend the 11th Whereas Clause on page 2 of the Ordinance as follows:

“WHEREAS, allowing business and consumer services, professional offices, gunsmithing and taxidermy as a home occupation **[REMOVING THE RESTRICTIONS ON THE LOCATION OF PROFESSIONAL OFFICES]** by conditional use within the RR1 zone will allow more opportunity for the location of low impact businesses within the RR1 zone; and”


(4) Move to amend the title of the Ordinance to delete the phrase **“AND REMOVING THE LOCATION RESTRICTION ON PROFESSIONAL OFFICES ALLOWED BY CONDITIONAL USE PERMIT.”**

RR-1 Zone Map



Page 35 of 60

Zoning

 Rural Residential 1 (RR-1)



This map is for graphic representation only and the City of Kenai assumes no responsibility for errors on this map.

March 2019



RR-1 Zone: Western Portion

- Zoning**
- Airport Light Industrial (ALI)
 - Conservation (C)
 - Education (ED)
 - Rural Residential (RR)
 - Rural Residential 1 (RR-1)
 - Suburban Residential (RS)
 - Suburban Residential 1 (RS-1)
 - Suburban Residential 2 (RS-2)
 - Urban Residential (RU)
 - Townsite Historic (TSH)
 - Central Commercial (CC)
 - Limited Commercial (LC)
 - General Commercial (CG)
 - Central Mixed Use (CMU)
 - Light Industrial (IL)
 - Heavy Industrial (IH)
 - Recreational (R)



480'

1 inch equals 366 feet

The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.



RR-1 Zone: Eastern Portion

Zoning

- Airport Light Industrial (ALI)
- Conservation (C)
- Education (ED)
- Rural Residential (RR)
- Rural Residential 1 (RR-1)
- Suburban Residential (RS)
- Suburban Residential 1 (RS-1)
- Suburban Residential 2 (RS-2)
- Urban Residential (RU)
- Townsite Historic (TSH)
- Central Commercial (CC)
- Limited Commercial (LC)
- General Commercial (CG)
- Central Mixed Use (CMU)
- Light Industrial (IL)
- Heavy Industrial (IH)
- Recreational (R)



440'



1 inch equals 333 feet

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Date: 3/21/2016

14.20.221 Penalties.

In addition to the penalties by KMC 14.20.260, signs in violation of this chapter shall be subject to forfeiture.

(Ord. 961)

14.20.230 Home Occupations.

- (a) Intent. It is the intent of this chapter to permit home occupations that are compatible with other permitted uses and with the residential character of a neighborhood, and that are clearly secondary or incidental to the residential use of the main building. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances would not be aware of its existence other than for a sign as permitted in this chapter. Home occupations are permitted accessory uses only so long as all the development requirements listed in this section are observed.
- (b) Uses Permitted. Subject to the development requirements of this section, home occupations include, but are not limited to, the following uses:
- (1) Art Studio;
 - (2) Day care of no more than eight (8) children under the age twelve (12), including children related to the caregiver;
 - (3) Dressmaking;
 - (4) Sewing and tailoring;
 - (5) Barbers and beauticians; and
 - (6) Tutoring and musical instruction.
- (c) Uses Prohibited. The following uses are prohibited as home occupations:
- (1) Commercial auto, small machine, and boat repair;
 - (2) Commercial kennels or similar uses;
 - (3) Convalescent homes for the care of more than two (2) patients;
 - (4) Mortuaries;
 - (5) Private schools with organized classes;
 - (6) Real estate office;
 - (7) Restaurants; and
 - (8) Commercial Marijuana Establishments.
- (d) Development Requirements.
- (1) Not more than one (1) person outside the family shall be employed in the Home occupation.
 - (2) No more than thirty percent (30%) of the gross floor area of all buildings on the lot shall be used for the home occupation.
 - (3) The home occupation shall be carried on wholly within the principal building, or other buildings which are accessory thereto. Any building used for a home occupation shall be wholly enclosed.
- (e) Permit Application.
- (1) An application for a home occupation permit shall be filed in writing with the City Planning and Zoning Department and signed by the person requesting to operate the home occupation.
 - (2) If the administrative official finds the application meets the criteria of KMC 14.20.230 and recommends that the Commission should grant the permit, the official shall place consideration of the application on the consent agenda of the Planning and Zoning Commission. Otherwise, the administrative official shall place consideration of the application as a regular new business item on the Commission's agenda. Applications listed on the consent agenda are considered routine and will be approved by one (1) motion. There will be no separate discussion of the application unless a member of the Commission so requests, in which case the item will be removed from the consent agenda and considered in its normal sequence on the agenda as part of the general orders.
 - (3) A finding by the Planning and Zoning Commission that an application does not meet the criteria of KMC 14.20.230 may be appealed in accordance with KMC 14.20.290.
 - (4) Notice of the consideration by the Commission of a home occupation permit application shall be published once

at least two (2) days prior to the meeting in a paper of general circulation in the City of Kenai.

- (f) Permits Nontransferable. A home occupation permit granted under this section is not transferable to another person or location.
- (g) Exemption. No home occupation permit shall be required for:
 - (1) Activities or business which are carried on solely by use of phones, computers and mail or delivery services; or
 - (2) A State-approved relative home day care provider that provides care to no more than five (5) children (including the caregiver's own children) under the age of twelve (12) of which no more than two (2) may be under thirty (30) months of age and who are the caregiver's grandchildren, great-grandchildren, sibling (only if living in a separate residence), niece or nephew (not a great niece or nephew), and which involve no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home.
- (h) Fire Code Inspections.
 - (1) Day care facilities shall be inspected by the Fire Marshal for compliance with the Fire Code (KMC 8.05) prior to approval of the permit. Thereafter, they shall be inspected every other year by the Fire Marshal. Failure to comply with the Fire Code (KMC 8.05) shall be grounds for the suspension or revocation of the facilities' home occupation permit.
 - (2) Residences which are the subject of a home occupation permit application (other than day care facilities) may be required to be inspected by the Fire Marshal for compliance with the Fire Code (KMC 8.05) prior to approval of the permit, if the Fire Marshal determines it is necessary for public safety.

(Ords. 925, 1456, 1885-2000, 1933-2001, 2093-2005, 2648-2012, 2870-2016)

14.20.235 Wind turbines.

- (a) Definitions. For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
 - (1) "Wind energy system" means a system designed as a secondary, accessory use to existing principal uses and to existing buildings or facilities on a parcel, wherein the power generated is used primarily for consumption on the same parcel on which it is located. The system consists of a wind turbine and associated controls and may include a tower.
 - (2) "Hub height" means the distance measured from ground level to the center of the wind turbine hub.
 - (3) "Total height" means the distance measured from ground level to the highest point of any blade of the turbine.
 - (4) "Wind turbine" means a device which converts the kinetic energy of the wind into a rotational energy transmitted through a drive train to a generator and where the generated electricity can be connected directly to the load or feed.
- (b) Lot and Zoning Requirements.
 - (1) Wind energy systems shall be allowed as secondary uses on lots that are a minimum of twenty thousand (20,000) square feet. Any deviation from the lot size restriction may be approved through the issuance of a conditional use permit.
 - (2) The following types of wind energy systems are allowed as a secondary use in the associated zoning districts:
 - (A) Monopole, roof, and vertical access systems in the RR, RR-1, RS, RS1, RS2, RU, CC, LC, CMU, and TSH Districts. In these zoning districts, no more than one (1) wind energy system shall be permitted

**PAYMENTS OVER \$15,000.00 WHICH NEED COUNCIL RATIFICATION
COUNCIL MEETING OF: APRIL 17, 2019**

VENDOR	DESCRIPTION	DEPARTMENT	ACCOUNT	AMOUNT
PERS	PERS	VARIOUS	LIABILITY	83,360.20
INTEGRITY JANITORIAL	MARCH SERVICE AT CITY HALL	NON-DEPARTMENTAL	REPAIR & MAINTENANCE	1,389.00
PRECIOUS JANITORIAL	MARCH SERVICE AT LIBRARY	LIBRARY	REPAIR & MAINTENANCE	2,795.00
PRECIOUS JANITORIAL	MARCH SERVICE AT TERMINAL	AIRPORT	REPAIR & MAINTENANCE	4,495.00
PRECIOUS JANITORIAL	MARCH SERVICE AT POLICE	POLICE	REPAIR & MAINTENANCE	978.00
PRECIOUS JANITORIAL	MARCH SERVICE AT VISITOR CENTER	VISITOR CENTER	REPAIR & MAINTENANCE	928.00
HOMER ELECTRIC	ELECTRICITY USAGE	VARIOUS	UTILITIES	122,803.72
ENSTAR	GAS USAGE	VARIOUS	UTILITIES	27,272.60

INVESTMENTS

VENDOR	DESCRIPTION	MATURITY DATE	AMOUNT	Effect. Int.
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PURCHASE ORDERS OVER \$15,000.00 WHICH NEED COUNCIL APPROVAL
 COUNCIL MEETING OF: APRIL 17, 2019

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
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INCREASE OF EXISTING PURCHASE ORDER

VENDOR	DESCRIPTION	P.O. # - DEPT.	REASON	AMOUNT	TOTAL PO AMT
GRANICUS	FY19 MEETING STREAMING/ARCHIVING	116233 - CLERK	ANNUAL INCREASE	998.52	17,798.52



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Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, CMC, City Clerk
DATE: April 8, 2019
SUBJECT: **Purchase Order Increase to Granicus**

The purpose of this memo is to request an increase of \$998.52 to the purchase order to Granicus for FY19 meeting streaming and archiving and FY19 agenda management and ecomment. The contract with Granicus has a December effective date and increases by 5% annually. The 5% increase after December 2018 was not accounted for when initially asking for approval for the purchase order.

Your consideration is appreciated.





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, City Clerk
DATE: April 11, 2019
SUBJECT: **Liquor License Transfer of Ownership**

The following establishment submitted an application to the Alcohol and Marijuana Control Office for the transfer of ownership of their liquor license:

- Kenai Joe's Taphouse, LLC D/B/A Kenai Joe's Taphouse, LLC

Pursuant to KMC 2.40, a review of City accounts has been completed on the applicant and they have satisfied all obligations to the City. With the approval of Council, a letter of non-objection to renewing of the liquor license will be forwarded to the ABC Board and the applicant.

Your consideration is appreciated.





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MEMORANDUM

TO: David Ross, Chief of Police
 Willie Anderson, Lands Manager
 Terry Eubank, Finance Department
 Scott Bloom, Legal Department
 Willie Anderson, Acting City Planner

FROM: Jamie Heinz, City Clerk

DATE: April 5, 2019

RE: **Liquor License Transfer of Ownership**

The Alcoholic Beverage Control Board has sent notification that the following applicant is seeking to transfer ownership of its Liquor License No. 626:

Applicant: Kenai Joe's Taphouse, LLC
 D/B/A: Kenai Joe's Taphouse, LLC
 Current Licensee: Kenai Joe's Alaskan Roadhouse Company

Pursuant to KMC 2.40.010, *It is determined to be in the public interest that holders of or applicants for licenses issued by the Alcoholic Beverage Control Board of the State of Alaska shall have all obligations to the City of Kenai on a satisfactory basis prior to the City Council approval of any activity of said license holder or applicant.*

Please review account(s) maintained by your department (i.e. water and sewer billings, lease/property payment history, citations, etc.) by the above reference applicant. Initial whether account(s) and/or payment plan(s) are current or delinquent. If accounts are delinquent, attach information to this memorandum indicating amounts owed and for which accounts.

Once you have completed your section, please route to the next department. Thanks!

<p>1. Police Department <u>D.R.</u> initials</p> <p><input checked="" type="checkbox"/> I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.</p> <p><input type="checkbox"/> The applicant has outstanding obligations and an additional page has been attached.</p> <p>2. Finance <u>T.E.</u> initials</p> <p><input checked="" type="checkbox"/> I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.</p> <p><input type="checkbox"/> The applicant has outstanding obligations and an additional page has been attached.</p> <p>3. Legal <u>S.S.</u> initials</p> <p><input checked="" type="checkbox"/> I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.</p> <p><input type="checkbox"/> The applicant has outstanding obligations and an additional page has been attached.</p> <p>4. Lands Management <u>Wen</u> initials</p> <p><input checked="" type="checkbox"/> I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.</p> <p><input type="checkbox"/> The applicant has outstanding obligations and an additional page has been attached.</p> <p>5. Planning and Zoning <u>EA</u> initials</p> <p><input checked="" type="checkbox"/> I have reviewed all records for my department and the applicant is current on obligations or obligations do not exist.</p> <p><input type="checkbox"/> The applicant has outstanding obligations and an additional page has been attached.</p> <p>Returned to Clerk's office: <u>4/11/19</u></p>
--



April 2, 2019

City of Kenai

Attn: Jamie Heinz, City Clerk

VIA Email: jheinz@kenai.city

Cc: cityclerk@kenai.city
joanne@borough.kenai.ak.us
jblankenship@borough.kenai.ak.us
tshassetz@kpb.us

License Type:	Beverage Dispensary	License Number:	626
Licensee:	Kenai Joe's Taphouse, LLC		
Doing Business As:	Kenai Joe's Taphouse, LLC		
Premises Address:	800 Cooke Avenue		

- New Application**
 Transfer of Ownership Application
 Transfer of Location Application
 Transfer of Controlling Interest Application

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant's proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Erika McConnell, Director
amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

What is this form?

This transfer license application form is required for all individuals or entities seeking to apply for the transfer of ownership and/or location of an existing liquor license. Applicants should review **Title 04 of Alaska Statutes** and **Chapter 304 of the Alaska Administrative Code**. All fields of this form must be completed, per AS 04.11.260, AS 04.11.280, AS 04.11.290, and 3 AAC 304.105.

This form must be completed and submitted to AMCO's main office, along with all other required forms and documents, before any license application will be considered complete.

Section 1 – Transferor Information

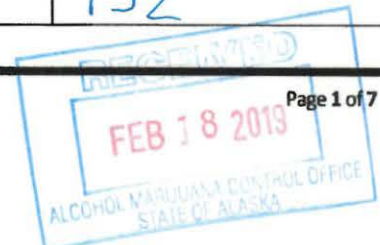
Enter information for the *current* licensee and licensed establishment.

Licensee:	Kenai Joe's Alaskan Roadhouse Company	License #:	626
License Type:	Beverage Dispensary	Statutory Reference:	AS 04.11.090
Doing Business As:	Kenai Joe's		
Premises Address:	800 Cook Avenue		
City:	Kenai	State:	AK
		ZIP:	99611
Local Governing Body:	City of Kenai		

Transfer Type:

- Regular transfer
- Transfer with security interest
- Involuntary retransfer

OFFICE USE ONLY			
Complete Date:		Transaction #:	1036986
Board Meeting Date:		License Years:	
Issue Date:		BRE:	TJZ





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 2 – Transferee Information

Enter information for the *new* applicant and/or location seeking to be licensed.

Licensee:	Kenai Joe's Taphouse, LLC			
Doing Business As:	Kenai Joe's Taphouse, LLC			
Premises Address:	800 Cook Avenue			
City:	Kenai	State:	AK	ZIP: 99611
Community Council:	None			

Mailing Address:	Post Office Box 1401			
City:	Kenai	State:	AK	ZIP: 99611

Designated Licensee:	Joseph Gilman		
Contact Phone:	907 953-7004	Business Phone:	Same
Contact Email:	jegilman@gmail.com		

Seasonal License? Yes No If "Yes", write your six-month operating period: _____

Section 3 – Premises Information

Premises to be licensed is:

an existing facility a new building a proposed building

The next two questions must be completed by beverage dispensary (including tourism) and package store applicants only:

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the outer boundaries of the nearest school grounds? Include the unit of measurement in your answer.

What is the distance of the shortest pedestrian route from the public entrance of the building of your proposed premises to the public entrance of the nearest church building? Include the unit of measurement in your answer.





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 4 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 5.
 If more space is needed, please attach a separate sheet with the required information.
 The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	

This individual is an: applicant affiliate

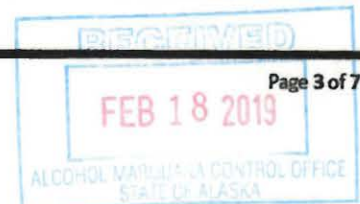
Name:					
Address:					
City:		State:		ZIP:	

Section 5 – Entity Ownership Information

This section must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for a license. Sole proprietors should skip to Section 6.
 If more space is needed, please attach a separate sheet with the required information.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	Joseph Gilman				
Title(s):	Member	Phone:	907 9953-7004	% Owned:	50
Address:	P.O. Box 918				
City:	Kasilof	State:	AK	ZIP:	99610





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Entity Official:	Kara McCormick				
Title(s):	Member	Phone:	907 599-0329	% Owned:	25
Address:	375 West Riverview Avenue				
City:	Soldotna	State:	AK	ZIP:	99611

Entity Official:	Colton Herzog				
Title(s):	Member	Phone:	570 765-3221	% Owned:	25
Address:	375 West Riverview Avenue				
City:	Kenai	State:	AK	ZIP:	99611

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

This subsection must be completed by any applicant that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC) and have a registered agent who is an individual resident of the state of Alaska.

DOC Entity #:	10099338	AK Formed Date:	02/04/2019	Home State:	AK
Registered Agent:	Joseph Gilman	Agent's Phone:	907 953-7004		
Agent's Mailing Address:	P.O. Box 918				
City:	Kasilof	State:	AK	ZIP:	99610

Residency of Agent: Yes No

Is your corporation or LLC's registered agent an individual resident of the state of Alaska?





Alaska Alcoholic Beverage Control Board

Form AB-01: Transfer License Application

Section 6 – Other Licenses

Ownership and financial interest in other alcoholic beverage businesses:

Yes No

Does any representative or owner named as a transferee in this application have any direct or indirect financial interest in any other alcoholic beverage business that does business in or is licensed in Alaska?

If "Yes", disclose which individual(s) has the financial interest, what the type of business is, and if licensed in Alaska, which license number(s) and license type(s):

Section 7 – Authorization

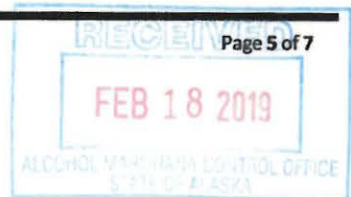
Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

Julie Latta. Julie Latta works at the business and has knowledge of and access to any and all pertinent information should AMCO have any questions.





Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board
Form AB-01: Transfer License Application

Section 8 - Transferor Certifications

Additional copies of this page may be attached, as needed, for the controlling interest of the current licensee to be represented.

I declare under penalty of perjury that the undersigned represents a **controlling interest** of the current licensee. I additionally certify that I, as the current licensee (either the sole proprietor or the controlling interest of the currently licensed entity) have examined this application, approve of the transfer of this license, and find the information on this application to be true, correct, and complete.

Julie Latta
Signature of transferor
Julie Latta
Printed name of transferor

Subscribed and sworn to before me this 5 day of February, 2019.

Megan Brown
Signature of Notary Public



Notary Public in and for the State of Alaska

My commission expires: 5/15/2022

Signature of transferor

Printed name of transferor

Subscribed and sworn to before me this ____ day of _____, 20____.

Signature of Notary Public

Notary Public in and for the State of _____.

My commission expires: _____





Alaska Alcoholic Beverage Control Board
Form AB-01: Transfer License Application

Section 9 – Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

I certify that all proposed licensees have been listed with the Division of Corporations.

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Signature of transferee

Joseph Gilman

Printed name

Subscribed and sworn to before me this 5 day of February, 2019.



Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 5/15/2022





Alaska Alcoholic Beverage Control Board
Form AB-01: Transfer License Application

Section 9 – Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

KB

I certify that all proposed licensees have been listed with the Division of Corporations.

KB

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

KB

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

KB

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

KB

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Kara McCormick

Signature of transferee

Kara McCormick

Printed name

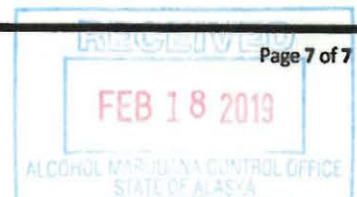
Subscribed and sworn to before me this 5 day of February, 2019.



Megan Brown
Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 5/15/2022





Alaska Alcoholic Beverage Control Board Form AB-01: Transfer License Application

Section 9 – Transferee Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all proposed licensees (as defined in AS 04.11.260) and affiliates have been listed on this application.

cl

I certify that all proposed licensees have been listed with the Division of Corporations.

cl

I certify that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

cl

I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check the identification of a patron will complete an approved alcohol server education course, if required by AS 04.21.025, and, while selling or serving alcoholic beverages, will carry or have available to show a current course card or a photocopy of the card certifying completion of approved alcohol server education course, if required by 3 AAC 304.465.

cl

I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.

cl

As an applicant for a liquor license, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete.

Colton Herzog

Signature of transferee

Colton Herzog

Printed name

Subscribed and sworn to before me this 5 day of February, 2019.

Megan Brown

Signature of Notary Public

Notary Public in and for the State of Alaska

My commission expires: 5/15/2022





Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

What is this form?

A detailed diagram of the proposed licensed premises is required for all liquor license applications, per AS 04.11.260 and 3 AAC 304.185. Your diagram must include dimensions and must show all entrances and boundaries of the premises, walls, bars, fixtures, and areas of storage, service, consumption, and manufacturing. If your proposed premises is located within a building or building complex that contains multiple businesses and/or tenants, please provide an additional page that clearly shows the location of your proposed premises within the building or building complex, along with the addresses and/or suite numbers of the other businesses and/or tenants within the building or building complex.

The second page of this form is not required. Blueprints, CAD drawings, or other clearly drawn and marked diagrams may be submitted in lieu of the second page of this form. The first page must still be completed, attached to, and submitted with any supplemental diagrams. An AMCO employee may require you to complete the second page of this form if additional documentation for your premises diagram is needed.

This form must be completed and submitted to AMCO's main office before any license application will be considered complete.

Yes No

I have attached blueprints, CAD drawings, or other supporting documents in addition to, or in lieu of, the second page of this form.

Section 1 – Establishment Information

Enter information for the business seeking to be licensed, as identified on the license application.

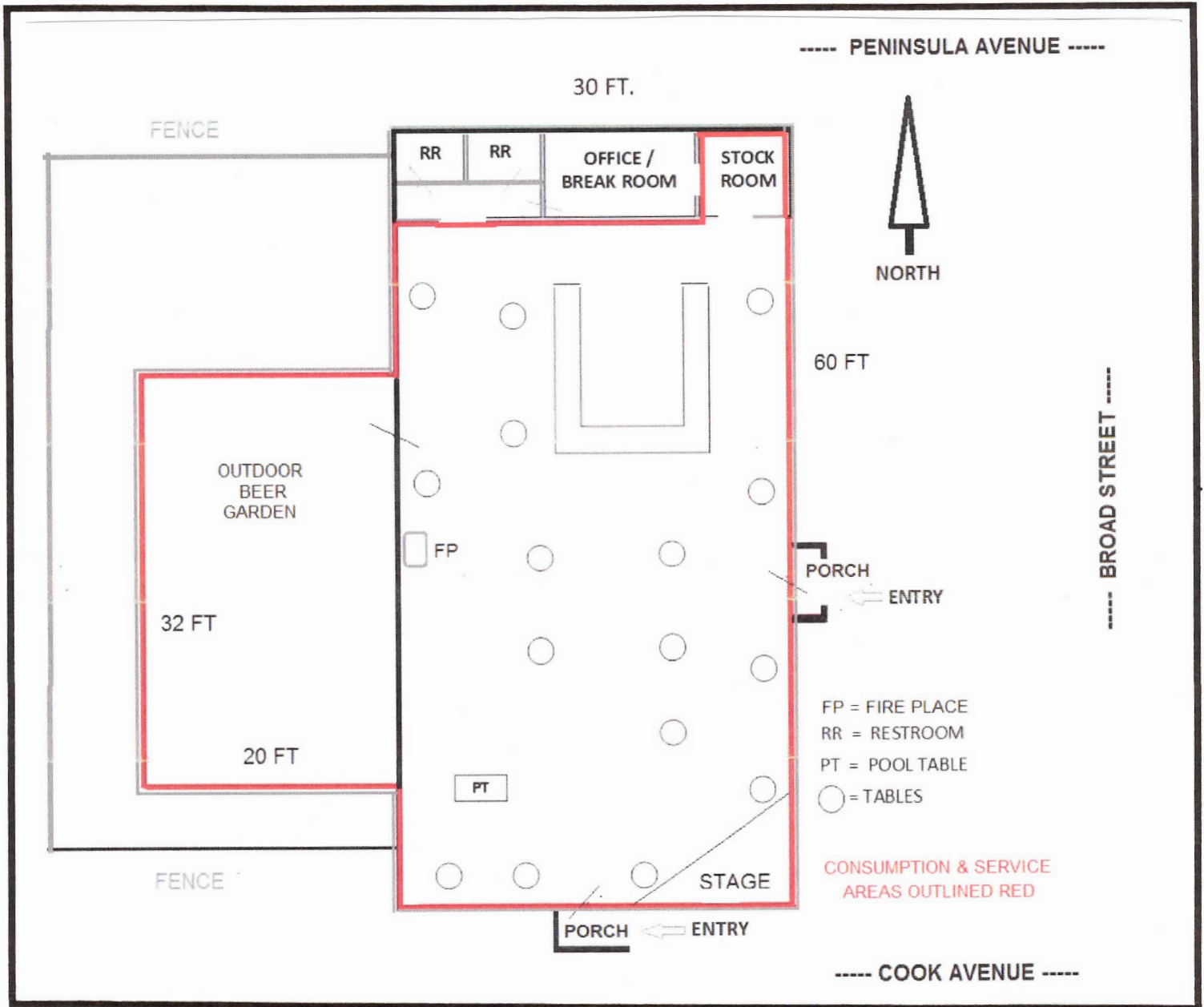
Licensee:	Kenai Joe's Taphouse, LLC	License Number:	626		
License Type:	Beverage Dispensary				
Doing Business As:	Kenai Joe's Taphouse, LLC				
Premises Address:	800 Cook Avenue				
City:	Kenai	State:	AK	ZIP:	99611



Alaska Alcoholic Beverage Control Board Form AB-02: Premises Diagram

Section 2 – Detailed Premises Diagram

Clearly indicate the boundaries of the premises and the proposed licensed area within that property. Clearly indicate the interior layout of any enclosed areas on the proposed premises. Clearly identify all entrances and exits, walls, bars, and fixtures, and outline in red the perimeter of the areas designated for alcohol storage, service, consumption, and manufacturing. Include dimensions, cross-streets, and points of reference in your drawing. You may attach blueprints or other detailed drawings that meet the requirements of this form.



OUTDOOR BEER GARDEN SECURITY PLAN STATEMENT

The 'Outdoor Beer Garden' shown on Form AB-02 (Premises Design) is located in an outdoor area directly adjacent and attached to the building located at 800 Cook Avenue Kenai, Alaska.

The Outdoor Beer Garden area is 20 feet x 32 feet in size. This area is surrounded by a 6 feet high permanent wood fence. Access to the Outdoor Beer Garden is from inside the bar, and in full view of wait staff and company personnel on duty.

Wait staff and company personnel will monitor customers seated in the Outdoor Beer Garden, to prevent the transfer of alcohol across the premises boundary and prevent the access of any alcohol by a minor.

The Outdoor Beer Garden will be open as weather permits, however heavier use is anticipated during the more temperate months of the year.

Kenai Joe's Taphouse, LLC will implement all necessary policies and practices to ensure public safety, and compliance with all alcohol related regulations and laws of the State of Alaska.



Joseph Gilman, Acting Member
Kenai Joe's Taphouse, LLC

(Notary Seal on Page 2.)

ACKNOWLEDGEMENT OF NOTARY PUBLIC

State of Alaska,

County Kenai Peninsula ss.

On this 25th day of March, 2019, before me appeared **Joseph Gilman, as Acting Member of Kenai Joe's Taphouse, LLC**, proved to me through government issued photo identification to be the above-named person, in my presence executed the foregoing Outdoor Beer Garden Security Plan Statement, and acknowledged that they executed the same as their free act and deed.

Notary of Public Signature: [Signature]

Print Name: Dan Van Vleet

My Commission Expires: 7/19/2020

(Seal)





Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Johni Blankenship, MMC
Borough Clerk

4/5/2019

Sent via email: jheinz@kenai.city

Kenai City Hall
City of Kenai

RE: Non-Objection of Application

Licensee/Applicant	:	Kenai Joe's Taphouse, LLC
Business Name	:	KENAI JOE'S
License Type	:	Beverage Dispensary
License Location	:	800 Cook Ave., City of Kenai
License No.	:	626
Application Type	:	Transfer of Owner
Previous Licensee	:	Kenai Joes Alaska Roadhouse Co

Dear Ms. Heinz,

This serves to advise that the Kenai Peninsula Borough has reviewed the above referenced application and has no objection.

Should you have any questions, or need additional information, please do not hesitate to let us know.

Sincerely,

Johni Blankenship, MMC
Borough Clerk

JB/TS

Encl.

cc: jegilman@gmail.com; jheinz@kenai.city; DHenry@kpb.us; JRodgers@kpb.us



Sponsored by: Administration

CITY OF KENAI

ORDINANCE NO. 3062-2019

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, INCREASING FY2019 GENERAL FUND ESTIMATED REVENUES AND APPROPRIATIONS BY \$20,859 AND FY2020 GENERAL FUND ESTIMATED REVENUES AND APPROPRIATIONS BY \$35,418 IN THE GENERAL FUND PARKS, RECREATION AND BEAUTIFICATION DEPARTMENT FOR THE RECEIPT OF A GRANT FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PASSED THROUGH THE STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR BACTERIA LEVEL MONITORING ON THE CITY'S BEACHES DURING THE 2019-2020 PERSONAL USE FISHERY.

WHEREAS, the State of Alaska Department of Environmental Conservation has issued a grant to the City for bacteria level monitoring during the 2019-2020 Personal Use Fishery; and,

WHEREAS, monitoring will be provided through a cooperative agreement with the Kenai Watershed Forum; and,

WHEREAS, bacteria levels during the Personal Use Fishery in the past have tested at elevated levels that could pose a health risk to the fishery participants and City residents utilizing the beach; and,

WHEREAS, it is in the best interest of the City to monitor the bacteria level on its beaches to protect its visitors and residents from potential dangers caused by the waste generated by the Personal Use Fishery.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, as follows:

Section 1. That FY2019 estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues:	
Federal Grants - Other	\$20,859
Increase Appropriations:	
Parks, Recreation & Beautification –	
Professional Services	\$20,859

Section 2. That FY2020 estimated revenues and appropriations be increased as follows:

General Fund:

Increase Estimated Revenues:	
Federal Grants - Other	<u>\$35,418</u>

Increase Appropriations:
Parks, Recreation & Beautification –
Professional Services \$35,418

Section 3. That the City Manager is authorized to accept a grant and expend the funds to fulfill the purpose of this Ordinance.

Section 4. Severability: That if any part or provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which this judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without such part, provision, or application.

Section 5. Effective Date: That pursuant to KMC 1.15.070(f), Section 1 of this ordinance shall take effect upon adoption. Section 2 of this ordinance shall take effect July 1, 2019.

ENACTED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 1st day of May, 2019.

BRIAN GABRIEL SR., MAYOR

ATTEST:

Jamie Heinz, CMC, City Clerk

Approved by Finance: 

Introduced: April 17, 2019
Enacted: May 1, 2019
Effective: May 1, 2019
& July 1, 2019



"Village with a Past, City with a Future"

210 Fidalgo Ave, Kenai, Alaska 99611-7794
Telephone: (907) 283-7535 | Fax: (907) 283-3014
www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council

THROUGH: Paul Ostrander, City Manager

FROM: Robert J. Frates, Parks & Recreation Director

DATE: April 9, 2019

SUBJECT: **Ordinance 3062-2019 – DEC Grant for Bacteria Level Monitoring in the Kenai River**

The purpose of this correspondence is to recommend Council approval of Ordinance 3062-2019. This action provides for the appropriation of funds to support testing for coliform and enterococci bacteria in the Kenai River during the Personal Use Fishery by the Kenai Watershed Forum (KWF).

This work will be accomplished by the Kenai Watershed Forum through a cooperative agreement with funding being passed through to the KWF. This mirrors a previous process utilized in 2018.

Thank you for your consideration.





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www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, CMC, City Clerk
DATE: April 9, 2019
SUBJECT: Harbor Commission Survey

At their meeting on April 8, 2019, the Harbor Commission recommended Council pursue a survey with both sets of provided questions incorporated (attached), be developed and sent to the different user groups identified (attached), with a link made available on the City Website and Facebook, published in the newspaper, and paper copies of the survey available in City Hall. The Harbor Commission also recommended that the survey run through the end of July 2019 and that they receive monthly updates on the results of the surveys.

Does Council want for staff to take on this initiative?

Your consideration is appreciated.



Potential Poll Questions

1. Are you a commercial fisherman or processor?
2. Do you have a need to buy fuel from the city dock?
3. Do you have a need for crane services at the city dock?
4. Would you have a need for crane services at the city dock if a self-serve card system was in place like the Homer dock?
5. What service would be beneficial to your business that we do not currently offer?
6. Comments or suggestions?

City of Kenai - Harbor Commission Survey

A survey sponsored by the City of Kenai Harbor Commission to improve the safety, operations and effectiveness of the Harbor.

What is your Name?

Where do you live?

What is your e-mail address?

What is your occupation?

Who is your employer?

Are you a member of a harbor related Industry Association?

United Cook Inlet Drift Association

Kenai River Sport fishing Association

Harbor Commission

Other

How are you associated with the Kenai Harbor?

When did you begin involvement with the Kenai Harbor?

What is your primary activity at the Kenai Harbor.

Commercial / Recreational / Subsistence / Maritime Transportation / Personal Use (Dipnet)

Fishery / Other

How often do you use the Kenai Harbor Facilities for your primary activity?

Never 1 2 3 4 5 Daily

What are your secondary activities at the Kenai Harbor. (You can choose more than 1)

Commercial / Recreational / Subsistence / Maritime Transportation / Personal Use (Dipnet)

Fishery / Other

How often do you use the Kenai Harbor Facilities for your secondary activities?

Never 1 2 3 4 5 Daily

Which of the following facilities at the harbor have you used in the past?

Boat Launch / Fuel / Cranes to offload cargo and fish / Other

How can the Kenai Harbor be improved in general?

What opportunities are there for the City of Kenai Harbor Commission to partner with local businesses for economic development?

Should the City of Kenai separate the fuel concession from the use of the cranes? Yes / No / Maybe

How safe is the Harbor?

Extremely Dangerous 1 2 3 4 5 Very Safe

What, if any, are the safety issues with Harbor?

How can safety and welfare be improved at the Harbor?

Do you think no wake signs are an effective measure to improve safety?

Yes / No / Maybe

Please let us know more about how you feel additional no wake signs will effect the harbor.

Jamie Heinz

From: Nate Berga <Nateb@eefoods.com>
Sent: Tuesday, March 19, 2019 12:24 PM
To: Robert Peterkin; ggreenberg@akmapco.com; bluffnet@ptialaska.net; clyde_crandall@yahoo.com; mdunn@homerelectric.com; designone@gci.net; swedemeyer@kenai.city; City Clerk
Subject: Harbor Commission - Quick Update

Good afternoon Harbor Commission,

With regards to the poll that is being created, I spoke with three different organizations.

1. KPFA (Kenai Peninsula Fisherman's Association) will forward the poll or a link to the poll to their membership. This will cover the set-net fishermen in UCI, which will go to David Chessik.
2. UCIDA (United Cook Inlet Drift Association) will forward the poll or a link to the poll to their membership. This will cover the drift fishermen in UCI. They will also post on their Facebook page.
3. ASA (Alaska Salmon Alliance) will take the poll. This organization is comprised of the processors on the Peninsula (Icicle Seafoods, Snug Harbor/Copper River, North Pacific Seafoods Inc. dba Inlet Fish and Pacific Star Seafoods)

The other task that I am working on is the crane conversion to a self-service card system. The company that did the work on the Homer dock was ATS Alaska (<https://atsalaska.com/>). They are based out of Anchorage. They are working on a quote that will include the hardware, programming and installation. Once I have that, I will send it out to you all.

Thanks,

Nate Berga
Plant Manager
Cell: 907-395-7068



Notice: This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.



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www.kenai.city

MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
FROM: Jamie Heinz, CMC, City Clerk
DATE: April 9, 2019
SUBJECT: Harbor Commission – Title 11 Code Amendments

At their meeting on April 8, 2019, the Harbor Commission recommended Council amend Title 11 as attached.

Your consideration is appreciated.



Title 11 HARBOR AND HARBOR FACILITIES

Chapters:

- 11.05 Harbor Master**
- 11.10 Harbor Commission**
- 11.15 Tidelands**
- 11.20 Leasing of Tidelands**

Chapter 11.05 HARBOR MASTER

Sections:

- 11.05.010 Harbor Master.**
- 11.05.020 Harbor defined.**
- 11.05.030 Harbor regulations.**
- 11.05.040 Permit for terminal or transportation facilities.**
- 11.05.050 Condition as to equal services and rates.**
- 11.05.060 Investigation of holder—Cancellation.**
- 11.05.070 Facility rates and charges.**
- 11.05.080 Leasing not prohibited.**
- 11.05.090 Use of launch ramp and float.**
- 11.05.100 No wake zones.**

11.05.010 Harbor Master.

The Harbor Master, shall be the Public Works Director. The Harbor Master shall be the chief administrator of the harbor and its facilities. He or she shall have all powers and duties prescribed by ordinance and the regulations and rates prescribed by the City Manager. In addition, insofar as it is appropriate, shall have all powers and duties and rates prescribed by the City Manager, subject to approval by the Council; and, in addition, insofar as it is appropriate, shall have all powers and duties imposed upon harbor masters, port directors, and administrative heads of harbors and ports by Federal or State law. (KC 11-4; Ords. 1208, 1405-90)

11.05.020 Harbor defined.

The harbor shall embrace all that portion of the Kenai River located within the City of Kenai, including all tide and submerged lands, whether filled or unfilled, situated below the line of mean high tide, as may be leased from the State of Alaska. (KC 11-5)

11.05.030 Harbor regulations.

The City Manager is hereby empowered, subject to change by the Council, to make such rules and regulations required for the operation of the harbor, not in conflict with the provisions of this Code, and to establish the fees, rates, and charges for the billing and collections for the support of the harbor, and no person shall fail to comply with any such rule or regulation. (KC 11-6; Ords. 1208, 1405-90)

11.05.040 Permit for terminal or transportation facilities.

(a) All lessees, owners, or occupants of property within the harbor or contiguous to it who wish to construct or operate terminal or transportation facilities of any kind therein, including, but not limited to, docks and warehouses, shall apply to the Landscaping/Site Plan Review Board for a permit. Application therefor shall be made in accordance with regulations described in KMC [14.25](#), entitled "Landscaping/Site Plan Regulations," and shall be accompanied by a plan of the proposed construction, which shall meet all standards and requirements which may be set forth by the Council.

(b) The applicant shall refer all plans of the type or location of any proposed construction which are or may be in conflict with the general City plan to the Harbor Commission and the Landscaping/Site Plan Review Board to determine whether such proposed construction is in keeping with the objectives of the general plan. The decision of the Landscaping/Site Plan Review Board shall be binding unless appealed by Council. The Building Official may issue permits upon such terms and conditions and for such duration as it may deem proper, and no construction may begin or operation carried on without a permit from the Building Official.

(KC 11-7; Ord. 1208)

11.05.050 Condition as to equal services and rates.

It shall be a condition of all permits granted by the City Council that the facilities to be constructed and the services to be supplied in connection with them shall be made available to all carriers upon equal terms, at equal rates, and without discrimination of any kind. (KC 11-8)

11.05.060 Investigation of holder—Cancellation.

The City Council may inquire into the manner in which obligations under the permits issued by it are carried out, and into the rate schedules and practices of the permit holders for purposes of determining whether the provisions of the permits are being complied with. It shall have access to books and records and to terminal and transportation facilities as may be reasonably necessary to enable it to make such a determination. Should the Council at any time find the permit holder is not complying with the terms of his or her permit, it may cancel the permit upon such notice and in accordance with such procedure as it may, by regulation, prescribe. (KC 11-9)

11.05.070 Facility rates and charges.

The City shall fix the rates and charges for the use of any and all terminal or transportation facilities constructed on property under its jurisdiction, including charges assessed against vessels, their owners, agents or operators which load or discharge cargo at any of the terminals within the harbor area; charges for berthage while loading or discharging cargo; charges for administrative expenses in serving the carrier's charges for freight handling, loading, unloading and wharf demurrage rates. Such rates and charges shall be just and reasonable. The rates and charges shall be as set forth in the City's schedule of fees adopted by the City Council. (KC 11-10; Ords. 1208, 2528-2011)

11.05.080 Leasing not prohibited.

Nothing in this chapter or in this code of ordinances shall prohibit the City Council from leasing the docks, dock sites, and other harbor facilities to private persons, firms, and corporations. (KC 11-11)

11.05.090 Use of launch ramp and float.

- (a) The City of Kenai launching facility shall be open to the public upon reasonable terms and conditions as provided by regulation.
- (b) Failure to pay a boat launch fee for the City of Kenai launching facility set forth according to KMC [11.05](#) within one (1) hour of the retrieval of the boat or vessel from the water shall be a violation punishable by a fine of fifty dollars (\$50.00).
- (c) It is unlawful to block access to either of the launch ramp or float facilities. "Blocking access" means leaving a boat, trailer, or vehicle upon the launch ramp or float in such a position as to prevent the launching or retrieval of boats.
- (d) Person blocking access to the ramp or float facilities shall be subject to a civil penalty as provided in KMC [13.05.010\(b\)](#).
- (e) Each one (1) hour period for which the ramp or float is blocked shall be considered a separate offense for the purposes of civil penalties.

(Ords. 1255-88, 1597-94)

11.05.100 No wake zones.

- (a) The City Manager, subject to change by the Council, is authorized to establish no wake zones within the Kenai Harbor outside of the Kenai River Special Management Area as needed to protect public and private property, and/or public safety.
- (b) No wake zones may be established on a temporary or permanent basis.
- (c) A "no wake zone" is defined as a zone where no person may operate a boat at a speed greater than five (5) miles per hour.
- (d) Established no wake zones shall be marked with appropriate signage in a manner to provide reasonable public notice.
- (e) A violation of this section shall be punishable as provided in KMC [13.05.010](#).

(Ord. 2749-2014)

Chapter 11.10 HARBOR COMMISSION

Sections:

11.10.010 Duties and powers.

11.10.010 Duties and powers.

- (a) The Harbor Commission shall be required to do the following:
- (1) Develop, adopt, alter, or revise, subject to approval by the City Council, a master plan for the physical development of harbor or port facilities for the City. Such master plan with accompanying maps, plats, charts, descriptive, and explanatory matter, shall show the Harbor Commission's recommendations for the development of the City Harbor facilities may include, among other things:
 - (i) development of the type, location, and sequence of all public harbor facilities;
 - (ii) the relocation, removal, extension, or change of use of existing harbor facilities;
 - (2) Submit annually to the City Manager and Council, not less than ninety (90) days prior to the beginning of the budget year, a list of the recommended capital improvements which, in the opinion of the Harbor Commission, are necessary or desirable to be constructed during the forthcoming three (3) year period. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
 - (3) Make investigations regarding any matter related to City harbor facilities, tide or submerged lands. Make recommendations to the Council relative to the care, control, and development of tide and submerged lands.
 - (4) Act in the capacity as directed and authorized by a tidelands ordinance adopted by the City.
 - (5) Review all City leases of City-owned tide, submerged, and lands or navigable waters within the City, and as to the planned improvements proposed and make recommendations to the City Council.
 - (6) Make and prepare reports and plans for approval by the City Council.
 - (7) Coordinate public efforts, individual and group, to the effectuation of approved plans.

(8) Shall act in advisory capacity in the selection of a Harbor Director should such a position be created by the City Council.

(Ords. 474, 1161, 1802-98)

Chapter 11.15 TIDELANDS

Sections:

- 11.15.010 Short title.**
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- 11.15.270 Handling of deposit and purchase funds.**

11.15.280 Forfeiture of preference rights.**11.15.290 Forms.****11.15.010 Short title.**

This ordinance shall be known as the “Kenai Tidelands Ordinance.”

11.15.020 Definitions.

For the purpose of this ordinance, the terms defined herein shall have the meaning provided unless the context requires otherwise:

- (a) “Alaska” means the State of Alaska.
- (b) “Agricultural Lands” means tidelands chiefly valuable for agricultural purposes.
- (c) “Assessor” means the Assessor of the City of Kenai, Alaska, or other individual designated by the City Manager to perform the functions herein assigned to the Assessor.
- (d) “City” means the City of Kenai, Alaska.
- (e) “City Engineer” means the City Engineer of the City, or other city official designated to perform the functions herein assigned to the City Engineer.
- (f) “Class I Preference Right” means the right extended to persons who occupied or developed tide or submerged lands seaward of a surveyed townsite on and prior to September 7, 1957, and who have executed a waiver to the City and State of all rights such occupant may have had pursuant to Public Law 85-303. Upon execution of the waiver, such persons or their successors in interest, have the right to acquire such occupied or developed tide or submerged lands from the City for consideration of the costs of survey, and transferring and conveying the title.
- (g) “Class II Preference Right” means the right extended to Class I preference right claimants who refuse to execute a waiver to the City of any rights such occupants may have acquired pursuant to Public Law 85-303. It shall be mandatory for the City to expeditiously honor the application from the occupant after the Secretary of the Army has submitted to the Secretary of the Interior and Governor of the State maps showing the pierhead line established by the Corps of Engineers with respect to

the tract so granted. The most expeditious method of securing title to such lands is to execute the waiver of Class II rights and proceed to apply for title under a Class I preference right.

- (i) "Class III Preference Right" means the right extended to persons who occupied or developed tide or submerged lands after September 7, 1957, and who continued to occupy the same on January 3, 1959. Such persons, or their successors, have the right to acquire such occupied or developed tide or submerged lands for a consideration not to exceed the costs of appraisal, and the administering and transferring, including survey, together with the appraised fair market value thereof, exclusive of any value occurring from improvements or development, such as fill material, building, or structures thereon.
- (j) "Clerk" means the Clerk of the City.
- (k) "Commission" means the City of Kenai Advisory Harbor Commission **unless noted otherwise.**
- (l) "Director" means the Director of Lands, State of Alaska.
- (m) "Director's Line" means a line seaward of the City, approved by the Director, with the concurrence of the Commissioner of Natural Resources, State of Alaska, seaward of all tide and submerged lands occupied or suitable for occupation and development without unreasonable interference with navigation.
- (n) "Fair Market Value" means the highest price, described in terms of money, which the property would bring if exposed for sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.
- (o) "Fill" shall mean earth, gravel, rock, sand, or other similar materials placed upon tide or contiguous submerged lands to a height above the high water line for the purpose of elevating the lands for a special useful purpose. Earth, gravel, rock, sand, or other similar materials, placed on tide or contiguous submerged land solely for the purpose of spoils disposal shall not be considered fill unless such fill was used for useful and beneficial purpose on and prior to January 3, 1959.
- (p) "Hearings Officer" means that City official employed to hear disputes between claimants, summarize the testimony, attempt to reach stipulations of fact between the parties, assemble the record of the dispute, and submit the same to the Council for determination.
- (q) "Improvements" means buildings, wharves, piers, dry docks, and other similar types of structures permanently fixed to the tide or contiguous submerged lands that were constructed and/or maintained by the applicant for business, commercial, recreation, residential, or other beneficial uses or purposes. Floats secured by guide piles used as floating wharves, where access is provided to

the shore, shall be improvements within the meaning of this section, and fill material not actually in place to above the line of mean high tide of January 3, 1959 and actually utilized for beneficial purposes on January 3, 1959 by the applicant shall be considered a permanent improvement, but in no event shall fill be considered a permanent improvement when placed on the tidelands solely for the purpose of disposing of waste or spoils. Fill material not utilized for a beneficial purpose on and prior to January 3, 1959, and fill material not actually in place to above the line mean high tide on January 3, 1959 shall not be the basis for an application, nor shall it be included in any application, for the exercise of preference rights hereunder.

(r) "Industrial and Commercial Lands" means tide lands chiefly valuable for industrial, manufacturing, or commercial purposes.

(s) "Kenai" means the City of Kenai, Alaska.

(t) "Manager" means the Manager of the City of Kenai, Alaska.

(u) "Mean High Tide" at any place subject to tidal influence shall be interpreted as the tidal datum plane derived from averaging all the high waters observed at that place over a period of nineteen (19) years. Mean high water shall be interpreted to be as the intersection of the datum place of mean high water with the shore.

(v) "Mean Low Tide" shall be interpreted to be mean lower low water which is the mean of the lower of the two low waters of each day for a tidal cycle of nineteen (19) years.

(w) "Occupant" means any person as defined herein, or his successor in interest, who actually occupied for any business, residential, or other beneficial purpose, tide or submerged land, within the conveyance of such by the State to the City, on or prior to January 3, 1959, with substantial permanent improvements. No person shall be considered an occupant by reason of having:

- (1) Placed a fish trap in position for operation or storage upon the tide, shore, or submerged land;
- (2) Placed a set net or piling therefor or any other device or facility for taking of fish;
- (3) Placed pilings or dolphins for long storage or other moorage;
- (4) Placed telephone, power, or other transmission facilities, roads, trails, or other contiguous submerged lands; or

(5) Claimed the land by virtue of some form of constructive occupancy. Where land is occupied by a person other than the owner of the improvements thereon, the owner of the improvements shall, for the purpose of this ordinance, be considered the occupant of such lands.

(x) "Occupied or Developed" means the actual use, control, and occupancy, but not necessarily residence, of the tide or submerged land by the establishment thereon of substantial permanent improvements.

(y) "Ordinance" means the Kenai Tidelands Ordinance.

(z) "Park and Recreation Lands" means tidelands chiefly valuable for public park and recreation use, including scenic overlooks.

(aa) "Person" means any person, firm, corporation, cooperative association, partnership or other entity legally capable of owning land or any interest therein.

(bb) "Pierhead Line" is a line fixed by the Corps of Engineers roughly parallel to the existing line of mean low tide at such distance offshore therefrom that said pierhead line shall encompass landward all stationary, manmade structures under the authority of Public Law 85-303.

(cc) "Preference Right" subject to the classifications thereof herein established means the right of an occupant to acquire by grant, purchase, or otherwise, at the election of the occupant, except as otherwise limited or prescribed in this Ordinance, any lot, piece, parcel, or tract of tideland or submerged land occupied or developed by such occupant on and prior to January 3, 1959.

(dd) "State" means the State of Alaska.

(ee) "Submerged Lands" means land covered by tidal waters between the line of mean low water and seaward to a distance of three (3) geographical miles, in their natural state, without being affected by manmade structures, fill, and so forth.

(ff) "Substantial Permanent Improvements" shall for the purposes of the Ordinance have the same meaning as Improvements, as herein defined.

(gg) "Tidelands" means lands periodically covered by tidal waters between the elevations of mean high tide and mean low tides, without regard to artificial interference with tidal flows caused by manmade structures, breakwaters, fill, and the like. When used in this ordinance, it shall also include submerged lands conveyed by the State to the City.

(hh) "Tidelands Subdivision Plat" is that certain plat of subdivision of tidelands and submerged lands conveyed by the State to the City made by H.H. Galliett, Jr., Registered Engineer, dated

December, 1968, known as Alaska Tidelands Survey No. 272 and filed as 76-179 in the Kenai Recording District showing all structures and improvements thereon and the boundaries of each tract occupied or developed, together with the name of the owner or claimant thereof, including within the boundaries of each tract occupied or developed such surrounding tide and submerged lands as shall be reasonably necessary in the opinion of the Council for the use and enjoyment of the structures and improvements thereon by the owner or claimant, but shall not include any tide or submerged lands which if granted to such occupant, would unjustly deprive any occupant of adjoining lands from his reasonable use and enjoyment thereof.

11.15.030 Approval and acceptance of State conveyance.

The conveyance by the State to the City, dated January 6, 1977 of tidelands and submerged lands lying seaward of the City is hereby approved and accepted and the lands therein are hereby declared incorporated into the limits of the City.

11.15.040 Approval and adoption of subdivision plat.

The Tidelands Subdivision Plat, hereinafter called "Plat" is hereby approved and adopted as the official Tidelands Subdivision Plat of the City of Kenai, Alaska, of tide and submerged lands conveyed by the State to the City by conveyance dated January 6, 1977. Said Alaska Tidelands Survey is numbered 272 and is filed under 76-179 in the Kenai Recording District.

11.15.050 Time and places of posting plat.

Said Plat shall be posted for a period of not less than sixty (60) days, commencing with the date following the date of final passage of this ordinance, in the office of the Clerk, City Hall Building.

11.15.060 Publication of notice of posting plat and plat and passage of ordinance.

The Clerk shall cause to be issued and published once a week for four weeks, in a newspaper of general circulation in the City, commencing the day after the date of final passage of this ordinance, a notice of the posting of said plat containing the following statements:

- (a) Time and place of posting.
- (b) The day of final passage and the effective date of this ordinance which adopts the plat as the official Tidelands Subdivision Plat of the tide and submerged lands conveyed by the State to the City on January 6, 1977.
- (c) That any and all persons having or claiming preference rights provided by law and as herein defined to any part or parts of the subdivided land embraced within the boundaries of said Plat, who fail to apply to exercise such rights under the provisions of this ordinance within two (2) years from and after October 6, 1979, which is hereby declared to be the date upon which applications therefor will be first accepted by the City, shall have forfeited their preference rights provided by law and this ordinance.
- (d) That this Ordinance was enacted to protect occupants having preference rights, to afford due process of law, to provide procedures for applying for exercise of preference rights, for hearing and adjudicating adverse claims, and for conveying title to occupants holding preference rights defined by law and this ordinance.
- (e) That copies of this ordinance and application forms are available at the office of the Clerk of the City.

(Ord. 455-78)

11.15.070 Time in which applications will be accepted for filing.

Application forms, in substantially the form set forth in KMC [11.15.290\(a\)](#) will be accepted for filing one business day after the effective date of this ordinance, and ending two calendar years thereafter and at the close of business at 5:00 p.m., after which no application forms will be furnished and after which no applications will be accepted for filing. (Ord. 455-78)

11.15.080 Procedure for filing applications.

Applications shall be submitted, and will be received for filing, only for the purpose of claiming preference rights herein defined to the tidelands conveyed to the City by the State.

- (a) Application forms will be provided by the Clerk without charge at the City Clerk's office in the City Hall Building.
- (b) Applications must be submitted in triplicate.
- (c) Applications not clearly legible nor properly completed and certified by the applicant will not be accepted for filing. Since the fact alleged may be used in hearings of disputes their truth must be certified. The facts alleged will also be the basis for the conveyances of valuable property. Willful and deliberate misstatements of fact will be equivalent to attempting to obtain valuable public property by misrepresentation and may be prosecuted as obtaining property under false pretenses.
- (d) Applications may be mailed to the City Clerk, **210 Fidalgo Avenue**, Kenai, Alaska, 99611, with the proper deposit computed according to the nature of the application made. Applications properly completed accompanied with the proper deposit will be stamped with the time and date of filing and signed by the person accepting the deposit. The triplicate copy will then be delivered to the applicant, or mailed to him if a return envelope with postage affixed is furnished or delivered to the City Clerk, City Administration Offices, Airport Terminal Building, Kenai, Alaska.
- (e) Any application for a deed based on an asserted right other than a preference right shall be rejected.
- (f) Any applications not waiving the Class II preference right shall be filed by the Clerk, together with all others of like nature, to await the official promulgation of the pierhead line. Thereafter such applications shall be processed as applications under the Class I rights.
- (g) Applications not accompanied by the proper deposit for costs shall be rejected.

(Ord. 455-78)

11.15.090 Initial review by **Planning & Zoning Commission.**

After initial review of the application by the Commission, the applicant shall have prepared at his own cost a preliminary and final plat as described in the following section. (Ord. 455-78)

11.15.100 Preliminary plat.

- (a) The applicant shall prepare, or have prepared, a preliminary plat of the tide, shore, or submerged lands which he claims. This plat shall comply with the requirements hereinafter set forth.
- (b) The purpose of a preliminary plat is to afford the occupant an opportunity of receiving preliminary review and prevent the unnecessary expenditure of money and time that would be necessitated if major changes were required.
- (c) The applicant must file his application accompanied by four black or blue-lined plats of the layout.
- (d) The Planning & Zoning Commission shall forward the preliminary plat to an engineer to be designated by the Planning & Zoning Commission, who shall report to the Planning & Zoning Commission his approval or disapproval of the plat for technical or engineering reasons and the Planning & Zoning Commission shall, within ninety (90) days after submission of the preliminary plat, notify the applicant of the tentative approval or disapproval of the plat and his reasons therefor.
- (e) Conditional approval of the preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval as a guide to preparation of the final plat.

(Ord. 455-78)

11.15.110 Preliminary plat requirements.

The Preliminary Plat shall show the following information:

- (a) Legal description of location to include latitude and longitude to the nearest minute at one corner of the survey and the total acres of the area occupied or claimed.
- (b) Name and address of applicant and name of land surveyor, if any, who prepared the preliminary layout.
- (c) The horizontal scale shall be 100' to the inch unless otherwise approved by the Planning & Zoning Commission.
- (d) Date of preparation and North Point.
- (e) The horizontal scale shall be 100' to the inch unless otherwise approved by the Planning & Zoning Commission.

- (f) The location of all roads within 200' of the tract, fill material, existing permanent buildings, or other structures within the parcel, existing utility lines, mean high and low tide lines with reference to permanent structures and other permanent features such as section lines, and such other information as may be requested by the City.
- (g) Space for approval and/or comment by the **Planning & Zoning and Harbor Commissions**.
- (h) The names of adjacent owners or claimants, if any, other than the City.
- (i) Adjacent U.S. Surveys, if any, giving the number of the Survey.
- (j) A vicinity sketch or key map should be shown on the preliminary layout. The scale shall not be less than one-half inch to the mile. The relative location of the parcel being applied for, the principal road systems and section or special survey lines shall also be shown.

11.15.120 Survey procedure.

Wherever feasible, data as set forth in ATS 272, recorded in the Kenai Recording District as 76-179 shall be used. Where additional data is required the following procedures shall govern:

- (a) *Determining the line of mean high tide.*
 - (1) In the case of U.S. Survey which abuts the tidelands, such U.S. Survey being made prior to the date of statehood, the line of mean high tide shall be construed to be either the meander lines established on the seaward side of the U.S. Survey or the line as defined under Section 2(s) of these regulations, whichever is the lower.
 - (2) For tidelands surveys abutting any U.S. Survey made after the date of statehood or in any location where no uplands survey exists, the line of mean high tide shall be determined by using U.S.C. & G.S. Bench Marks (or any other bench marks which have been established from that source), and tide table datum. The upland boundary need not follow this line in its entire exactness, but may follow in a "meander" or "average" line of mean high tide. Each end of the boundary should be established on the elevation of mean high tide. Provided, however, that where the true line of mean high tide has been altered by fill or artificial accretion, the line of high tide as it existed prior to such alteration shall govern.
 - (3) In the case that no U.S.C. & G.S. Bench Mark exists within one mile of the property being surveyed, the surveyor may, by using the tide tables for the immediate body of water, and applying tidal readings he has taken, determine the line of mean high tide and use it in

accordance with Paragraph (2) of this section. In some cases, such as salt or mud flat areas where the average grade of the bench is ten percent (10%) or less and determining the elevation of the line of mean high tide could create a lengthy horizontal distance, the City Council may require that the true line of mean high tide be established, regardless of the distance from a known bench mark.

(b) *Method of establishing side boundary lines.*

(1) In fixing the side boundary lines, the general rules of extending Riparian Boundary Lines, as outlined by such authors as Rayner, Clark or Brown, shall be followed. In the event that actual occupancy does not match the Riparian Boundaries, the survey shall be made to include the occupant's holdings and not to encroach on the adjoining occupant.

(Ord. 455-78)

11.15.130 Procedure on final plat.

(a) The final plat shall conform substantially to the preliminary layout as approved by the Commission.

(b) The final plat shall be submitted to the City Clerk on good quality tracing cloth, in ink, or mylars together with five prints.

(c) The final plat shall be drawn to scale of 1" equals 100', with an option of using 1" equals 20' or 40', on sheets of one of three sizes: 18" x 24", 31 1/2" x 34", or 22" x 36", unless otherwise approved by the Commission. When more than one sheet is required, an index shall be filed showing the entire parcel with the sheets in numerical order, and each sheet showing the total number, i.e., sheet 1 of 3. When more than one sheet is submitted, only the last must have the approval blocks, but all sheets must be the same size.

(d) When the final plat has been approved by the **Planning & Zoning** Commission, one copy shall be sent, along with the deed to the property, to the Magistrate of the Recording District in which the tract lies for official recording. Special instructions shall be sent to the Magistrate instructing him to send the deed to the occupant after recording. One copy of the plat will be returned to the occupant. The original tracing containing the certification by the **Planning & Zoning** Commission will be retained by the City. Prints or duplicate transparencies will be furnished at cost of reproduction.

(Ord. 455-78)

11.15.140 Final plat requirements.

- (a) The final plat shall include all information required on the preliminary plat.
- (b) The final plat must represent an actual survey made by a person who has been qualified by the State of Alaska, Board of Engineers & Architects Examiners to practice land surveying in the State of Alaska.
- (c) In addition thereto, the following information shall be shown on the final plat:
 - (1) Boundary lines of the parcel with length and bearings which must close within the limits of one to 5,000. If the seaward limits of the survey falls within the line of mean low tide, the seaward boundary must represent lines actually established by the surveyor.
 - (2) All easements as required by the City.
 - (3) Basis of bearings used.
 - (4) A properly labeled legend showing monuments as found or established.
 - (5) The course of the shoreline for an additional 400' from each side of the survey.
- (d) *Monuments.*
 - (1) Minimum requirements: Monuments shall consist of a 1 1/2" galvanized iron pipe, 30 or more inches long. This pipe shall have a four-inch flange across the bottom and shall be filled with concrete. Firmly emplaced in the concrete at the top shall be a brass or bronze cap. The pipe shall be thoroughly tamped when set.
 - (2) The brass or bronze cap shall have a minimum of two-inch diameter across the top and 3/4" by 2 1/2" shank. Each cap shall be marked in accordance with the Manual of Surveying instructions as compiled by the Bureau of Land Management and shall also show the registration number of the surveyor.
 - (3) Where impracticable to set an iron pipe monument, a tablet containing a minimum of one thousand (1,000) cubic inches of concrete and a brass or bronze cap marking the actual corner point may be used. Should the point for a corner be in a place which would be impracticable to monument, witness corners shall be set in a safe place on the survey boundary line or have two (2) reference monuments set. The monuments on the uplands side of the survey shall be referenced to bearing objects, such as trees, rocks, piling, buildings, etc., or have two (2) reference monuments set marking the corner.

(e) These references may be shown on the plat of survey or may be listed separately on a plat as described under KMC [11.15.130\(c\)](#).

(1) Unless otherwise approved by the City Council, each survey shall have at least four (4) monuments, each fully described in the plat of survey. It is desirable but not mandatory that monuments be set at all exterior angle points of the parcel. The line of sight between adjacent monuments shall be unobstructed. The distance between adjacent monuments shall not exceed one thousand three hundred twenty feet (1,320'). No part of the parcel shall be farther than one thousand three hundred twenty feet (1,320') from a monument unless otherwise approved by the City Council.

(2) If the point for the seaward corner falls in an unsafe place, a witness corner shall be established on the side boundary line.

(f) *Relationship to Known Monument.*

(1) Bearings of all lines shall be referred to the true meridian. The magnetic needle may not be used for this purpose. Bearings shall be obtained by deflection from existing official surveys at the G.L.O., B.L.M., U.S.C., and G.S., U.S.G.S., the Alaska Division of Lands, or monuments with proper identification which are delineated on recorded plats, unless otherwise provided for in these regulations.

(2) True bearings and distances to the nearest established survey lines, such as those listed previously, which shall be accurately described on the plat, shall be shown.

11.15.150 Deposits for costs prerequisite to filing.

The application form will assist the applicant in determining the proper costs to advance, which will depend upon the nature of the right claimed. In all cases a filing fee as set forth in the City's schedule of fees adopted by the City Council shall be required. Survey costs depend upon the area claimed at a per foot rate as set forth in the City's schedule of fees. If the area claimed is different from the lot as it appears on the plat, the applicant shall show the measurements of the additional or lesser area claimed and compute and pay the different survey cost accordingly. Transfer costs will be the same in all cases. They cover the cost of time estimated to be required to examine, process, and approve the application, as well as to prepare and execute the deed, publish notice, give notice of additional costs, if any, and give notice to applicant. In all cases, transfer costs will be in an amount as set forth in the City's schedule of fees adopted by the City Council. Deposit for appraisal costs will be required in all cases of Class III preference rights, or where another asserted right is

determined by the Council to be a Class III right. Appraisal costs shall depend upon the area involved and the complexity of the appraisal sought. Where required as a deposit, the minimum and maximum deposit for the appraisal fee shall be as set forth in the City's schedule of fees. (Ords. 455-78, 2528-2011)

11.15.160 Additional costs in certain cases.

Aside from deposits required at the time of filing applications, additional costs will be required to be paid prior to hearings where disputes require hearings, and for cost of land under a Class III right as well as appraisal thereof when a preference right sought to be exercised is determined to be a Class III right, as follows:

- (a) When the area claimed does not comply with the boundaries of the lot shown on the plat, it is necessary to have a hearing to establish the validity of the right claimed and whether it is necessary for the plat to be changed to comply with the application. This may require notice to be given to adjacent occupants interested in the difference between the lands claimed and land as shown on the plat so that all parties in interest may be heard at the hearing.
- (b) When applications conflict with the same area or portions thereof, it shall be necessary to conduct a hearing to determine the fact and the issue in question. Conflicting claims will be carefully scrutinized and each disputing party will bear the burden of proving facts sufficient to establish the validity of his or her claim.
- (c) The party filing an application conflicting with a claim previously filed shall be required to deposit hearings costs in the amount of one hundred dollars (\$100.00). If the conflict is not known at the time of filing, the applicant shall be advised of the conflict as soon as it is known and of the need to deposit the hearing cost deposit.
- (d) The applicant who after hearing and determination by the Council is determined to have claimed the land of another shall be the party to bear the cost of the hearing. If such party did not deposit such costs, no deed shall be delivered to him or her until the cost is paid. Where the depositor is the prevailing party, the hearing cost deposited shall be refunded to him or her by the City.
- (e) When title by Class III preference right is claimed, the applicant shall be required to deposit the appraised purchase price after appraisal has been made and the purchase price has been so determined. The same procedure will be applied when no application under another Class of right is sought but is determined that the only available right to the applicant is a Class III right.

(f) When a preference right is sought to be exercised other than a Class III right and such right is determined to be a Class right, then the applicant shall be required to deposit the estimated cost of appraising the property claimed.

(g) The applicant who receives the deed from the City shall at his or her own cost bear the cost of recording the deed.

(Ord. 455-78)

11.15.170 Procedures for processing filed applications.

The Clerk shall cause the following procedures to be carried out:

(a) All copies of applications accepted for filing shall be stamped with time and date of filing and an application number in chronological order of filing.

(b) All original applications shall be filed in a permanent register and the names of the applicants entered in an alphabetical index which shall be a permanent part of such register.

(c) The application register shall be available for public inspection during office hours of the Clerk except when in actual use for filing and indexing.

(d) Certified copies of all applications shall be prepared for all persons upon request upon their paying two dollars (\$2.00) per page for copies of said applications and any attachments forming a part thereof.

(e) *Processing of Duplicate Applications.* The third copy of the application will be returned to the applicant as his or her record and as receipt for deposit made, or mailed to applicant if he or she has provided a return envelope. The second copy shall be the working file copy to be handled and processed as follows:

(1) Applications to exercise Class I preference rights having waivers attached and which apply for lands which comply with the plat with respect to area and boundary locations shall be transmitted to the City Engineer for handling as provided in KMC [11.15.190](#). Applications to exercise Class I preference rights which do not have waivers attached, irrespective of whether the lands applied for comply with the plat shall be segregated for handling in the same manner as Class II preference right applications.

- (2) Applications to exercise Class I preference rights having waivers attached, and which claim lands which do not comply with the Plat with respect to area and boundary locations, shall be transmitted to the City Engineer for handling as provided in KMC [11.15.190](#) and further processing as provided in KMC [11.15.220](#).
- (3) Applications to exercise Class II preference rights shall be segregated and kept with Class I preference right applications not having waivers attached. All such applications shall be held in abeyance by the City until such time as the pierhead line is established by the Corps of Engineers, whereupon such applications shall be promptly honored and processed in the manner herein described for Class I preference right applications, where waivers are attached.
- (4) Applications to exercise Class III preference rights, and all applications determined in whole or in part to be Class III, shall be transmitted to the Assessor for appraisal as provided in KMC [11.15.180](#).
- (5) No applications which combine Class I, Class II, and Class III, or any combination of such preference rights, will be accepted for filing. Any such application presented for filing shall be returned to the applicant for revision into two or more applications, each of which will apply for land under only one type of preference right.
- (6) An application to exercise one class of preference right which in part complies with the Plat with respect to area and boundary locations, but does not wholly comply with the Plat in such respects, shall be treated as if no part of the application so complies with the Plat and shall be processed for contest hearing.

(Ord. 455-78)

11.15.180 Appraisal.

All applications for Class II preference rights shall be transmitted to a professional appraiser for appraisal. His appraisal shall be made on a form prepared in duplicate, the original of which shall be attached to the application and the duplicate of which shall be retained for his records. Applications when appraised shall be transmitted to the City Engineer for further processing. (Ord. 455-78)

11.15.190 Review by City Engineer.

All applications being ready for processing shall be reviewed by the City Engineer. Upon review and comparison with the Plat, he shall make his request to the Harbor Commission giving a copy thereof to the applicant as to whether or not the application seeks to exercise a preference right to land which is described on the Plat, and complies with it in respect to area and boundary locations.

11.15.200 Recommended approval by Commission.

The City of Kenai Planning & Zoning Commission shall review all applications for tidelands upon the submission of the City Engineer's report. The Planning & Zoning Commission may conduct public hearings to verify the validity of the applicant's claim and request additional evidence by way of affidavits and the like in order to come to recommend said claim for approval by the City Council notifying applicant thereof by mail sent to the address stated on his application. The Planning & Zoning Commission may provide a check-off list to aid it in considering applications. The City Council shall consider for approval the claim of the applicant within the time limitations and with the right of appeal given pursuant to KMC [11.15.240](#). (Ord. 455-78)

11.15.210 Processing of approved applications by Clerk and notice to public.

All applications returned to the Clerk approved by the City Engineer, and appraised by the Assessor if required, shall be processed by the Clerk in the following manner:

- (a) The Clerk shall ascertain if the deposit made by the applicant is sufficient to pay all known and estimated costs of survey, appraisal, transfer, and purchase, if of Class III and if not, to advise the applicant that the remainder due shall be deposited with the Clerk before further processing.
- (b) If or when the deposit is sufficient to pay all such costs, the Clerk shall cause to be published once a week for four weeks, in a newspaper of general circulation in the City, the following:
 - (1) Notice of the names of the applicant(s), the Block and Lot numbers of the property claimed according to Plat designations;
 - (2) The preference right claimed;
 - (3) The improvements made;

- (4) The length of time (including the dates) the applicant occupied the land; and
- (c) If Class III its appraised value, and that the City will issue to the applicant(s) its Deed therefor within thirty (30) days after the last date of publication, provided that before date of last publication no adverse application or claim has been filed with the City.
- (d) During said period of publication, the applications thereof shall be returned to the City Engineer who, at the end of said period of publication, shall note on the application whether or not any adverse claims have been filed for the land in question.
- (e) If adverse claims have been filed, the applications shall be further processed for hearing. If no adverse claims have been filed, the respective applications shall be returned to the Clerk.

(Ord. 455-78)

11.15.220 Deeds—Permanent register.

The Clerk shall then cause to be prepared a Quit-Claim deed conveying such land to the applicant(s) that the City has and transmit the Quit-Claim Deed to the Manager for execution. Notice shall then be sent to the applicant to take delivery of said Deed at the office of the Clerk, who shall deliver the same to the applicant if all requirements have been met and all costs, including purchase price, if required, have been paid. Duplicate originals of all executed Deeds shall be kept in the office of the Clerk in a permanent register entitled "Kenai Tidelands Deeds" with permanent alphabetical index of grantees. (Ord. 455-78)

11.15.230 Special proceedings for disputed claims.

The **Planning & Zoning** Commission shall sit as a quasi adjudicatory body to set disputes for hearing and hear the evidence under oath of the parties to the disputes. Proceedings shall be informally conducted but testimony taken under oath, and notice of the proceedings shall be given to the disputing parties. Their object shall be to determine without delay the respective basis of the conflicting claims. Upon the submission of each dispute, the **Planning & Zoning** Commission shall prepare a short summary on the conflicting claims and the evidence submitted in support thereof, together with their written findings of fact, and conclusions of law. (Ord. 455-78)

11.15.240 Proceedings for determination by Council of all disputes.

Upon receipt of the working files in all cases of disputes, and the summary of the Hearings Officer, together with copies of notices of hearings served upon or mailed to all parties to the dispute, the Council shall set the dispute of Hearing and determination, and cause notice to be served on all parties. Upon the Council having heard the dispute it shall enter its ruling thereon as quickly as possible, but not later than ten (10) days after the matter is submitted. Aggrieved persons shall have the right of appeal to the Superior court, within thirty (30) days after the ruling of the Council is rendered. (Ord. 455-78)

11.15.250 Determination upon stipulation of facts.

Wherever possible, to reach agreement of the parties at hearings before the **Planning & Zoning** Commission, a stipulation of facts shall be prepared and agreed upon by the parties. Where this is done, the **Planning & Zoning** Commission shall prepare and attach its conclusions of law and submit the file to the City Engineer to determine if the City's interests are affected by the stipulation, or if a boundary change is required and no third party or City interests are affected adversely by the proposed change in boundaries of lots shown on the Plat, upon approval of the Council the Plat shall be directed to be changed. Should it be determined by the City Engineer that the stipulation adversely affects the interest of the City or those of third parties, the dispute shall be returned to the **Planning & Zoning** Commission for further proceedings upon notice given. (Ord. 455-78)

11.15.260 Rejection of protests other than by applicant.

No objections will be received to proposed issuance by Deed by the City on publication of notice thereof, nor will any person be permitted to appear and be heard at any hearing of a dispute before the **Planning & Zoning** Commission or the Council, unless such objector or person is an applicant for preference rights of Class I or II and has filed an application with the Clerk. The foregoing shall not prevent the appearances before the **Planning & Zoning** Commission or Council of witnesses appearing on behalf of the parties in dispute or persons called by the **Planning & Zoning** Commission or Council who may have personal knowledge concerning the verification of claims. (Ord. 455-78)

11.15.270 Handling of deposit and purchase funds.

(a) All funds received as deposits with applications for costs or purchase price for tidelands shall be deposited by the Finance Director in the General Fund. Such deposits will be credited by the Finance Director as follows:

- (1) Survey Costs - as a credit to disbursements made by the City for costs of preparing the Tidelands Subdivision Plat.
- (2) Transfer Costs - to administrative costs as deeds are issued.
- (3) Appraisal Costs - to administrative costs as earned, or as credit to appraisal costs incurred.

(b) Purchase Costs of Class II Lands—shall be credited to a separate account in the General Fund to pay for improvements in tidelands areas consisting of fill, street, sidewalk, and sewer improvements.

(Ord. 455-78)

11.15.280 Forfeiture of preference rights.

Any occupant, owner, or holder of preference rights as herein defined, who has not applied to the City for title thereto as herein provided, on or before two (2) years after the date applications to exercise preference rights will be accepted for filing by the City under this ordinance, by a properly completed application duly filed with the Clerk and accompanied by the required deposit, shall have forfeited his right to assert this preference rights and acquire title to tidelands subject thereto from the City; and such tidelands and contiguous submerged lands subject to such unused preference rights shall thereafter be free and clear of all claims to preference rights and the City shall have no obligation to convey the same to any person or persons whatsoever, and said land shall then be and remain the property of the City and be subject to such disposition as provided for by law or ordinance. (Ord. 455-78)

11.15.290 Forms.

The Clerk shall cause to be printed application forms and other forms for use in processing the same in substantially the following form:

(a)

APPLICATION FOR TIDELAND

PREFERENCE RIGHTS

Name _____ Application No. _____

Home Address

Post Office Address

Mark X to designate nature of Preference Right Claimed:

Class I _____

Class II _____

Class III _____

Does the Tideland Plat 272 correctly show the land applied for:

Yes ____ No ____

If Tideland Plat does not correctly show land applied for, describe it by metes and bounds and attached plat of land applied for (use attachment if more space is required).

All claimed improvements were first constructed and used (1) before September 7, 1957? (2) Before September 7, 1957 and January 3, 1969? (3) After January 3, 1959?

Is any part of your claim based on improvements and/or fill constructed or placed after January 3, 1959?

Yes _____,

No _____. If answer is "yes," describe area improved after January 3, 1959 (use attachment if more space is needed), and state nature of improvements.

Have any of these improvements been extended or improved after (1) September 7, 1957? (2) January 3, 1959? Describe.

Was this beneficial use continued through January 3, 1959? Describe.

The Plat is based on apparent use and improvements existing on January 3, 1959, recognized by the Alaska Land Act; state any reason known to you why your claim does not correspond with the Plat. (Use attachment if more space is required.)

I offer Cash _____, Money Order _____, Cashier's Check _____, in the amount of \$ _____ as deposit for the following costs:

		Use By Clerk
Filing Fee	\$ _____	\$ _____
Survey Costs (at rate of ____/sq. ft.)	\$ _____	\$ _____
Appraisal Costs (Class II Applications)	\$ _____	\$ _____
Transfer Costs (\$ _____)	\$ _____	\$ _____
Hearing Costs (If claim adverse to prior application a deposit of \$ _____ for hearing and service notice is required.)	\$ _____	\$ _____
Total Deposit (Does not include purchase price of land in Class II Applications)	\$ _____	\$ _____
Deposit Received by City By:	_____	
Date of Application:	_____	
Date Application Received by City:	_____	
Time Filed:	_____	

CERTIFICATION

I, _____, the above-named applicant, or its agent, hereby certifies that all of the statements made in the application and incorporated attachments, if any, are true and correct.

Print Name(s)

Signature(s)

(b)

ASSESSOR'S APPRAISAL

The undersigned appraiser(s) do hereby certify that he has duly appraised the tide and/or submerged land described in the attached Application No. _____ of _____, without including in the hereinafter stated value any value for valuable improvements constructed or placed hereon prior to January 3, 1959, at the fair market value.

Tideland _____ sq. ft. at \$ _____ per sq. ft., \$ _____.

DATED, at Kenai, Alaska, this _____ day of _____, 19 _____.

Signed:

(c)

WAIVER OF CLASS II PREFERENCE RIGHTS

(ATTACH TO EACH CLASS I APPLICATION)

I, _____, the applicant, or his authorized agent, in the Application for Tideland Preference Rights, Application No. _____, to which this Waiver is attached, do hereby waive any and all Preference Rights, to acquire tide or submerged and lying seaward of the City of Kenai, to which I am now or may hereafter become entitled by reason of the provisions of Public Law 85-303.

DATED, at Kenai, Alaska, this _____ day of _____, 19 _____.

(Print Name)

(Signature)

(d)

CITY OF KENAI, ALASKA

TIDELAND QUIT-CLAIM DEED

This deed, made in duplicate this _____ day of _____, 19 _____, by and between the City of Kenai, Alaska, Grantor, and _____, Grantee(s).

WITNESSETH:

That the said grantor, for and in consideration of the sum of One and No 100/th (\$1.00) Dollars and other good and valuable consideration, to it in hand paid by the said Grantee(s), pursuant to the provisions of the

Alaska Land Act (Chapter 169, SLA 1959) and Ordinance No. [455-78](#), enacted on January 3, 1979, pursuant thereto, does hereby conveys, quit claims, and confirms unto said Grantee(s) as tenants by the entirety, with the right of survivorship (strike if grantees are not husband and wife), and to his (their) heirs and assigns (strike if Grantee a corporation) and to its successors and assigns (strike if Grantee not a corporation), all such interest as the Grantor has, if any, in the following described lot, piece, parcel and tract of tideland and contiguous submerged land situated within the corporate limits of the City of Kenai, Alaska, and more particularly described as follows, to-wit:

All of Lot _____, Block _____, according to the official Tidelands Subdivision Plat of the City of Kenai, Alaska.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold the same unto the said Grantee(s), his or their heirs and assigns, (or) to its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed the day and year hereinabove first written.

CORPORATE SEAL

CITY OF KENAI, ALASKA

By: (Its Manager)

ATTEST:

Clerk

(Ord. 455-78)

Chapter 11.20 LEASING OF TIDELANDS

Sections:

11.20.010 Policy.

11.20.020 Lands available for leasing.

- 11.20.030 Qualifications of applicants.
- 11.20.040 Classification prior to lease required.
- 11.20.050 Applications.
- 11.20.060 Rights prior to leasing.
- 11.20.070 Procedure.
- 11.20.080 Public notice—Public hearing.
- 11.20.090 Selection of applicant.
- 11.20.100 Appeal.
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- 11.20.120 The lease document—Terms.
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- 11.20.150 Annual minimum rental.
- 11.20.160 Principles and policy of lease rates.
- 11.20.170 Responsibility to properly locate.
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- 11.20.200 Assignments.
- 11.20.210 Modification.
- 11.20.220 Cancellation—Forfeiture.
- 11.20.230 Default—Right of entry.
- 11.20.240 Notice or demand.
- 11.20.250 Financing—Rights of mortgages or lienholder.
- 11.20.260 Entry and re-entry.
- 11.20.270 Re-lease.
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- 11.20.290 Right of inspection.
- 11.20.300 Easement grants reserved.
- 11.20.310 Lease subordinate to financing requirements.
- 11.20.320 Written waiver.
- 11.20.330 Surrender on termination.
- 11.20.340 Sanitation.
- 11.20.350 Building and zoning codes.
- 11.20.360 Rules.
- 11.20.370 Aircraft operations protected.
- 11.20.380 Right to enjoyment and peaceable possession.
- 11.20.390 Lessee to pay taxes.

- 11.20.400 No partnership or joint venture created.
- 11.20.410 Default bankruptcy.
- 11.20.420 Nondiscrimination.
- 11.20.430 Partial invalidity.
- 11.20.440 Parole modifications.
- 11.20.450 Amendment of lease.
- 11.20.460 Compliance with laws.
- 11.20.470 Care of premises.
- 11.20.480 Lessee's obligation to remove liens.
- 11.20.490 Condemnation.
- 11.20.500 Protection of subtenants.
- 11.20.510 Successors in interest.
- 11.20.520 Governing law.
- 11.20.530 Notices.
- 11.20.540 Fire protection.
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- 11.20.560 Personal use of materials.
- 11.20.570 Restrictions and reservations.
- 11.20.580 Waste and injury to land.
- 11.20.590 Warranty.
- 11.20.600 Approval of other authorities.
- 11.20.610 Title restrictions.
- 11.20.620 Insurance—Hold harmless.
- 11.20.630 Insurance of users—Subtenants.
- 11.20.640 Annual report.
- 11.20.650 Tidelands claims.
- 11.20.660 Subjection to harbor ordinance.
- 11.20.670 Arbitration.
- 11.20.680 Provisions regulating public use purpose.
- 11.20.690 Provision to be included in public use lease.
- 11.20.700 Public use: defined.
- 11.20.710 Controlled access.
- 11.20.720 Use charges.
- 11.20.730 Maintenance of dock.
- 11.20.740 Modifications of existing leases.
- 11.20.750 Unauthorized removal of material prohibited.
- 11.20.760 Removal not authorized by lease.

11.20.770 Disposition of rights by Council.

11.20.780 Penalties.

11.20.790 Tideland leases for shore fisheries.

11.20.010 Policy.

The City, in order to make sites available for beneficial industries, may lease City-owned tidelands to persons who agree to operate a beneficial industry upon the terms and conditions the Council considers advantageous to the City. (Ord. 532)

11.20.020 Lands available for leasing.

All classified tide and contiguous submerged land within the limits of the City to which the City holds title may be leased as hereinafter provided, for surface use only, and under the condition that said lease is subject and inferior to preference right claims that may be made within a two (2) year filing period for preference rights and subject to the rights of existing set net site holders within the City limits. (Ord. 532)

11.20.030 Qualifications of applicants.

An applicant for a lease is qualified if the applicant:

- (a) Is an individual at least nineteen (19) years of age or over; or
- (b) Is a group, association, or corporation which is authorized to conduct business under the laws of Alaska.

(Ord. 532)

11.20.040 Classification prior to lease required.

Before accepting applications to lease tidelands, the area involved shall have first been classified for leasing by the City Council with the approval of the Planning and Harbor Commissions, and their

availability advertised in a newspaper of general circulation in the area once each week for two (2) successive weeks not less than thirty (30) days prior to the time set for the closing of the acceptance of applications, and that all applications are available for public inspection at the City Hall offices.

(Ords. 532, 1802-98)

11.20.050 Applications.

(a) All applications for lease of tidelands shall be filed with the Clerk on forms provided by him or her and available at City Hall which shall upon execution of the lease become part of the lease document. Only forms completed in full and accompanied by a filing fee as set forth in the City's schedule of fees adopted by the City Council will be accepted for filing. Filing fees are not refundable.

(b) With every application, the applicant shall submit a development plan showing and stating:

- (1) The purpose of the proposed lease;
- (2) The use, value, and nature of improvements to be constructed;
- (3) The type of construction;
- (4) Dates construction is estimated to commence and be completed;
- (5) Whether intended use complies with the zoning ordinance and comprehensive plan of the City;
- (6) Describe by reference to the plat the area to be leased;
- (7) A detailed financial plan showing ability to carry through with the development plan;
- (8) A performance bond of five percent (5%) of the project's estimated cost (which bond shall not exceed fifty thousand dollars (\$50,000.00)), payable to the City.

(Ords. 532, 2528-2011)

11.20.060 Rights prior to leasing.

Neither the filing of an application for a lease nor the holding of a public hearing thereon as provided below, shall give the applicant a right to a lease or to the use of the land applied for. Any use not authorized by a lease shall constitute a trespass against the City. (Ord. 532)

11.20.070 Procedure.

- (a) *Planning and Zoning Commission.* All lease applications shall be reviewed first by the City of Kenai Planning and Zoning Commission to determine whether the contemplated use falls within that permitted under the zoning ordinance.
- (b) *Harbor Commission.* All lease applications shall be reviewed by the Harbor Commission. If the Commission after considering the lease applications determines at a public hearing as set forth in the section below that any one lease will be in the best interests of the City of Kenai, the Commission may make a recommendation to the City Council of applicant along with any modifications or conditions recommended by the Commission.
- (c) *City Council.* The City Council shall make the final determination of the selection of the applicant based upon the Commission's recommendation and approve or reject the choice of application made.

(Ords. 532, 1802-98)

11.20.080 Public notice—Public hearing.

Notice of the lease application shall be published in a newspaper of general circulation within the City not less than ten (10) or more than thirty (30) days prior to the date of public hearing. The notice must contain the name of the applicant, a brief description of the land, proposed use, term, and a declaration that the **Planning & Zoning** Commission will consider the lease to the applicant on the basis of the applicant's agreement to operate a beneficial industry upon the terms and conditions as set forth in its application which is available for public inspection at the City Hall offices. The notice shall state the date upon which public hearing will be held before the Commission for consideration of the application. (Ord. 532)

11.20.090 Selection of applicant.

After the hearing provided in KMC [11.20.080](#) above, the **Planning & Zoning** Commission may make its recommendation of the applicant to the City Council if in the Commission's opinion, on the basis of all the testimony presented, the award of the prospective lease will be advantageous to the City and in the best interests of the public welfare, health, and safety. In the alternative, the **Planning & Zoning** Commission may elect to make no recommendation for any applicant giving its reasons therefor. The Commission may impose additional conditions upon the applicant before making its award. The decision of the Council shall be posted on the City Bulletin Board the day after the hearing and remain posted for ten (10) days. (Ord. 532)

11.20.100 Appeal.

Any person disagreeing with the decision of the Council may appeal the decision by filing suit in the Superior Court, Third Judicial District at Kenai, within ten (10) days from the date of the posting of Council's decision. (Ord. 532)

11.20.110 Appraisal and survey of leased lands.

The applicant will furnish a survey and appraisal of the land in question prior to leasing. Any resurveying or re-platting required will be the applicant's responsibility and expense. (Ords. 532, 1282-88)

11.20.120 The lease document—Terms.

Leases may be issued for a term of not less than two (2) years nor more than **forty-five** (45) years. The applicant shall state in his or her application the term desired. In determining whether to grant a lease for the requested term, the Council shall consider the nature, extent, and cost of the improvements which the applicant agrees to construct thereon as a condition of the lease the time required to amortize the proposed investment, the value of the applicant's proposed use to the economy of the City and other relevant factors. The term of the lease may be extended for a number of successive periods for a set number of years each as long as the appropriate extensions and original term do not exceed **45** years. (Ord. 532)

11.20.130 Appraisal.

No land shall be leased, or a renewal lease issued, unless the same has been appraised within a **twelve** month period prior to the date fixed for beginning of the term of the lease or renewal lease.

No land shall be leased for less than the approved, appraised annual rental, according to the method as described in Section [11.20.150](#) below, except to State or Federal agencies or their subdivisions if it is in the public interest to do so. Appraisals shall reflect the number and value of City services rendered the land in question. (Ord. 532)

11.20.140 Review.

No leased land may be changed in use, nor may any renewal lease be issued until the proposed use or renewal has been reviewed by the Planning Commission and approved by the Council. (Ord. 532)

11.20.150 Annual minimum rental. **[Aligning with Airport]**

(a) Annual minimum rentals shall be computed from the approved appraised market value utilizing the method as described in KMC [11.20.160\(a\)](#). Annual minimum rental shall include:

- (1) Taxes pertaining to the leasehold interest of the Lessee.
- (2) Sales tax now enforced or levied in the future computed upon rent payable in monthly installments whether rent is paid on a monthly or yearly basis.
- (3) All taxes and assessments levied in the future by the City of Kenai, as if lessee was considered the legal owner of record of the leased property.
- (4) Interest at the rate of eight percent (**8%**) per annum and ten percent (**10%**) penalties of any amount of money owed under this lease which is not paid on or before the date it becomes due.
- (5) All sales taxes due on payments under this lease and to all sales taxes applicable to its operations.
- (6) All special assessments for public improvements levied by the City of Kenai, as if lessee were considered legal owner of leased property.

(b) Upon execution of the lease the lands demised become taxable to the extent of its leasehold interest and lessee shall pay all real property taxes levied upon such leasehold interest in these

lands, that the City as part of the consideration of rental payments depends and relies upon the payment by the lessee of said assessments and taxes as if he were the owner of said demised land.

(c) Rent shall be paid annually in advance. Said payments shall be prorated to conform with the City of Kenai's fiscal year beginning July 1 and ending June 30. If the equivalent monthly payment exceeds \$200, then the lessee shall have the option of making payments on a monthly or quarterly basis.

(Ord. 532)

11.20.160 Principles and policy of lease rates. [Aligning with Airport]

(a) To insure a fair return, all leases for a period in excess of five (5) years shall include a redetermination clause as of the fifth anniversary of each lease, normally set for the first of July of that fifth year. In pursuing a fair return, all lands for lease shall be appraised prior to lease and again prior to redetermination. Therefore, lease rates shall be based on:

(1) Fair market value of the land, including an appropriate consideration of facilities and services available (public water, public sewer, storm sewers, and other public utilities) as determined by a qualified independent appraiser, considering the best use of the specific land.

(2) The actual rate of return determined to be a fair return to the City shall be set at six percent (6%) of fair market value. The appraisal shall not include structural improvements made to the land or improvements made by way of gravel or other approved fill placed on the land. (Ord. 1631-95)

(b) Realizing that investors, developers, and other potential lessees need a reasonable assurance of stability in future lease rates, the redetermination clause of all future leases shall include the following language:

At each five-year interval, the fair market value shall be determined by qualified, independent appraisers. The redetermined lease rate (annual rent) under this provision, shall be limited to a fifty percent (50%) increase in the prior lease rate until the thirtieth-year anniversary of the lease after which the fifty percent (50%) cap provision shall no longer apply and the lease rate shall be redetermined every five years on the basis of fair market evaluation as determined in KMC [11.20.080](#).

(c) City leases of tidelands existing at the time of the enactment of this chapter shall have a thirty-year period determined from the date from which the lease was originally entered into.

(d) Failure by the City to insist upon renegotiation at the end of any given five-year period shall not constitute a waiver of the right of the City to insist upon renegotiation in any subsequent year, provided that neither the City nor the lessee shall have the right to insist upon renegotiation until five years shall have elapsed from the date the rental was last adjusted.

(Ord. 532)

11.20.170 Responsibility to properly locate.

It shall be the responsibility of the lessee to properly locate himself and his improvements on the leased land. It shall be unlawful to encroach on other lands of the City, or on lands owned or leased by another. (Ord. 532)

11.20.180 Lease utilization.

Leased lands shall be utilized for purposes within the scope of the application, the terms of the lease and in conformity with the ordinances of the City and Borough, and in substantial conformity with the comprehensive plan. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation at any time. Failure to substantially complete the development plan of the land within the specified time from the date of execution of the lease, consistent with the proposed use and terms of the lease, shall constitute grounds for cancellation. The lease shall set forth in detail with appropriate plans and specifications the improvements to be made within the time period described above. (Ord. 532)

11.20.190 Subleasing. [Is Harbor Commission OK with this?]

Leases may provide for subleasing a portion of the leased land without prior Council approval.

Subleases shall be in writing and be subject to the terms and conditions of the original lease. No approval of the City shall be given to the sublease of property until the lessee has substantially complied with the development plan. (Ord. 532)

11.20.200 Assignments.

Except for assignments for collateral purposes, no lessee may assign the lands leased to him without prior Council approval. The assignee shall be subject to all of the provisions of the lease. Any attempted assignment made in violation of this section shall be void. Any assignment requiring Council approval will not be unreasonably denied. (Ord. 532)

11.20.210 Modification.

No lease may be modified orally or in any manner other than by an agreement in writing, signed by all parties in interest or their successors in interest. Any such modification shall require Council approval.

11.20.220 Cancellation—Forfeiture.

- (a) Leases in good standing may be canceled in whole, or in part, at any time upon mutual written agreement by lessee and the City Council.
- (b) Any lease used for an unlawful purpose may be canceled.
- (c) If the lessee shall default in the performance or observance of any of the lease terms, covenants, or stipulations thereto, or of the regulations now or hereafter in force, and should said default continue for thirty (30) calendar days after service of written notice by the City without remedy by lessee of the conditions warranting default, the City shall subject lessee to appropriate legal action, including, but not limited to, forfeiture of the lease. No improvements may be removed by lessee or other person during any time the lessee is in default. This provision shall not be construed to prohibit the City from taking any appropriate legal action, including, but limited to, forfeiture of the lease, immediately upon the occurrence of a default.

(Ord. 532)

11.20.230 Default—Right of entry.

Should default be made in the payment of any portion of the rent or fees when due or in any of the covenants or conditions contained in the lease or in any regulations now or hereinafter in force, then

in such event the City shall give lessee thirty days after such written notice to cure such default or defaults, after which if the default is not cured, the City may terminate the lease, re-enter and take possession of the premises, remove all persons therefrom. (Ord. 532)

11.20.240 Notice or demand.

Any notice or demand which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in a U.S. general or branch post office, enclosed in a registered or certified mail envelope, addressed as hereinabove provided. (Ord. 532)

11.20.250 Financing—Rights of mortgages or lienholder.

(a) For the purpose of interim or permanent financing or refinancing from time to time of the improvements to be placed upon the leased premises, and for no other purpose, a lessee, after giving written notice thereof to the City, may encumber by mortgage, deed of trust, assignment, or other appropriate instrument, the lessee's interest in the leased premises and in and to the lease, provided such encumbrance pertains only to such leasehold interest and does not pertain to or create any interest in the City's title to the leased premises. If such mortgage, deed of trust, or assignment, shall be held by a bank or other established lending or financial institution (which terms shall include an established insurance company and qualified pension or profit-sharing trust), and such institution shall acquire the lessee's interest in such lease as a result of a sale under said encumbrance pursuant to a foreclosure or other remedy of the secured party, or through any transfer in lieu of foreclosure, or through settlement of or arising out of any pending or contemplated foreclosure action, such lending institution shall have the privilege of transferring its interest in such lease to a nominee or a wholly-owned subsidiary corporation with the prior consent of the City, provided, however, such transferee shall assume all of the covenants and conditions required to be performed by the lessee, whereupon such lending institution shall be relieved of any further liability under such lease from and after such transfer. Such lending institute for the nominee or wholly-owned subsidiary corporation to which it may have transferred such lease, or any other lending institution which may at any time acquire such lease, shall be relieved of any further liability under such lease from and after a transfer of such lease.

(b) A leasehold mortgagee, beneficiary of a deed of trust, or security assignee, shall have and be subrogated to any and all rights of the lessee with respect to the curing of any default hereunder by lessee.

(c) If the holder of any such mortgage, beneficiary of any such deed of trust, or the security assignee shall give the City before any default shall have occurred in the lease, a written notice containing the name and post office address of such holder, the City shall thereafter give to such holder a copy of each notice of default by the lessee at the same time as any notice of default shall be given by the City to the lessee, and the City will not thereafter accept any surrender or enter into any modification of this lease without the prior written consent of the holder of any first mortgage, beneficial interest under a first deed of trust, or security assignee, in this lease.

(d) If, by reason of any default of the lessee, either this lease or any extension thereof shall be terminated at the election of the City prior to the stated expiration therefor, the City will enter into a new lease with the leasehold mortgagee for the remainder of the term, effective as of the date of such termination, at the rent and additional rent, and on the terms herein contained, subject to the following conditions:

(1) Such mortgagee, beneficiary, or security assignee, shall make written request to the City for such new lease within twenty days after the date of such termination and such written request shall be accompanied by a payment to the City of all sums then due to the City under the lease.

(2) Such mortgagee, beneficiary, or security assignee, shall pay to the City, at the time of the execution and delivery of such new lease, any and all sums due thereunder in addition to those which would at the time of the execution and delivery thereof be due under this lease; but for such termination and in addition thereto, any reasonable expenses, including legal and attorney's fees, to which the City shall have been subjected by reason of such default.

(3) Such mortgagee, beneficiary, or security assignee shall, on or before the execution and delivery of such new lease, perform all the other conditions required to be performed by the lessee to the extent that the lessee shall have failed to perform such conditions.

(e) If a lending institution or its nominee or wholly-owned subsidiary corporation shall hold a mortgage, deed of trust, or similar security interest in and to this lease and shall thereafter acquire a leasehold estate, derived either from such instruments or from the City, and if such institution, nominee, or corporation shall desire to assign this lease or any new lease obtained from the City (other than to a nominee or to a wholly-owned subsidiary corporation as permitted by the above provisions) to an assignee who will undertake to perform and observe the conditions in such lease required to be performed by the lessee, the City shall not unreasonably withhold its consent to such

assignment and assumption, and any such lending institution, nominee, or subsidiary shall be relieved of any further liability under such lease from and after such assignment. If the proposed assignor shall assert that the City is unreasonably withholding its consent to any such proposed assignment, such dispute shall be resolved by arbitration.

(Ord. 532)

11.20.260 Entry and re-entry.

In the event that the lease should be terminated as hereinbefore provided by summary proceedings or otherwise, or in the event that the demised lands or any part thereof should be abandoned by the lessee during the said term, the lessor or its agents, servants, or representatives may, immediately or any time thereafter, re-enter and resume possession of said lands or such part thereof, and remove all persons and property therefrom, either summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No re-entry by the lessor shall be deemed an acceptance of a surrender of the lease. (Ord. 532)

11.20.270 Re-lease.

In the event that a lease should be terminated as herein provided, or by summary proceedings, or otherwise, the **Planning & Zoning** Commission may offer said lands for lease or other appropriate disposal, pursuant to the provisions of this ordinance. (Ord. 532)

11.20.280 Forfeiture of rental.

In the event that the lease should be terminated because of any breach by the lessee as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the lessor as partial or total liquidated damages for said breach. (Ord. 532)

11.20.290 Right of inspection.

City shall have the right at all reasonable times to enter the premises, or any part thereof, for the purposes of inspection. (Ord. 532)

11.20.300 Easement grants reserved.

City reserves the right to grant and control easements in, or above the land leased. No such grant or easement will be made that will unreasonably interfere with the lessee's use of the land, and lessee shall have free access and use of any and all parking and loading rights, rights of ingress and egress now or hereafter appertaining to the leased premises. (Ord. 532)

11.20.310 Lease subordinate to financing requirements.

Lessee agrees that City may modify the lease to meet revised requirements for Federal or State grants, or to conform to the requirements of any revenue bond covenant. However, the modification shall not act to reduce the rights or privileges granted the lessee by this lease, nor act to cause the lessee financial loss. (Ord. 532)

11.20.320 Written waiver.

The receipt of rent by the lessor with knowledge of any breach of the lease by the lessee, or any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provisions of the lease. No failure on the part of the lessor to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the lessor, unless in writing, shall discharge or invalidate such covenants or provisions, or affect the right of the lessor to enforce the same in the event of any subsequent breach or default. The receipt, by the lessor, of any rent or any other sum of money after the termination, in any manner, of the term therein demised, or after the giving by the lessor of any notice thereunder to effect such termination, shall not reinstate, continue, or extend the resultant term therein demised, destroy, or in any manner impair the efficacy of any such notice or termination as may have been given thereunder by the lessor to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the lessor. (Ord. 532)

11.20.330 Surrender on termination.

(a) Lessee shall, on the last day of the term of this lease or upon any earlier termination of this lease, surrender and deliver up the premises into the possession and use of City without fraud or delay in good order, condition, and repair, except for reasonable wear and tear since the last

necessary repair, replacement, restoration, or renewal, free and clear of all lettings and occupancies unless expressly permitted by City in writing, and free and clear of all liens and encumbrances other than those created by City for loans to the City.

(b) Upon the end of the term of this lease or any earlier termination thereof, title to the buildings, improvements, and building equipment shall automatically vest in the City without requirement of any deed, conveyance, or bill of sale document in confirmation hereof, lessee shall execute, acknowledge, and deliver the same and shall pay any charge, tax, and fee asserted or imposed by any and all governmental units in connection therewith.

(Ord. 532)

11.20.340 Sanitation.

The lessee shall comply with all regulations or ordinances of the City which are promulgated for the promotion of sanitation. The premises of the lease shall be kept in a neat, clean, and sanitary condition, and every effort shall be made to prevent the pollution of water. (Ord. 532)

11.20.350 Building and zoning codes.

Leased lands shall be utilized in accordance with the building and zoning ordinances and rules and regulations of said authority. Failure to do so shall constitute a violation of the lease. (Ord. 532)

11.20.360 Rules.

(a) The lessee shall observe, obey, and comply with all applicable rules, etc., of the State or Federal governments.

(b) City reserves the right to adopt, amend, and enforce reasonable rules and regulations governing the demised premises and the public areas and facilities used in connection therewith. Except in cases of emergency, no rule or regulation hereafter adopted or amended by the City shall become applicable unless it has been given thirty days notice of adoption or amendment thereof.

(c) Lessee, in the conduct of its operations on the demised premises, shall observe, obey, and comply with any and all applicable rules, regulations, laws, ordinances, or orders of any

governmental authority, federal or state, lawfully exercising authority over lessee or lessee's conduct of its business.

(d) City shall not be liable to lessee for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of any such right or authority as in this section provided, nor shall lessee be entitled to terminate the whole or any portion of the leasehold estate herein created, by reason of the exercise of such rights or authority, unless the exercise thereof shall so interfere with lessee's use and occupancy of the leasehold estate as to constitute a termination in whole or in part of this lease by operation of law in accordance with the laws of the State of Alaska and of the United States made applicable to the states.

(Ord. 532)

11.20.370 Aircraft operations protected.

(a) The City shall reserve to itself its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface and all improvements approved by the City of the premises conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now or hereafter used for navigation of or flight in the air, using said airspace of landing at, taking off from, or operating on the Kenai Airport. (When plans for improvements are approved by the City, the City to the extent of those improvements releases the easements here expressed.)

(b) The lessee by accepting conveyance expressly agrees for itself, its representatives, successors, and assigns, that it will not erect nor permit the erection of any structure or object, on the and conveyed, which would be an airport obstruction within the standards established under the Federal Aviation Administration Regulations, Part 77, as amended. In the event the aforesaid covenant is breached, the City reserves the right to enter on the land conveyed hereunder and to remove the offending structure or object, all of which shall be at the expense of the lessee or its heirs, successors, or assigns.

(Ord. 532)

11.20.380 Right to enjoyment and peaceable possession.

The City shall agree and covenant that the lessee, upon paying rent and performing other covenants, terms, and conditions of this lease, shall have the right to quietly and peacefully hold, use, occupy, and enjoy the said leased premises, except that any inconvenience caused by public works projects in or about the leasehold premises shall not be construed as a denial of the right of quiet or peaceable possession. (Ord. 532)

11.20.390 Lessee to pay taxes.

Lessee shall pay all lawful taxes and assessments which, during the term thereof may become a lien upon or which may be levied by the State, Borough, City, or any other tax-levying body, upon any taxable possessory right which lessee may have in or to the reason of its use or occupancy, provided, however, that nothing herein contained shall prevent lessee from contesting as any other land owner any increase in such tax or assessment through procedures outlined in State statutes. (Ord. 532)

11.20.400 No partnership or joint venture created.

The City shall not be construed or held to be a partner or joint venturer of lessee in the conduct of business on the demised premises; and it is expressly understood and agreed that the relationship between the parties thereto is, and shall at all times remain that of landlord and tenant. (Ord. 532)

11.20.410 Default bankruptcy.

If the lessee shall make any assignment for the benefit of creditors or shall be adjudged a bankrupt, or if a receiver is appointed for the lessee or lessee's assets, or any interest under this lease, and if the appointment of the receiver is not vacated within thirty days, or if a voluntary petition is filed under Section 18(a) of the Bankruptcy Act by the lessee, then and in any event, the City may, upon giving the lessee thirty days' notice, terminate this lease. (Ord. 532)

11.20.420 Nondiscrimination.

The lessee, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that:

- (a) No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- (b) In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation, denied the benefits of, or otherwise be subjected to discrimination.
- (c) The lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.
- (d) In the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose involving the provision of similar services or benefits, the lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Ord. 532)

11.20.430 Partial invalidity.

If any term, provision, condition, or part of the lease is declared by a court of competent jurisdiction to be invalid or unconstitutional, the remaining terms, provisions, conditions, or parts shall continue in full force and effect as though such declaration was not made. (Ord. 532)

11.20.440 Parole modifications.

It shall be mutually understood and agreed between the parties that the agreement, as written, shall cover all the agreements and stipulations between the parties; and no representations, oral or written, have been modifying, adding to, or changing the terms thereof. (Ord. 532)

11.20.450 Amendment of lease.

Notwithstanding anything to the contrary, in order to aid the lessee in the financing of the improvements to be situated herein, the City shall agree that in the event the proposed mortgagee, beneficiary or security assignee under any interim or permanent loan on the security of the leasehold interest of the lessee and the improvements to be situated thereon so requires, the City will make a reasonable effort to amend this lease in order to satisfy such requirements upon the express condition and understanding, however, that such variance in language will not materially prejudice the City's rights thereunder nor be such as to alter in any way the rental obligations of the lessee hereunder nor its obligations to comply with all existing laws and regulations of the City relating to the leasing of airport lands, and to all applicable Federal statutes, rules, and regulations, and all covenants and conditions of the deed by which the City holds title to the land. (Ord. 532)

11.20.460 Compliance with laws.

(a) Lessee shall comply with all applicable laws, ordinances, and regulations of public authorities now or hereafter in any manner affecting the leased premises or the sidewalks, alleys, streets, and way adjacent thereto or any buildings, structures, fixtures, and improvements or the use thereof, whether or not any such laws, ordinances, and regulations which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same. Lessee agrees to hold City financially harmless from the following:

- (1) From the consequences of any violation of such laws, ordinances, and/or regulations.
- (2) From all claims for damages on account of injuries, death, or property damage resulting from such violation.

(b) Lessee further agrees it will not permit any unlawful occupation, business, or trade to be conducted on said premises or any use to be made thereof contrary to any law, ordinance, or regulation as aforesaid with respect thereto.

(Ord. 532)

11.20.470 Care of premises.

Lessee, at its own cost and expense, shall keep the leased premises, all improvements which at any time during the term of this lease may be situated thereon, and any and all appurtenances thereunto belonging, in good condition and repair, during the entire term of this lease. (Ord. 532)

11.20.480 Lessee's obligation to remove liens.

Lessee will not permit any liens including, but not limited to, mechanics', laborers', or material-men's liens obtainable or available under the then existing laws, to stand against the leased premises or improvements for any labor or material furnished to lessee or claimed to have been furnished to lessee or to lessee's agents, contractors, or sublessees, in connection with work of any character performed or claimed to have been performed on said premises or improvements by or at the direction or sufferance of lessee, provided, however, lessee shall have the right to provide a bond as contemplated by Alaska law and contest the validity or amount of any such lien or claimed lien. On final determination of such lien or such claim for lien, lessee will immediately pay any judgment rendered with all proper costs and charges and shall have such lien released or judgment satisfied at lessee's own expense. (Ord. 532)

11.20.490 Condemnation.

In the event the leased premises or any part thereof shall be condemned and taken for a public or a quasi-public use, then upon payment of any award or compensation arising from such condemnation, there shall be such division of the proceeds, such abatement in rent payable during the term or any extension of the term hereof, and such other adjustments as the parties may agree upon as being just and equitable under all the circumstances. If the City and lessee are unable to agree within thirty days after such an award has been paid into court, upon what division, annual abatement in rent, and other adjustments are just and equitable, the dispute shall be determined by arbitration provided in KMC [11.20.670](#) hereof. (Ord. 532)

11.20.500 Protection of subtenants.

To protect the position of any subtenant(s) hereafter properly obtaining any interests in the leasehold estate granted lessee hereunder, the City agrees that in the event of the cancellation, termination, expiration, or surrender of this lease (the ground lease), the City will accept the subtenant, its successors and assigns, as its lessee for a period equal to the full elapsed portion of the term of the sublease, including any extensions or renewals thereof not exceeding the term of this lease, upon the same covenants and conditions therein contained, to the extent that said covenants and conditions are not inconsistent with any of the terms and conditions of this lease, provided such subtenant shall make full and complete attornment to the City for the balance of the term of such sublease so as to establish direct privity of estate and contract between the City and the subtenant with the same force and effect as though such sublease was originally made directly between the City and such subtenant; and further provided such subtenant agrees to comply with all the provisions of the ground lease and all the terms of any mortgage, deed of trust, or security assignment to which such leasehold estate is subject, except the payment of rent under the ground lease and the payment of any debt service under any such mortgage, deed of trust, or security assignment. (Ord. 532)

11.20.510 Successors in interest.

This lease shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto, subject to such specific limitations or assignment as are provided for herein. (Ord. 532)

11.20.520 Governing law.

The indenture of lease shall be governed in all respects by the laws of the State of Alaska. (Ord. 532)

11.20.530 Notices.

(a) Any notices required by the lease shall be in writing and shall be deemed to be duly given only if delivered personally or mailed by certified or registered mail in a prepaid envelope addressed as follows:

To: City Hall—City of Kenai

210 Fidalgo Avenue

Kenai, Alaska 99611

To Tenant:

(b) The City shall also mail a copy of any notice given to the lessee, by registered or certified mail, to any leasehold lender (mortgagee, beneficiary of a deed of trust, security assignee) who shall have given the City notice of such mortgage, deed of trust, or security assignment.

(c) Any such addresses may be changed by an appropriate notice in writing to all other parties affected provided such change of address is given to the other parties by the means outlined in paragraph (a) above at least fifteen days prior to the giving of the particular notice in issue.

(Ord. 532)

11.20.540 Fire protection.

The lessee will take all reasonable precaution to prevent and take all necessary action to suppress destructive or uncontrolled grass, brush, or other fires on leased lands, and comply with all laws, regulations, and rules promulgated and enforced by the City for fire protection within the area wherein the leased premises are located. (Ord. 532)

11.20.550 Inspection.

The lessee shall allow authorized representatives of the City to enter the leased land for inspection at any reasonable time. (Ord. 532)

11.20.560 Personal use of materials.

All coal, oil, gas, and other minerals and all deposits of stone or gravel valuable for extraction or utilization and all materials subject to Title II, Division I, Chapters 4, 5, and 6 of the Alaska Administrative Code are excepted from the operation of a surface lease. Specifically, the lessee of the surface rights shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss,

topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used if its use is first approved by the City. (Ord. 532)

11.20.570 Restrictions and reservations.

The lease shall contain such restrictions and reservations as are necessary to protect the public interest. (Ord. 532)

11.20.580 Waste and injury to land.

If any person shall commit waste, trespass, or other injury upon City land, the person so offending, in addition to being civilly liable for any damages caused, shall be deemed guilty of a violation. (Ords. 532, 1858-2000)

11.20.590 Warranty.

The City does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under said classification or lease, and no guaranty is given or implied that it shall be profitable to employ land to said use. City bears no responsibility for any water erosion of land. (Ord. 532)

11.20.600 Approval of other authorities.

The issuance by the City of leases does not relieve the grantee or lessee of responsibility of obtaining licenses or permits as may be required by duly authorized Borough, State, or Federal agencies. (Ord. 532)

11.20.610 Title restrictions.

All leases or sales of property shall be made subject to restrictions and reservations in the patent, deed, or other instrument under which the City holds. (Ord. 532)

11.20.620 Insurance—Hold harmless.

Lessee shall covenant to save the City harmless from all actions, suits, liabilities, or damages resulting from or arising out of any acts of commission or omission by the lessee, his agents, employees, customers, invitees, or arising from or out of the lessee's occupation, or use of the premises demised, or privileges granted, and to pay all costs connected therewith. In this connection, the lessee shall agree to arrange and pay for all the following:

- (a) Public liability insurance protecting both the City and/or its agents and the lessee, such insurance to be evidenced by a certificate showing the insurance in force. The amount of such public liability insurance shall have limits not less than those known as \$250,000/\$500,000/\$100,000.
- (b) Liquor liability (where applicable).
- (c) Lessee agrees to carry employer's liability insurance and Workmen's Compensation Insurance, and to furnish a certificate thereof to the City, if applicable.
- (d) Insurance contracts providing liability insurance and Workmen's Compensation shall provide for not less than thirty days written notice to the City of cancellation or expiration or substantial change in policy conditions and coverage.
- (e) Lessee agrees that waiver of subrogation against the City shall be requested of lessee's insurer, and shall be provided at no cost to the City.
- (f) Cross Liability: It is understood and agreed that the insurance afforded by this policy or policies for more than one named insured, shall not operate to increase the limits of the company's liability, but otherwise shall not operate to limit or void the coverage of any one named insured as respects claims against the same named insured or employees of such other named insured.
- (g) The insurance procured by the lessee as herein required shall be issued in the name of the lessee and the City by a company licensed to do business in the State of Alaska, and shall contain endorsements that:

- (1) Such insurance may not be canceled or amended with respect to the City without thirty days written notice by registered or certified mail to the City by the insurance company.
 - (2) Lessee shall be solely responsible for payment of premiums and that City shall not be required to pay any premiums for such insurance.
- (h) The amount of insurance coverage required above may be subject to review for increase at each five-year renegotiation of the lease.
- (i) Upon review by the Commission, the lessee may be required to obtain such other insurance protecting the City and lessee that may be necessarily required or advisable owing to the particularities of the harbor-related activities on the lease-hold interest.

(Ord. 532)

11.20.630 Insurance of users—Subtenants.

Lessee, for its own protection, may require bona fide public users and subtenants to execute agreements holding lessee harmless from actions arising out of user's operations and may require such bona fide public users and subtenants to show proof of public liability insurance covering their operations on the demised premises in such amounts as will adequately protect them. (Ord. 532)

11.20.640 Annual report.

The lessee may be required to submit to the City each year on or about March 15, an annual report on its operations, particularly those services and facilities offered to the public, whether on a fee or non-fee basis. (Ord. 532)

11.20.650 Tidelands claims.

The City shall lease the subject land subject to any preference rights claims made pursuant to the provisions of Alaska State 38.05.320 or Ordinance No. [455-78](#), dated September 5, 1979 of the City of Kenai, adopted pursuant thereto, and the lessee holds lessor harmless for any damages, legal expenses, or compensation necessitated by the resolution or satisfaction of said claims, if any. (Ord. 532)

11.20.660 Subjection to harbor ordinance.

All leases are subject to the terms, conditions, and regulations imposed by Title II, Harbor and Harbor Facilities, of the 1979 Kenai Code of ordinances as amended of which this section is part. (Ord. 532)

11.20.670 Arbitration.

In the event the City and lessee shall be unable to agree as to any matter provided for in the lease except as to the amount of the five-year rent redetermination amount which is handled pursuant to KMC [11.20.160](#), such dispute shall be determined by three disinterested arbitrators (unless the parties can agree on one arbitrator). Such arbitration shall be conducted upon request of either the City or the lessee, before three arbitrators (unless the City or the lessee agree to one arbitrator) designated by the American Arbitration Association and in accordance with the rules of such Association. The arbitrators designated and acting under this lease shall have no power to depart from or change any of the provisions thereof. The expense of arbitration proceedings conducted hereunder shall be borne equally by the parties. The proceedings shall take place in Kenai, Alaska unless otherwise agreed upon by the parties. (Ord. 532)

11.20.680 Provisions regulating public use purpose.

The City Council realizes that only a limited area of tidelands bordering navigable waters are available within the City of Kenai and which are owned by the City of Kenai. It would be in the public interest to insure that these lands do not pass out of community control at least to the extent that the public would not be deprived of harbor services at reasonable rates in the future. Therefore, areas of City-owned tidelands which are developable for the bona fide public purposes as enumerated below shall be leased only with the following covenants defined to insure public use and access at reasonable rates. (Ord. 532)

11.20.690 Provision to be included in public use lease.

The following provision shall be included in leases where harbor facilities are constructed to be utilized all or in part for bona fide public uses. (Ord. 532)

11.20.700 Public use: defined.

(a) Public use shall mean a use limited in part or in whole to the following:

(1) In general, the lessee may use the demised premises or part thereof for any of the following purposes only:

- (i) Public dock facilities.
- (ii) Maritime commerce.
- (iii) Transportation.
- (iv) Fishing.
- (v) Boat harbor.
- (vi) Port and waterfront development purposes.

(b) Before lessee may conduct any activities which fall under this general criteria, but are not specifically mentioned above, lessee must obtain written consent of the City.

(Ord. 532)

11.20.710 Controlled access.

Lessee, for its own protection, may construct or install fences, gates, or other types of barriers to restrict access to portions of the demised premises that are not designated for a public use and may provide reasonable controls for access to public use areas to allow for security for such areas while insuring reasonable public access. Reasonable public access includes accommodations made for fishing operations during fishing season. (Ord. 532) **Any Controlled Access measures shall be indicated on the Lessee's Development Plan.**

11.20.720 Use charges.

Lessee shall make reasonable and non-discriminatory charges to the public for use of any of its facilities. It is expressly recognized that lessee is entitled to a margin of profit, which should be fair, reasonable, and competitive, and that City will cooperate to this end in considering rates and fees.

The Commission shall review all rate structures annually. The lease shall contain an arbitration provision as set forth in KMC [11.20.670](#) to resolve disputes arising hereunder. (Ord. 532)

11.20.730 Maintenance of dock.

Lessee covenants that it will maintain the dock facility in a safe condition and in accordance with applicable state and federal standards. (Ord. 532)

11.20.740 Modifications of existing leases.

Leases shall only be modified to that extent deemed to be necessary to protect the public's interest. (Ord. 532)

11.20.750 Unauthorized removal of material prohibited.

Any person, firm, or corporation who without written authority from the City removes rock, gravel, or other material from the lands owned by the City without the express consent of the City shall be deemed guilty of a violation. Any criminal action taken against such person shall not preclude the institution of civil proceedings by the City. (Ords. 532, 1858-2000)

11.20.760 Removal not authorized by lease.

No deed or lease granted by the City to any person shall contain terms or be construed as granting any right to remove material from City lands. (Ord. 532)

11.20.770 Disposition of rights by Council.

In recognition that conditions may exist from time to time whereby use of such lands and the material comprising the same may be beneficial to the public interest and promote the progress and development of the City, applications for the use thereof may be received and considered by the **Planning & Zoning** Commission, providing such applications fully disclose to the City all material

facts and plans for the proposed use. Such applications shall be consistent with the comprehensive plan of the City and referred to the City **Planning & Zoning** Commission for its recommendations. Disposition of such applications shall be made by the Council after recommendation from the **Planning & Zoning** Commission. (Ord. 532)

11.20.780 Penalties.

(a) It is unlawful for any person to violate any of the provisions of this chapter and upon conviction thereof shall be fined as provided for violations in KMC [13.05.010](#). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(b) In addition to or as an alternative to the above penalty provision, the City may impose a civil penalty in an amount as provided by KMC [13.05.010](#) per day for the violation of any provision of this chapter and seek injunctive relief for any infraction thereof for which the offending party will be charged for reasonable attorney's fees and costs incurred by the City as awarded by the court.

(c) Nothing in this section shall be deemed to restrict the City's exercise of any of its rights pursuant to the lease agreement including those enumerated in KMC [11.20.220](#) and KMC [11.20.240](#) hereof.

(Ords. 532, 1240)

11.20.790 Tideland leases for shore fisheries.

(a) The annual minimum rental rate for tideland leases used primarily for shore fisheries shall be an annual fee as set forth in the City's schedule of fees adopted by the City Council. However, should the State of Alaska set an annual lease rate higher than that established by the City for similar tideland leases for shore fisheries on land owned by the State, the City may amend the annual rental to a rate equal to that charged by the State of Alaska. Any money owed pursuant to KMC [11.20.150](#) shall be in addition to the annual minimum set forth above.

(b) Neither KMC [11.20.160](#) nor KMC [11.20.620\(a\)](#) shall apply to tideland leases for shore fisheries.

(c) The provisions of KMC [11.20.110](#) and KMC [11.20.130](#) requiring appraisals of tideland property shall not apply to leases of tidelands for shore fisheries. However, the survey provisions of KMC [11.20.110](#) are applicable to shore fishery leases.

(Ords. 1632-95, 2528-2011)

The Kenai Municipal Code is current through Ordinance 3034-2018, passed August 15, 2018.

Disclaimer: The City Clerk has the official version of the Kenai Municipal Code. Users should contact the City Clerk for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ci.kenai.ak.us](http://www.ci.kenai.ak.us)

City Telephone: (907) 283-8231

[Code Publishing Company](#)

DRAFT



Project Summary Memo
Via email

Date: 29 March 2019
To: City of Kenai Attn: Paul Ostrander, City Manager
From: Cody McLane, PE
Project: Beaver Loop Gravel Investigation
Re: Project Summary

In March 2019 the City of Kenai (COK) contracted with McLane Consulting Inc. (MCI) to conduct a soils investigation on COK property (parcel# 04901022) immediately north of three existing material extraction sites along Beaver Loop Road in Kenai, Alaska. The intent of the investigation was to identify whether the subject area is suitable for commercial quantity sand and gravel extraction.

On March 13th and 14th MCI field technician Jun Limauco logged test holes at GIS map-based locations provided by the COK. Excavation services were provided by COK personnel utilizing a John Deere 135G excavator. A total of (10) test holes were excavated and logged. At each location samples were taken of all soil strata with potential commercial use, of which (6) were selected for additional testing by sieve analysis. Soil logs and sieve analysis are attached to the end of this memo.

Test hole locations were grouped in a grid formation consisting of (2) east-west rows spaced 300 feet apart. The (5) test holes in each row were equally spaced at 900-foot intervals with the southernmost locations offset 300 feet north of the southern boundary of the parcel. See attached site maps for test hole locations and GPS coordinates.

All test holes were observed to contain suitable quantities of sand and gravel at depth with the gravel stratum extended below test hole depth in all cases. Ground water was encountered in all test holes at a relatively consistent depth of between 10 and 12 feet. Typical soil profile consisted of vegetation mat and silt loam with organics overlaying gravel and intermittent sand layers.

Depth of vegetation mat and silt overburden varied from 2.2 to 7.7 feet with an average depth of 4.8 feet. The eastern portion of the investigation area (test holes #3 thru #8) contained a silty, sand-gravel stratum immediately under the silt loam that was visually estimated to contain over 20% silt (percent passing the #200 sieve). This material is considered frost susceptible and not suitable for typical embankment fill requirements. No sieve analysis was run on samples collected from this stratum.

Non-frost susceptible (NFS) sands and gravels were encountered in all test holes at an average depth of 6.0 feet, generally increasing from west to east across the investigation

area. Sieve analysis of (4) gravel samples indicated clean, NFS gravel meeting KPB Type I and ADOT Selected Material Type A embankment specifications. Sand strata varied in thickness from 8 inches to 2.5 feet with increasing levels of frost susceptibility from west to east across the investigation area. Sieve analysis from (2) samples are included in this report.

The investigation area is primarily composed of forest-shrub wetlands according to the National Wetlands Inventory mapping. A small area of forested uplands near test hole #3 extends south to the existing material sites. Permitting a material extraction site within the investigation area is possible but the following site conditions must be addressed or mitigated to receive regulatory approval. These include:

- Providing adequate setback from any anadromous streams in the area. The parcel contains at least (1) fish bearing stream informally known as Boat Launch Creek.
- Satisfying US Army Core of Engineers regulations for operations and material extraction within mapped wetlands.
- Presence of shallow water table within expected material source locations initiates additional regulatory requirements to prevent aquifer contamination.
- Limited access to the investigation area. No direct right of way access to the source location exists except thru undeveloped section line easements bordering the east, south and west limits of the parcel. Constructing road access within the wetlands will initiate additional permitting requirements unless alternative access can be arranged with Owners of existing material sites along the south boundary of the parcel.

Please feel free to contact me if you have any questions or comments.

Sincerely,
Cody R. McLane, P.E.
Principal
McLane Consulting, Inc.



3/29/2019

Attachments:

- Test Hole Logs
- Sieve Analysis Results
- Site Map w/ Test Hole Locations & Coordinates
- Site Map w/ Aerial Photography Background
- Site Map w/ National Wetlands Inventory Display



Project: **COK Beaver Lp Soil Investigation**
 Field Tech: Jun Limcauco
 Equipment: John Deere 135G Excavator (by COK)
 Work Date: March 13th & 14th, 2019
 Conditions: 3/13/2019: Mostly Cloudy to Sunny in the Afternoon, 31° F
 3/14/2019: Mostly Cloudy to Rain/Snow in the Afternoon, 30° F

LOG OF ONSITE SOILS

Test Hole Number	Depth	USCS	Description / Date
TH #1	Location:		13-Mar-19
	Latitude: N 60° 32' 47.0"		
	Longitude: W 151° 11' 45.3"		
	0.0 - 1.33'	PT	Vegetation mat, dark PEAT
	1.33' - 4.17'	ML	Dark brown SILT loam
	4.17' - 10.5'	GP	Sandy GRAVEL
	10.5' - 11.33'	SP	Fine SAND, moist
	11.33' - 15.33'	GP	Sandy GRAVEL
	* Sample taken at 9.0' and 11.0'.		
	* Sample gradation at 9.0': GP Gravel with silt (2.1%), sand (46.2%), and (51.8%) gravel.		
* Ground water encountered at 10.0'.			
TH #2	Location:		13-Mar-19
	Latitude: N 60° 32' 47.0"		
	Longitude: W 151° 11' 27.3"		
	0.0 - 10.0"	PT	Vegetation mat, dark PEAT
	10.0" - 2.17'	ML	Dark brown SILT loam
	2.17' - 3.67'	SM	Silty SAND with gravel
	3.67' - 5.17'	GP	Sandy GRAVEL
	5.17' - 7.25'	SP	Gravelly SAND, clean
	7.25' - 15.0'	GP	Sandy GRAVEL, moist
	* Sample taken at 3.0' and 6.0'.		
* Sample gradation at 6.0': SP Sand with gravel (34.8%), silt (1.7%), and (63.5%) sand.			
* Ground water encountered at 11.0'.			
TH #3	Location:		13-Mar-19
	Latitude: N 60° 32' 47.0"		
	Longitude: W 151° 11' 09.3"		
	0.0 - 14.0"	PT	Vegetation mat, dark PEAT
	14.0" - 2.33'	OL	Dark brown SILT with organic content
	2.33' - 3.67'	ML	Dark brown SILT loam
	3.67' - 4.5'	SM	Silty coarse SAND
	4.5' - 8.83'	GP	Sandy GRAVEL, clean
	8.83' - 10.33'	SM	Silty fine SAND
	10.33' - 15.0'	GP	Sandy GRAVEL with cobbles, saturated
* Sample taken at 4.0', 9.0', and 11.0'.			
* Ground water encountered at 10.33'.			
TH #4	Location:		14-Mar-19
	Latitude: N 60° 32' 47.0"		
	Longitude: W 151° 10' 51.3"		
	0.0 - 10.0"	PT	Vegetation mat, dark PEAT
	10.0" - 2.17'	OL	Dark brown SILT with organic content
	2.17' - 3.58'	ML	Orange brown SILT loam
	3.58' - 6.33'	GP	Sandy GRAVEL, clean
	6.33' - 7.83'	SP	Gravelly SAND, coarse
	7.83' - 15.0'	GP	Sandy GRAVEL
	* Sample taken at 4.0' and 7.0'.		
* Ground water encountered at 10.5'.			



Project: **COK Beaver Lp Soil Investigation**
 Field Tech: Jun Limcauco
 Equipment: John Deere 135G Excavator (by COK)
 Work Date: March 13th & 14th, 2019
 Conditions: 3/13/2019: Mostly Cloudy to Sunny in the Afternoon, 31° F
 3/14/2019: Mostly Cloudy to Rain/Snow in the Afternoon, 30° F

LOG OF ONSITE SOILS

Test Hole Number	Depth	USCS	Description / Date	
TH #5	Location:		14-Mar-19	
	Latitude: N 60° 32' 47.0"			
	Longitude: W 151° 10' 33.3"			
	0.0 - 14.0"	PT	Vegetation mat, dark PEAT	
	14" - 3.17'	OL	Dark brown SILT with organic content	
	3.17' - 5.17'	ML	Orange brown SILT loam	
	5.17' - 7.25'	SM	Gravelly SAND with silt	
	7.25' - 9.17'	SP	Fine SAND, moist	
	9.17' - 15.0'	GP	Sandy GRAVEL	
	* Sample taken at 4.5', 6.0', 8.0' and 10.0'. * Sample gradation at 6.0': SP-SM Sand with gravel (42.7%), silt (7.2%), and (50.1%) sand. * Ground water encountered at 10.5'.			
TH #6	Location:		14-Mar-19	
	Latitude: N 60° 32' 49.9"			
	Longitude: W 151° 10' 33.3"			
	0.0 - 16.0"	PT	Vegetation mat, dark PEAT	
	16.0" - 2.67'	OL	Dark SILT with peat	
	2.67' - 5.33'	OL	Orange Brown SILT with organic	
	5.33' - 6.17'	ML	Grey SILT loamy	
	6.17' - 7.67'	ML	Grey SILT mixed with gravel	
	7.67' - 9.33'	GM	Grey silty sandy GRAVEL	
	9.33' - 15.0'	GP	GRAVEL, clean	
* Sample taken at 6.5', 8.0' and 10.0'. * Sample gradation at 10.0': GP with gravel (73.1%), silt (1.8%), and (25.1%) sand. * Ground water encountered at 11.0'.				
TH #7	Location:		14-Mar-19	
	Latitude: N 60° 32' 49.9"			
	Longitude: W 151° 10' 51.3"			
	0.0 - 16.0"	PT	Vegetation mat, dark PEAT	
	16.0" - 3.33'	OL	Dark brown SILT with organic content	
	3.33' - 5.58'	ML	Brown SILT loamy	
	5.58' - 6.5'	SM	Silty SAND mixed with gravel	
	6.5' - 10.67'	GM	Sandy GRAVEL with silt	
	10.67' - 15.0'	GP	Sandy GRAVEL, saturated	
	* Sample taken at 6.0' and 9.5'. * Ground water encountered at 11.0'.			
TH #8	Location:		13-Mar-19	
	Latitude: N 60° 32' 49.9"			
	Longitude: W 151° 11' 09.3"			
	0.0 - 2.33'	PT	Vegetation mat, dark PEAT	
	2.33' - 3.42'	ML	Brown SILT loamy	
	3.42' - 5.17'	ML	Dark Brown SILT mixed with sand and gravel	
	5.17' - 6.83'	SM	Silty gravelly SAND	
	6.83' - 15.5'	GP	sandy GRAVEL with cobbles	
	* Sample taken at 4.0', 6.0', and 11.0'. * Ground water encountered at 12.0'.			
	Location:		13-Mar-19	



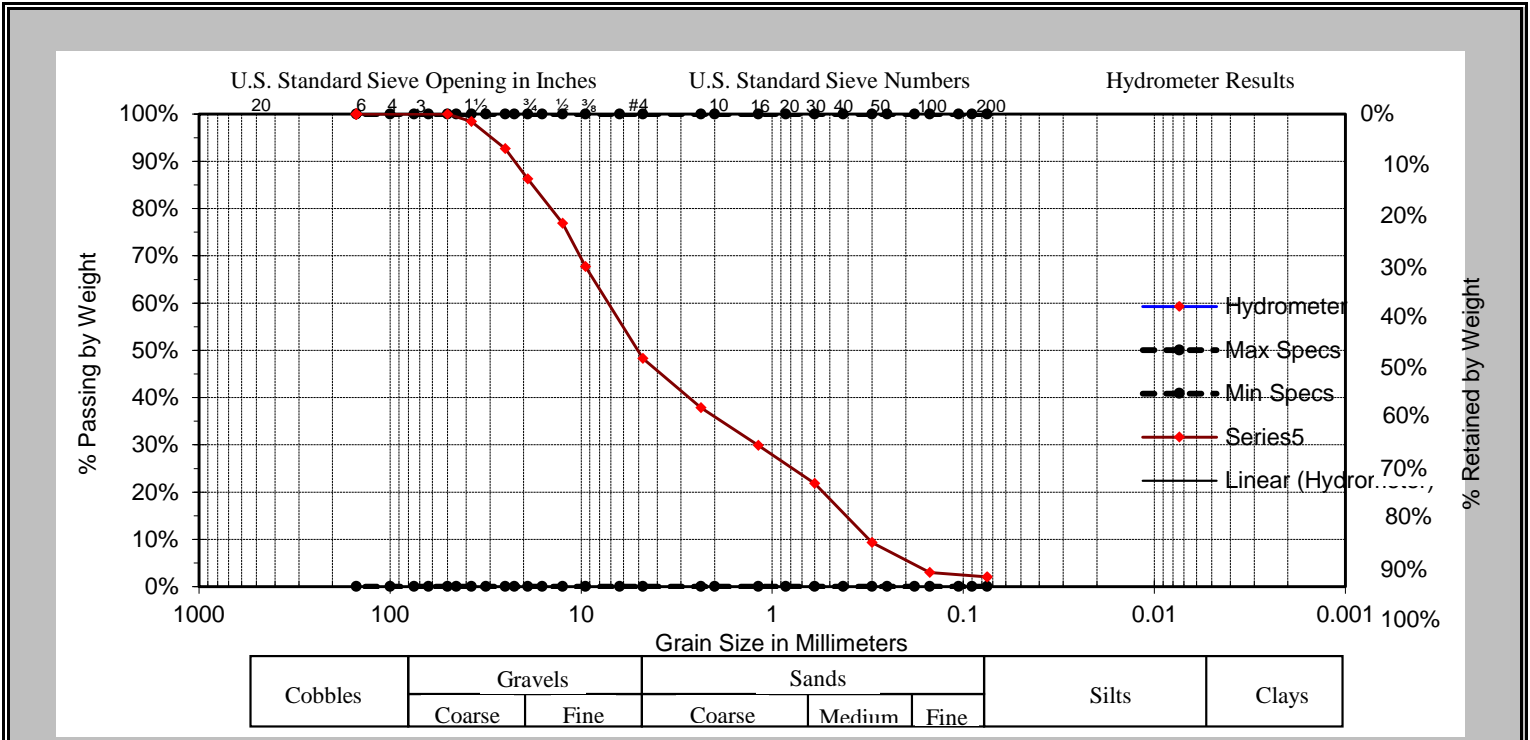
Project: **COK Beaver Lp Soil Investigation**
 Field Tech: Jun Limcauco
 Equipment: John Deere 135G Excavator (by COK)
 Work Date: March 13th & 14th, 2019
 Conditions: 3/13/2019: Mostly Cloudy to Sunny in the Afternoon, 31° F
 3/14/2019: Mostly Cloudy to Rain/Snow in the Afternoon, 30° F

LOG OF ONSITE SOILS

Test Hole Number	Depth	USCS	Description / Date
TH #9	Latitude:	N 60° 32' 49.9"	
	Longitude:	W 151° 11' 27.3"	
	0.0 - 10.0"	PT	Vegetation mat, dark PEAT
	10.0" - 22.0"	OL	SILT mixed with peat, organic
	22.0" - 4.17'	ML	Dark brown SILT firm
	4.17' - 5.25'	ML	Grey SILT loamy
	5.25' - 7.83'	SP	Coarse SAND with gravel
	7.83' - 15.0'	GP	Sandy GRAVEL
* Sample taken at 6.0', and 9.5'.			
* Sample gradation at 9.5': GP with gravel (65.5%), silt (1.9%), and (32.6%) sand.			
* Ground water encountered at 10.5'.			
TH #10	Location:	13-Mar-19	
	Latitude:	N 60° 32' 49.9"	
	Longitude:	W 151° 11' 45.3"	
	0.0 - 14.0"	PT	Vegetation mat, dark PEAT
	14.0" - 2.67'	OL	Dark SILT with peat, organic
	2.67' - 5.42'	ML	Dark brown SILT loamy
	5.42' - 10.33'	GP	Sandy GRAVEL
	10.33' - 11.17'	SP	Coarse SAND, saturated
11.17' - 15.0'	GP	Sandy GRAVEL	
* Sample taken at 8.0', and 11.0'.			
* Sample gradation at 8.0': GP with gravel (52.4%), silt (3.8%), and (43.7%) sand.			
* Ground water encountered at 10.0'.			

1. Ground water seeps-encountered in all 10 test holes.
2. No permafrost gravel encountered down the sublayer or anticipated in this area.
3. Grab samples were visually classified under the Unified Soils. Classification System by McLane Personnel working under the direction of Cody McLane PE.
4. Test hole locations based on datum and listed in decimal degrees.

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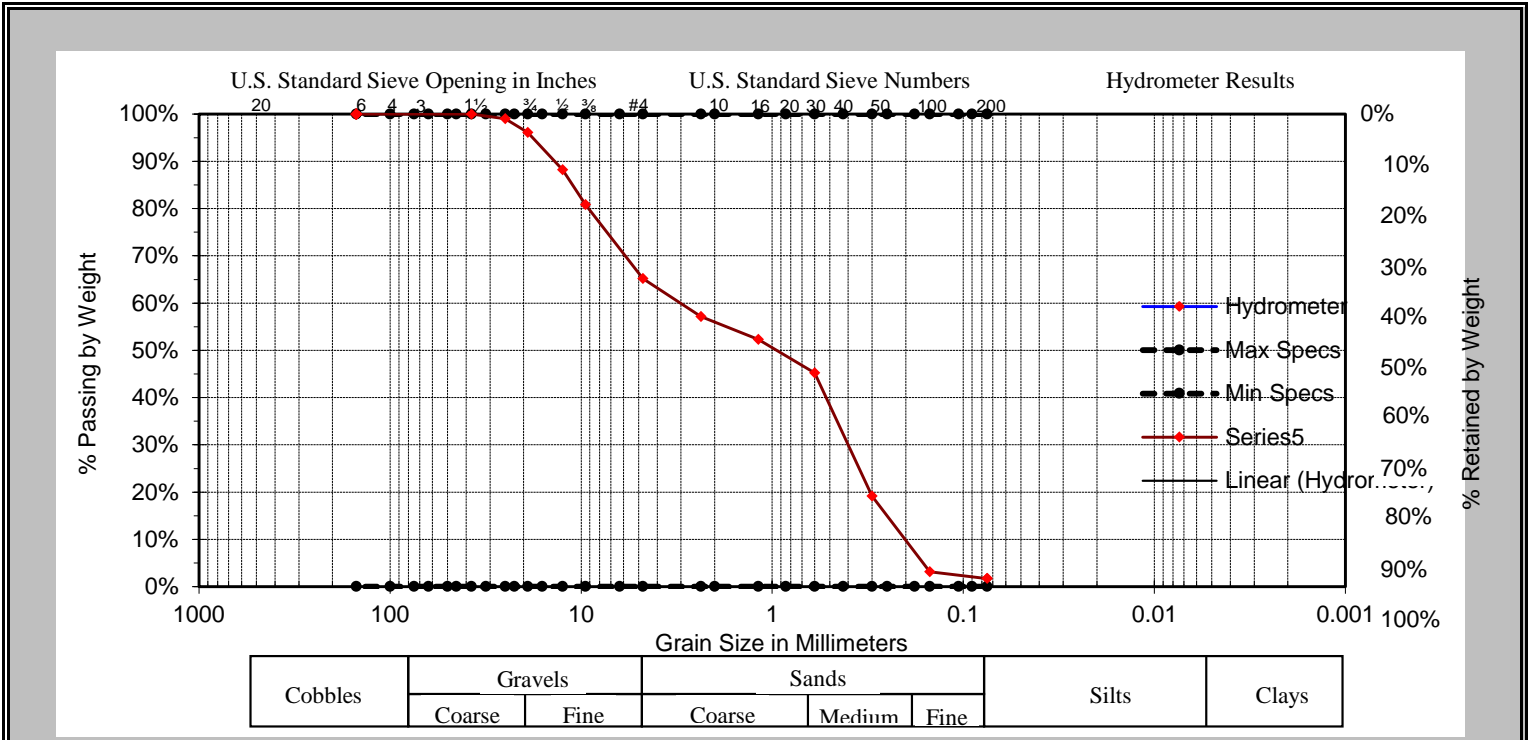


Date : March 14, 2019	D ₁₀ = 0.32	USCS Classification	% Sand
Sample #: TH #1	D ₃₀ = 1.20	GP, Poorly graded Gravel with Sand	46.2%
Sample ID: sandy GRAVEL	D ₆₀ = 7.62	Specifications	% Gravel
Source:	C _c = 0.60	No Specs	51.8%
Project: Beaver Lp	C _u = 24.16	Sample Meets Specs	% Silt & Clay
Location: City of Kenai	Liquid Limit= n/a	n/a	2.1%
Boring #: 1	Plastic Limit= n/a	Fineness Modulus	
Depth: 9.0'	Plasticity Index= n/a	4.98	

Coarse Section		Actual Cumulative	Interpolated Cumulative			Fines Section		Actual Cumulative	Interpolated Cumulative		
Sieve Size		Percent Passing	Percent Passing	Specs Max	Specs Min	Sieve Size		Percent Passing	Percent Passing	Specs Max	Specs Min
US	Metric					US	Metric				
6.00"	150.00		100.0%			#4	4.750	48.2%	48.2%		
4.00"	100.00		100.0%			#8	2.360	37.8%	37.8%		
3.00"	75.00		100.0%			#10	2.000		35.4%		
2.50"	63.00		100.0%			#16	1.180	29.9%	29.9%		
2.00"	50.00	100.0%	100.0%			#20	0.850		25.3%		
1.75"	45.00		99.4%			#30	0.600	21.8%	21.8%		
1.50"	37.50	98.4%	98.4%			#40	0.425		14.6%		
1.25"	31.50		95.7%			#50	0.300	9.4%	9.4%		
1.00"	25.00	92.7%	92.7%			#60	0.250		7.2%		
7/8"	22.40		89.9%			#80	0.180		4.3%		
3/4"	19.00	86.2%	86.2%			#100	0.150	3.0%	3.0%		
5/8"	16.00		81.9%			#140	0.106		2.4%		
1/2"	12.50	76.9%	76.9%			#170	0.090		2.2%		
3/8"	9.50	67.7%	67.7%			#200	0.075	2.1%	2.1%		
1/4"	6.30		54.6%			#270	0.053				
#4	4.75	48.2%	48.2%								

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Cobbles	Gravels		Sands			Silts	Clays
	Coarse	Fine	Coarse	Medium	Fine		

Date : March 14, 2019 D₁₀ = 0.21 **USCS Classification** % Sand

Sample #: TH #2 D₃₀ = 0.42 **SP, Poorly graded Sand with Gravel** 63.5%

Sample ID: gravelly SAND D₆₀ = 3.20 **Specifications** % Gravel

Source: C_c = 0.26 **No Specs** 34.8%

Project: Beaver Lp C_u = 14.94 Sample Meets Specs % Silt & Clay

Location: City of Kenai Liquid Limit= n/a n/a 1.7%

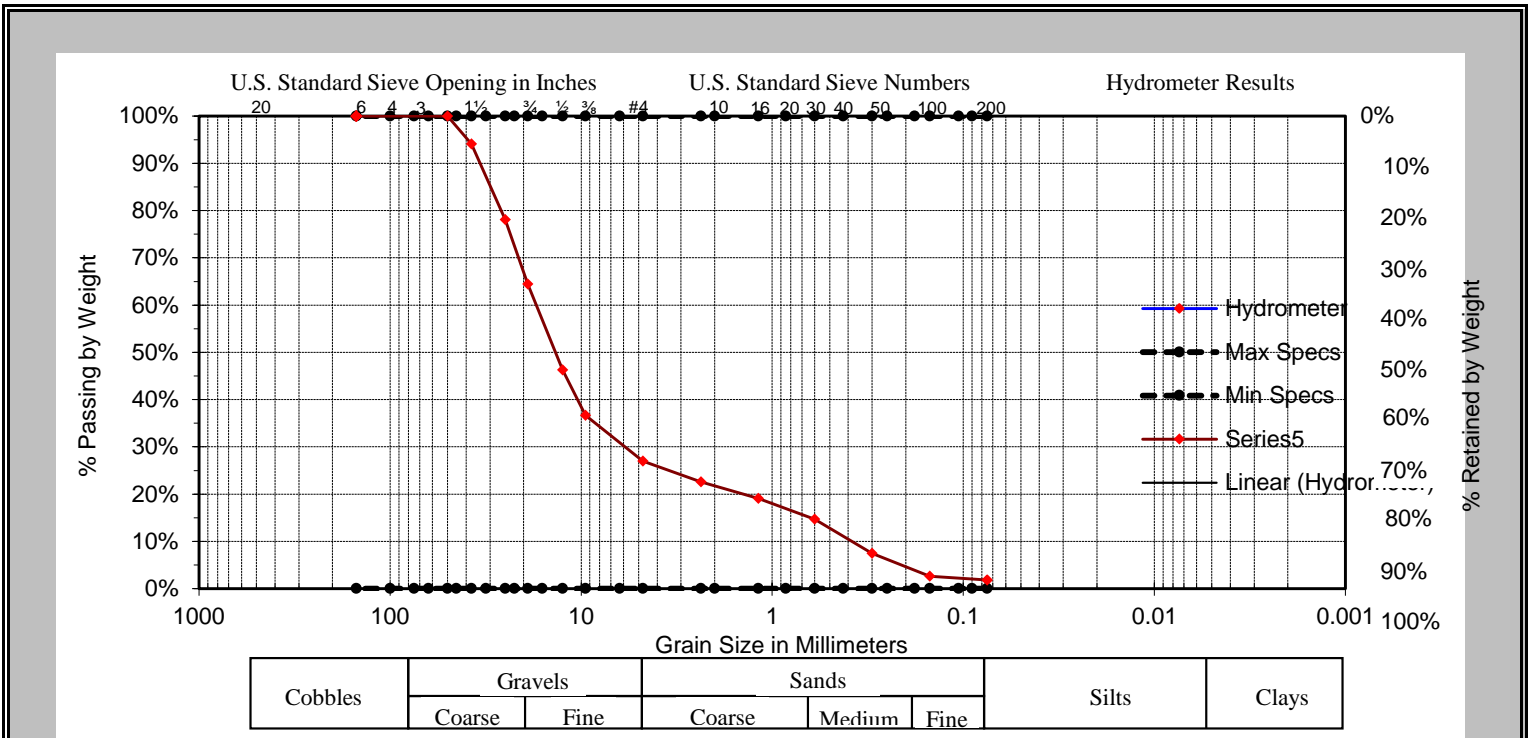
Boring #: 2 Plastic Limit= n/a Fineness Modulus

Depth: 6.0' Plasticity Index= n/a 3.81

Coarse Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Fines Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Specs Max	Specs Min
Sieve Size US	Metric			Sieve Size US	Metric				
6.00"	150.00		100.0%	#4	4.750	65.2%	65.2%		
4.00"	100.00		100.0%	#8	2.360	57.2%	57.2%		
3.00"	75.00		100.0%	#10	2.000		55.7%		
2.50"	63.00		100.0%	#16	1.180	52.3%	52.3%		
2.00"	50.00		100.0%	#20	0.850		48.3%		
1.75"	45.00		100.0%	#30	0.600	45.3%	45.3%		
1.50"	37.50	100.0%	100.0%	#40	0.425		30.0%		
1.25"	31.50		99.5%	#50	0.300	19.1%	19.1%		
1.00"	25.00	99.0%	99.0%	#60	0.250		13.8%		
7/8"	22.40		97.8%	#80	0.180		6.3%		
3/4"	19.00	96.1%	96.1%	#100	0.150	3.1%	3.1%		
5/8"	16.00		92.5%	#140	0.106		2.3%		
1/2"	12.50	88.2%	88.2%	#170	0.090		2.0%		
3/8"	9.50	80.8%	80.8%	#200	0.075	1.7%	1.7%		
1/4"	6.30		70.3%	#270	0.053				
#4	4.75	65.2%	65.2%						

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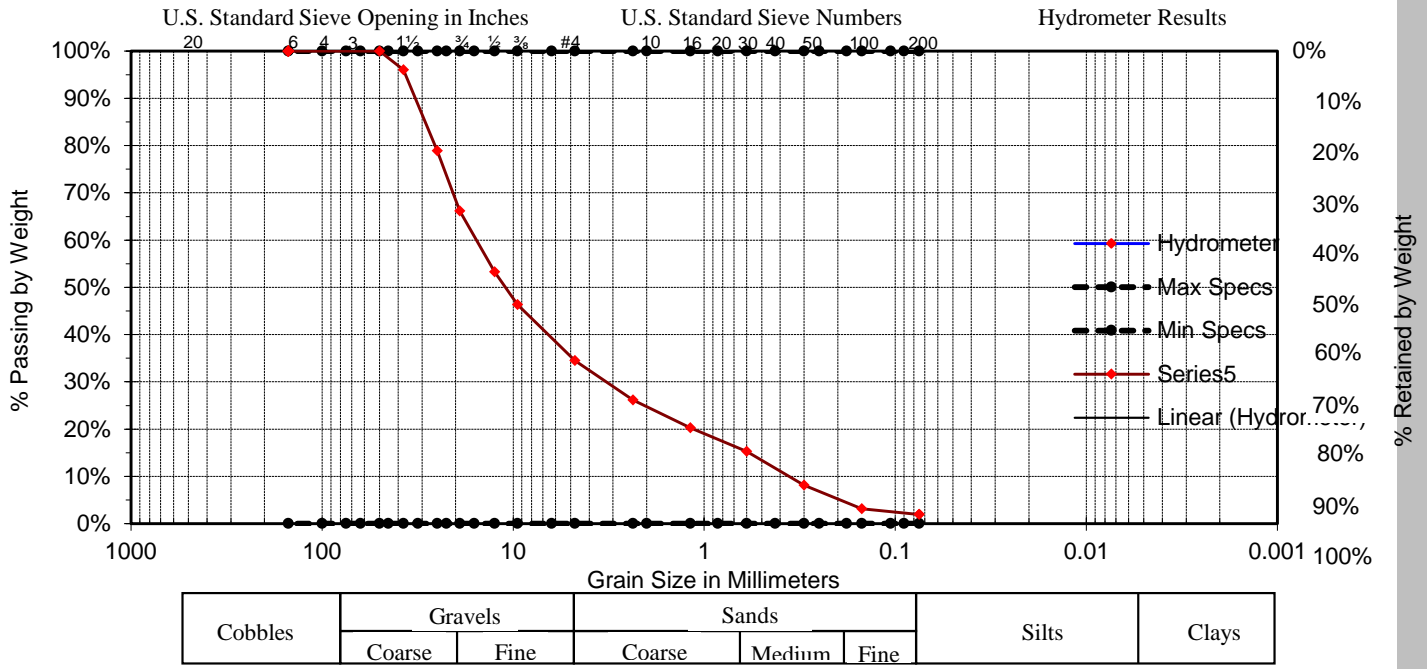


Date : March 14, 2019	D ₁₀ = 0.41	USCS Classification	% Sand
Sample #: TH #6	D ₃₀ = 6.24	GP, Poorly graded Gravel with Sand	25.1%
Sample ID: sandy GRAVEL	D ₆₀ = 17.40	Specifications	% Gravel
Source:	C _c = 5.52	No Specs	73.1%
Project: Beaver Lp	C _u = 42.95	Sample Meets Specs	% Silt & Clay
Location: City of Kenai	Liquid Limit= n/a	n/a	1.8%
Boring #: 6	Plastic Limit= n/a	Fineness Modulus	
Depth: 10.0'	Plasticity Index= n/a	6.11	

Coarse Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing			Fines Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing		
Sieve Size US	Metric			Specs Max	Specs Min	Sieve Size US	Metric			Specs Max	Specs Min
6.00"	150.00		100.0%			#4	4.750	26.9%	26.9%		
4.00"	100.00		100.0%			#8	2.360	22.6%	22.6%		
3.00"	75.00		100.0%			#10	2.000		21.5%		
2.50"	63.00		100.0%			#16	1.180	19.1%	19.1%		
2.00"	50.00	100.0%	100.0%			#20	0.850		16.6%		
1.75"	45.00		97.6%			#30	0.600	14.7%	14.7%		
1.50"	37.50	94.1%	94.1%			#40	0.425		10.5%		
1.25"	31.50		86.4%			#50	0.300	7.5%	7.5%		
1.00"	25.00	78.1%	78.1%			#60	0.250		5.9%		
7/8"	22.40		72.2%			#80	0.180		3.6%		
3/4"	19.00	64.5%	64.5%			#100	0.150	2.7%	2.7%		
5/8"	16.00		56.1%			#140	0.106		2.2%		
1/2"	12.50	46.3%	46.3%			#170	0.090		2.0%		
3/8"	9.50	36.7%	36.7%			#200	0.075	1.8%	1.8%		
1/4"	6.30		30.1%			#270	0.053				
#4	4.75	26.9%	26.9%								

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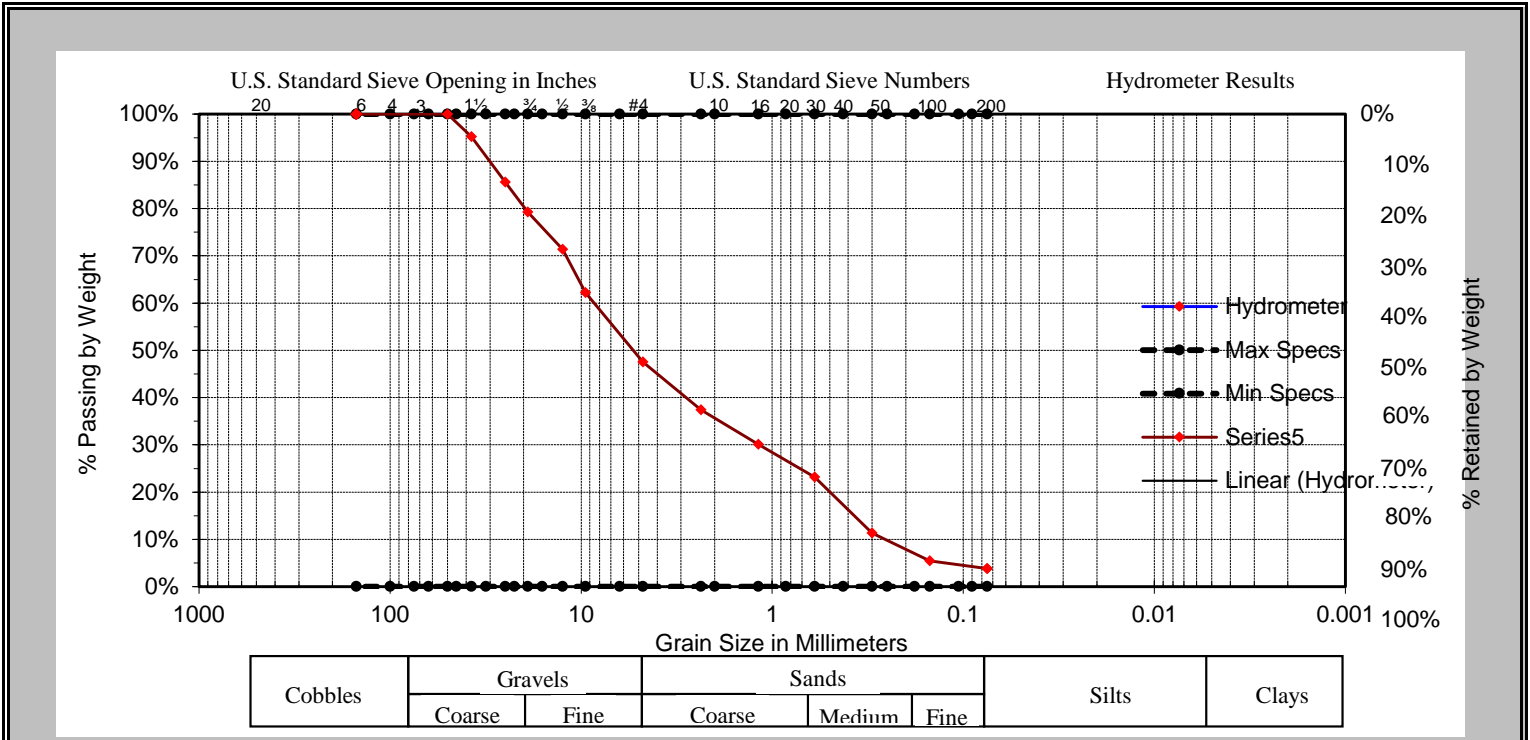


Date : March 14, 2019	$D_{10} = 0.38$	USCS Classification	% Sand
Sample #: TH #9	$D_{30} = 3.46$	GW, Well-graded Gravel with Sand	32.6%
Sample ID: sandy GRAVEL	$D_{60} = 15.89$	Specifications	% Gravel
Source:	$C_c = 1.99$	No Specs	65.5%
Project: Beaver Lp	$C_u = 41.92$	Sample Meets Specs	% Silt & Clay
Location: City of Kenai	Liquid Limit= n/a	n/a	1.9%
Boring #: 9	Plastic Limit= n/a	Fineness Modulus	
Depth: 9.5'	Plasticity Index= n/a	5.84	

Coarse Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Specs Max	Specs Min	Fines Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Specs Max	Specs Min
Sieve Size US	Metric					Sieve Size US	Metric				
6.00"	150.00		100.0%			#4	4.750	34.5%	34.5%		
4.00"	100.00		100.0%			#8	2.360	26.1%	26.1%		
3.00"	75.00		100.0%			#10	2.000		24.3%		
2.50"	63.00		100.0%			#16	1.180	20.3%	20.3%		
2.00"	50.00	100.0%	100.0%			#20	0.850		17.4%		
1.75"	45.00		98.4%			#30	0.600	15.2%	15.2%		
1.50"	37.50	96.0%	96.0%			#40	0.425		11.1%		
1.25"	31.50		87.8%			#50	0.300	8.1%	8.1%		
1.00"	25.00	78.9%	78.9%			#60	0.250		6.5%		
7/8"	22.40		73.3%			#80	0.180		4.1%		
3/4"	19.00	66.1%	66.1%			#100	0.150	3.1%	3.1%		
5/8"	16.00		60.2%			#140	0.106		2.4%		
1/2"	12.50	53.3%	53.3%			#170	0.090		2.2%		
3/8"	9.50	46.4%	46.4%			#200	0.075	1.9%	1.9%		
1/4"	6.30		38.4%			#270	0.053				
#4	4.75	34.5%	34.5%								

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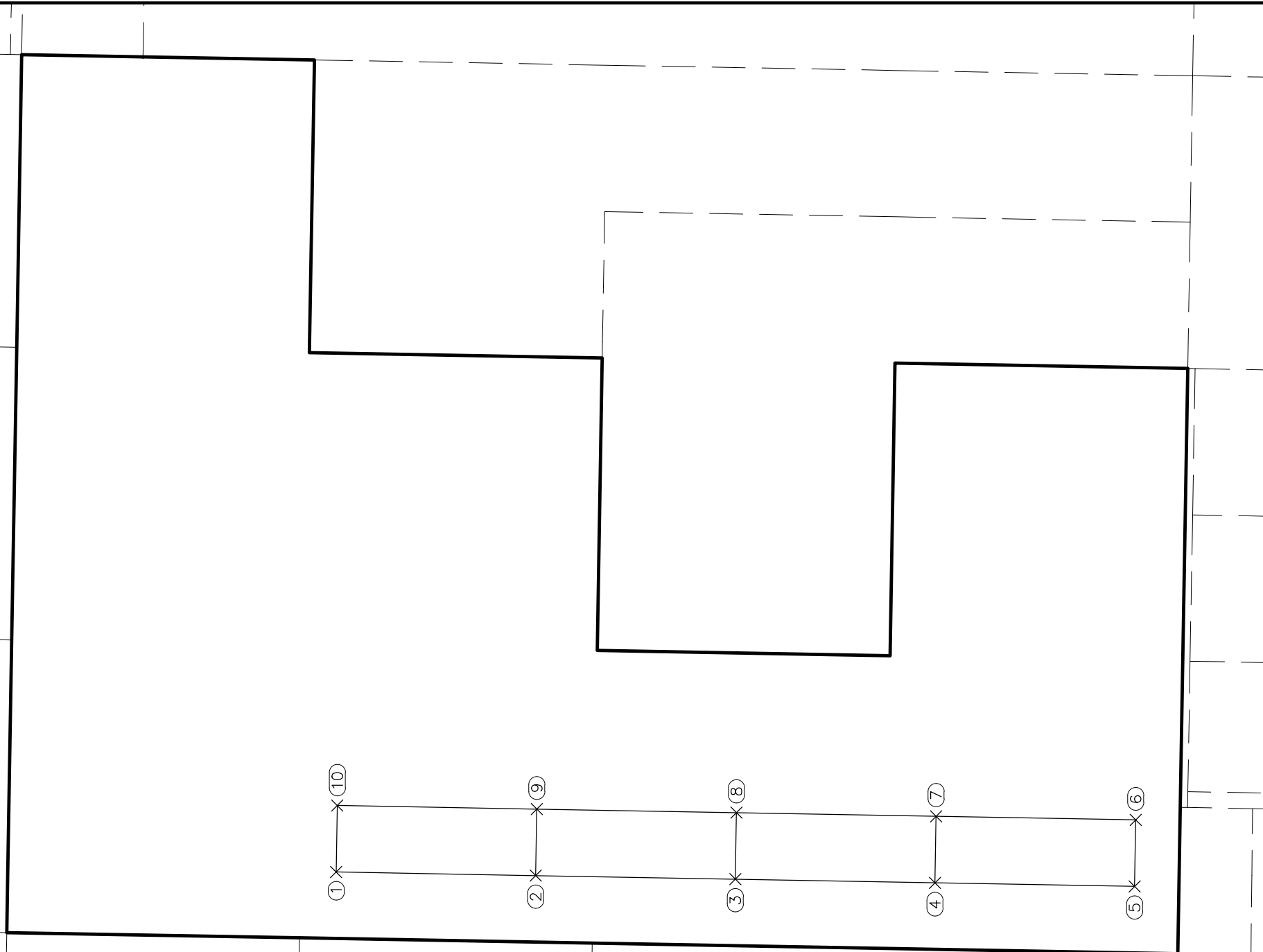
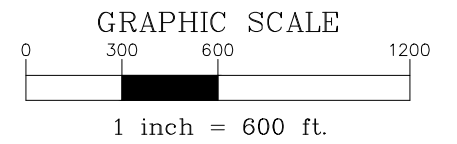
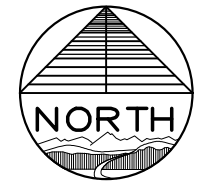
WAQTC FOP
for
AASHTO T27/T11



Date : March 14, 2019 $D_{10} = 0.27$ **USCS Classification** % Sand
 Sample #: TH #10 $D_{30} = 1.17$ GP, Poorly graded Gravel with Sand 43.7%
 Sample ID: sandy GRAVEL $D_{60} = 8.78$ **Specifications** % Gravel
 Source: $C_c = 0.59$ No Specs 52.4%
 Project: Beaver Lp $C_u = 33.10$ Sample Meets Specs % Silt & Clay
 Location: City of Kenai Liquid Limit= n/a n/a 3.8%
 Boring #: 10 Plastic Limit= n/a Fineness Modulus
 Depth: 8.0' Plasticity Index= n/a 5.08

Coarse Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Specs		Fines Section		Actual Cumulative Percent Passing	Interpolated Cumulative Percent Passing	Specs	
Sieve Size US	Metric			Max	Min	Sieve Size US	Metric			Max	Min
6.00"	150.00		100.0%			#4	4.750	47.6%	47.6%		
4.00"	100.00		100.0%			#8	2.360	37.4%	37.4%		
3.00"	75.00		100.0%			#10	2.000		35.2%		
2.50"	63.00		100.0%			#16	1.180	30.1%	30.1%		
2.00"	50.00	100.0%	100.0%			#20	0.850		26.2%		
1.75"	45.00		98.1%			#30	0.600	23.2%	23.2%		
1.50"	37.50	95.2%	95.2%			#40	0.425		16.3%		
1.25"	31.50		90.6%			#50	0.300	11.4%	11.4%		
1.00"	25.00	85.6%	85.6%			#60	0.250		9.4%		
7/8"	22.40		82.9%			#80	0.180		6.6%		
3/4"	19.00	79.3%	79.3%			#100	0.150	5.5%	5.5%		
5/8"	16.00		75.6%			#140	0.106		4.5%		
1/2"	12.50	71.4%	71.4%			#170	0.090		4.2%		
3/8"	9.50	62.2%	62.2%			#200	0.075	3.8%	3.8%		
1/4"	6.30		52.3%			#270	0.053				
#4	4.75	47.6%	47.6%								

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CONTROL TABLE				
POINT #	LATITUDE	LONGITUDE	NORTHING	EASTING
1	N 60° 32' 47.0"	W 151° 11' 45.3"	2393553'	1425130'
2	N 60° 32' 47.0"	W 151° 11' 27.3"	2393537'	1426030'
3	N 60° 32' 47.0"	W 151° 11' 09.3"	2393520'	1426930'
4	N 60° 32' 47.0"	W 151° 10' 51.3"	2393504'	1427830'
5	N 60° 32' 47.0"	W 151° 10' 33.3"	2393488'	1428729'
6	N 60° 32' 49.9"	W 151° 10' 33.3"	2393788'	1428735'
7	N 60° 32' 49.9"	W 151° 10' 51.3"	2393804'	1427835'
8	N 60° 32' 49.9"	W 151° 11' 09.3"	2393820'	1426935'
9	N 60° 32' 49.9"	W 151° 11' 27.3"	2393837'	1426035'
10	N 60° 32' 49.9"	W 151° 11' 45.3"	2393853'	1425135'

BEAVER LOOP ROAD

TEST HOLE LAYOUT

Date: 3/5/2019
 Job No: 194008 Field Book No: N/A



Consulting Inc

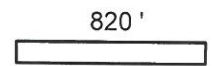
ENGINEERING - TESTING
 SURVEYING - MAPPING
 P.O. BOX 468
 SOLDOTNA, AK. 99669
 VOICE: (907) 283-4218
 FAX: (907) 283-3265
 WWW.MCLANECG.COM

REV1



Southernmost portion of a 320 acre parcel described as the SW 1/4 NW 1/4; SW 1/4, and NE 1/4 SE 1/4 Section 3, T5N, R11W (KPB# 04901022)

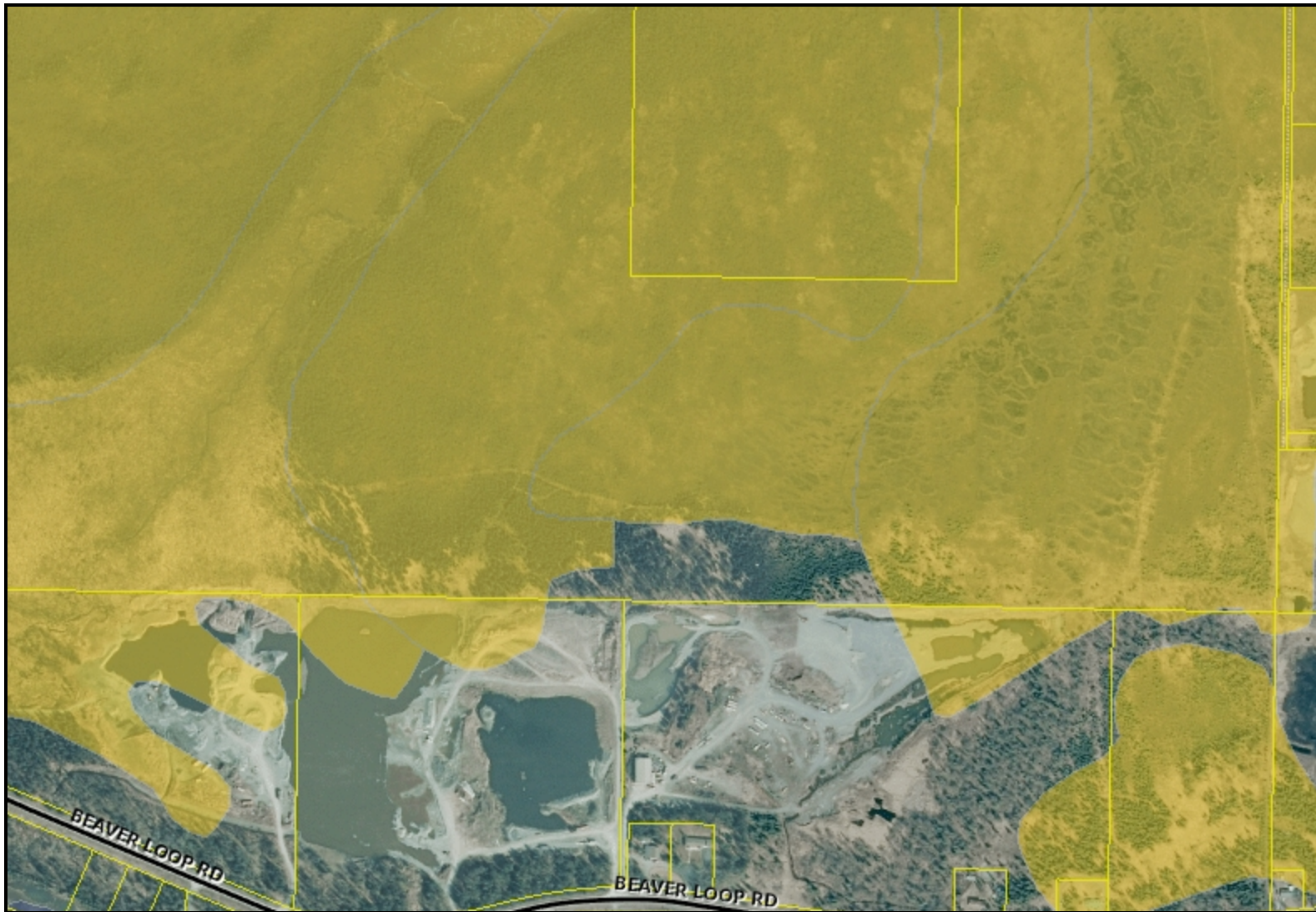
X Test hole



1 inch equals 802 feet

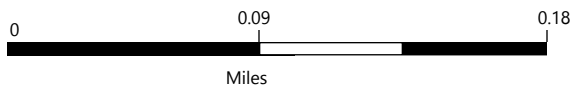
The information depicted here on is for graphic representation only of the best available sources. The City of Kenai assumes no responsibility for errors on this map.

Exhibit A Date: 2/11/2019



Legend

- KPB Boundary
- Highways
- Major Roads
- Roads**
 - Town Medium Volume
 - Town Low/Seasonal; Other
 - Proposed
- Parcels
- National Wetlands Inventory**
 - <all other values>
 - Estuarine and Marine Wetland
 - Freshwater Emergent Wetland
 - Freshwater Forested/Shrub Wetland
 - Estuarine and Marine Deepwater
 - Freshwater Pond
 - Lake
 - Riverine
 - Other
- Boundary
- Footprint
- Image**
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. This application was designed to provide information about landcover types on the Kenai Peninsula. It is intended for general informational purposes only and should not be used in place of any official information from an authoritative agency. All the datasets herein were mapped at a scale describing a much larger area than most parcels and therefore land cover boundaries may not match exactly with your property lines. Furthermore, land cover can change over time and the characteristics of a type may vary seasonally. The data displayed herein is neither a legally recorded map nor survey and should only be used for general reference purposes. It is not intended to be used for measurement. Kenai Peninsula Borough assumes no liability as to the accuracy of any data displayed herein. Original source documents should be consulted for accuracy verification.



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Mary Bondurant, Airport Manager
DATE: April 4, 2019
SUBJECT: **April Mid-month Report**

2018 Terminal Rehabilitation Project – Construction: This project is well under way. The Upper Deck is closed from April 1 through May 31, 2019. All Departure and Arrival traffic is at the north end of the terminal, south entrance is closed off.

2019 Airfield Marking, Crack Sealing, & Pavement Repair (Design) – The plans, specs, and Construction Safety & Phasing Plan (CSPP) are being reviewed by the FAA. The project will bid in April 2019.

2019 Alaska Fire Training Facility Rehabilitation – A Request for Proposal for design was advertised with a due date April 4, 2019.

In-house Activities –

Airport Administration continues to work with City Administration on revisions to Title 22 on Disposition of City-Owned Lands.

Airport Operations is busy with spring cleanup of the airfield, terminal grounds, and snow removal equipment maintenance.

Great Aviation Gathering – Airport Manager and Administrative Assistant will be in Anchorage from May 3-5, 2019 promoting the Airport and the 2019 Kenai Peninsula Air Fair. Our booth is #191 – Stop by and see us!!

SOA Airports Conference – Airport Manager and Operation Specialists will be attending this bi-annual conference May 7-9, 2019 in Anchorage. This is an excellent opportunity to network with other Alaska airports to discuss maintenance projects, innovations in day to day operations,



EOC/lessons learned from central region earthquake, communications, air carrier concerns and issues, airfield condition reporting, changes to fleet, winter events and after hour fees, maintenance management systems, UAS issues, PFAs, and fueling safety, etc.

19th Annual Kenai Peninsula Air Fair - Mark your calendar for Saturday, June 8th! The poster and t-shirt are designed and ready to print. We are very excited to have the 9th Army Band for live music!

FAA Certification Inspection – The annual FAA 139 certification inspection will be held June 25-27, 2019.

Tri-annual Mass Casualty – A requirement of CFR 139.325 for a holder of a Class 1 Airport Operating Certificate is a full-scale airport emergency plan exercise at least once every 36 consecutive calendar months. This drill is scheduled for October 2, 2019.



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Terry Eubank, Finance Director
DATE: April 11, 2019
SUBJECT: Finance Department, April Mid-month Report

For the last few months much of the department's focus on the preparation of the City's FY2020 Budget. Budget Ordinance introduction is scheduled for the May 1st Council meeting, the Budget worksession is scheduled for Thursday, April 18th and Budget adoption on May 15th. City code requires adoption by June 10th. The Resolution establishing the 2019 mill rate will be included in the packet for adoption May 15th to coincide with adoption of the FY2020 Budget.

The department in conjunction with Stormy in Human Resources, is working on a renewal plan with PREMERA Blue Cross Blue Shield of Alaska for employee health care insurance. A resolution authorizing renewal will be before Council for passage once negotiations are complete.

The department submitted its property, liability and workers' compensation insurance premium credit application for the upcoming renewal year. This is a large document that takes cooperation from all departments. Special thanks is owed to Ms. Feltman of Public Works for her assistance in putting the document together. This document is a bit time consuming but has reduced the City's insurance costs by an average of \$40,000 per year. The document shows the commitment to safety, training and education by the City and its employees.

Renewal of the City's other insurances is also underway. A resolution authorizing a contract for coverage for FY2020 will be before Council after a selection is made. The City's current three-year agreement expires on June 30th. With the expiration of the agreement we have solicited coverage from alternate vendors to assure the City is getting the best value and coverage.





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Jeff Tucker, Fire Chief
DATE: April 8, 2019
SUBJECT: **March Fire Department Mid-Month Report**

March saw the department respond to 107 calls for service. In comparison during March of 2018 we responded to 124 calls for service. For the first quarter of the year the department has seen an increase of 13.44% in calls for service as compared to the first quarter of 2018 and an 18.42% increase over the proceeding five year average.

In preparation for the upcoming wildland firefighting season all department members have completed their annual refresher training taught by the Alaska Division of Forestry. The department has also placed in service both of our pick-up trucks with our forestry slide-in units that include water tanks and pumps as well as placing wildland gear on our engines. Reports so far indicate that Alaska may be in for a busy wildland season.

The department along with the Safe Kids Coalition hosted a car safety check event on March 28th.





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MEMORANDUM

TO: Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Mary Jo Joiner
DATE: April 1, 2019
SUBJECT: Library Mid-Month Report

March Circulation Figures

Adult Fiction	1,262	Internet Access	824
Adult Non-Fiction	1,034	iPad use	186
Young Adult Fiction	187	Games	6
Periodicals	83	Room Booking	163
Juvenile Fiction	458	Music	84
Juvenile Non-Fiction	441	DVDs	2,219
Easy Fiction	1,091	Audio books	73
Easy Non-Fiction	321	Miscellaneous	114
Interlibrary Loan	3	Computer Programs	
Books – Consortium	349	Media – Consortium	183
Total Print	5,229	Total Non-Print	3,852

	Total Circulation 3/19	9,081	Downloadable Audio	744
	Total Circulation 3/18	9,809	Downloadable EBooks	572
	% change	-7%	% change in downloadable	+28%
	In-House circulation	410		





Library Door Count..... 8,315

Income

Fines	\$ 575.93
Xerox	297.35
Lost/Damaged	28.70
Test Proctoring Fee	60.00
Printing	284.00
<u>Other</u>	<u>2.00</u>
Total income	\$ 1,247.98



Library Cards Issued	March
Kasilof	2
Kenai	21
Nikiski	12
Ninilchik	1
Non-Resident	2
Other Peninsula	2
Soldotna	5
Sterling	1
Total	46

Programs

In March 5 volunteers worked about 34 hours. There were 17 children's programs with 387 total in attendance, and 14 adult and family programs with 101 attendees. In March we ordered 2 interlibrary loan items not available through the consortium and received 2 items, we returned 3 items and loaned 18 items to other libraries who are out of state or not in the consortium.



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Elizabeth Appleby, City Planner
DATE: April 9, 2019
SUBJECT: **Planning and Zoning March 2019 Report**

Below is a summary of activity in March 2019 for the Planning and Zoning Department.

Planning and Zoning Commission Agenda Items and Resolutions

The Planning and Zoning Commission held a training work session to review parliamentary procedures on March 27, 2019.

The Planning and Zoning Commission approved of one conditional use permit and one encroachment permit, and recommended approval of one plat:

- Resolution PZ2019-04 – Application for an Encroachment Permit for an Existing Single-Family Residence Side Yard Setback for the property located at 2730 VIP Drive, Kenai, Alaska, 99611, and further described as Lot 12, Block 3, VIP Ranch Estates Subdivision Part One. The application was submitted by Tom Campanella, 2730 VIP Drive, Kenai, Alaska 99611
- Resolution PZ2019-07 – Application for a Conditional Use Permit to operate a Bed and Breakfast and Guide Service located at 1555 Angler Drive, Kenai, Alaska 99611, and further described as Lot 31, Block 1, Anglers Acres Subdivision Part 2. The application was submitted by Evan and Kathy Harding, 1555 Angler Drive, Kenai, Alaska 99611
- Resolution PZ2019-10 – Original Preliminary Plat of Inlet Woods 2019 Replat, submitted by McLane Consulting, Inc., P.O. Box 468, Soldotna, Alaska 99611, on behalf of the Hall Building LLC, P.O. Box 2829, Kenai, AK 99611

Planning and Zoning staff approved of one site plan administratively:



- Resolution PZ2019-06 – Application for a landscaping/site plan approval for ACG, LCC located at 12516 Kenai Spur Highway, Kenai, Alaska 99611, and further described as Lot 2, C Plaza Subdivision. The application was submitted by Roger Boyd.

The Planning and Zoning Commission did not pass one resolution recommending changes to Kenai Municipal Code:

- Resolution PZ2019-11 – In Support of Ordinance 3061-2019 Amending KMC 14.20.330 – Definitions, 14.20.330-Standard for Commercial Marijuana Establishments and 14.22.010-Land Use Table, to Incorporate Onsite Consumption of Marijuana at Retail Marijuana Establishments into the City of Kenai’s Code of Ordinances

Lands, Economic Development, and Outreach

The temporary lands staff-person is making progress research City-owned lands, which will be used to create a Land Management Plan.

The City Planner and Administration met to clarify lands processes and tracking and following up with City lands contacts.

City staff met to discuss Kenai Municipal Code for City-owned properties.

The City Planner attended a board meeting of the Kenai Peninsula Borough Alaska LNG Project Advisory Committee.

The funding application for a Bridge Access Road pedestrian pathway submitted to the Alaska Department of Transportation and Public Facilities (ADOT&PF) for Alaska Transportation Alternatives Program (ATAP) funding was approved by ADOT&PF to move forward for review by the Federal Highway Administration, with the next communication with the City about the funding application expected to be June 1, 2019.

Plans and Reports

The City Planner met to discuss the Kenai Peninsula Coordinated Public Transit-Human Services Transportation Plan, with a draft plan expected to be released in May 2019.

Code Enforcement (Complaint Responses and Community Outreach Measures)

2 cases were opened in March 2019:

- 1 – Junked or Abandoned Vehicles
- 1 – Garbage



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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Scott Curtin, Public Works Director
DATE: April 2019
SUBJECT: Mid-Month Report; Public Works / Capital Projects

- Terminal Building Rehabilitation Project – Blazy Construction was issued a Notice to Proceed on October 1, 2018. The project is approximately 27% complete to date. Inside the facility the new Car Rental areas and Airline Tenant space 2 have now been drywalled and painted with flooring and cabinetry expected by the end of April. The first new baggage conveyor system has been installed, is operational, and staff has been trained on its operation. The lounge is now closed for remodeling from April 1st-May 31st. On the exterior the roof abatement has begun, new roofing installation is set to begin April 17th and expected to run into mid-May due to the number of phases. Project Completion date remains scheduled for February 2, 2020. The A/E Team and Contractor have processed roughly 90% of the required submittals, as well as responding to 157 RFIs to date. The project is proceeding well.



Abatement



New Baggage Conveyor



- Automated Flight Service Station Renovations Phase 3 (Interior remodel) – Invitations to Bid were released on November 16, 2018 with Bids due on December 14, 2018. Ordinance 3049-2019 was enacted on February 20, 2019 accepting additional Funding from the FAA for the Project to be completed as requested. Polar North Construction was issued a formal Notice of Award on February 27, 2019; Agreement has been executed with a Notice to Proceed issued on March 14, 2019. Submittals are being processed, however work has yet to begin due to additional unanticipated requirements from the FAA.
- WWTP Improvements – The combined Aeration Blower Replacement / DO Probes project Invitation to Bid was released on February 13, 2019 with Bids due on March 27, 2019. Two Bids were received with Peninsula Construction being the lowest responsive and responsible bidder. The City elected to execute a deductive alternate #1 which removed the digester blowers and associated DO probe from the project for budget purposes. Executed Contract is for \$1,035,000.00 and shall provide for complete replacement of the three Aeration Basin Blowers and associated DO Probes and analyzer. Project is anticipated to take place throughout the summer with completion in the fall. Council approved the project through Resolution 2019-21 at the April 3, 2019 meeting. Notice to Award was issued to Peninsula Construction on April 10, 2019.



Blower



Dissolved Oxygen Probe

- Dock repair – The City Dock received some new damages as a result of the November 30, 2018 Earthquake. Public Works and Finance are coordinating with the insurance company to complete an Engineer's assessment of the damages. Anticipating the current project documents being modified to account for the new damages. Invitations to Bid for this project will likely be April 2019.





- Purchase Street Sweeper – Bid was awarded to Yukon Equipment and Street Sweeper is expected to deliver in late April 2019.



- Recreation Center Improvements – Repairs to correct the exterior grading / drainage will take place May/June 2019. Remaining grant funds are expected to be used by end of fiscal year June 30th.



- Kenai Cemetery Expansion 2018 – Design Documents are 100% complete. Project will bid late winter for a May/June 2019 construction start.
- Peninsula Avenue Bluff Erosion 2018 – Design Documents are now 100% complete. Project Area continues to be monitored throughout the winter months for additional erosion. Invitations to Bid will be released late winter for a May/June 2019 construction start. Early March 2019 Public Works Staff removed trees near the roadway erosion to allow trucks to quickly access in the event breakup occurs too quickly.
- Alaska Regional Fire Training Facility – RFP for Engineering, Design, and Construction Administration Services Released March 14, 2019 with Proposals due on April 4, 2019. One Proposal was received Morrison Maierle, the same firm that originally designed the facility. Public Works is coordinating with the Airport and the FAA with RFP Evaluations and the steps involved with awarding a Design Agreement.



- USACE Bluff Erosion – See City Manager’s report. Director’s Report from the Army Corp of Engineers was signed April 10, 2019.
- DOT KSH Rehabilitation (Widening to 5 lanes) Phase 1 Swires Rd. to Eagle Rock Dr. was bid on March 30, 2018. City of Kenai water main replacement crossing KSH at Shotgun/Beaver Loop designed, funded, and will be bid with DOT project. Construction has not started back up for the season
- DOT KSH Rehabilitation (Widening to 5 lanes) Phase 2 Eagle Rock Dr. to Sports Lake – ADOT advises this project will take place 2019.
- DOT Beaver Loop Road and Pedestrian Pathway Project – ADOT advises construction may be possible in 2019.





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Kathy Romain, Senior Center Director
DATE: March 11, 2019
SUBJECT: February 2019 Monthly Report

Congregate Meals Served (Dining Room)	1235
Home Delivered Meals	1432
Volunteer Hours	(48 individuals) 788
Unassisted Transportation Rides	347
Assisted Transportation Rides	146
Social Security Video Service	48 individuals
Senior Center Rentals	0
Total Events Sign Ins (through MySeniorCenter)	2,258
Total Unduplicated Participants (through MySeniorCenter)	241

- March activities included a No-Host Dinner to Rocky’s Café in Kasilof, a music-filled St. Patrick’s Day Party and the finishing up a two month Anyone Can Draw class.
- Spotighting Volunteer Velda Geller this month as she is a regular face around the Senior Center. Velda serves as the President of Kenai Senior Connection, Inc., and on the Council on Aging. She also monitors the Social Security Video Conferencing two Wednesdays each month and helps put together the monthly newsletter. Velda is lovingly known as the “Energizer Bunny” around the Center as she never ceases to amaze everyone with her tireless efforts.
- The 10th Annual March for Meals Fundraiser was wonderfully successful! Pies went for hundreds of dollars with the crown jewel being a homemade Cherry Pie topped off with a ride on a Kenai Fire Engine. Silent auctions and donations came from all over the State of Alaska and the evening was a sellout! Our own crafters and quilters raised over \$1,000 from the Country Store. These grass root efforts are what help make our community such a great place to live.





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
THROUGH: Dave Ross, Police Chief
FROM: Jessica "JJ" Hendrickson, Animal Control Chief
DATE: April 1, 2019
SUBJECT: **March 2019 Monthly Report**

This month the Kenai Animal Shelter took in **50** animals. Animal intake and disposition:

DOGS:				
	INTAKE	19	DISPOSITION	19
	Waiver	4	Adopted	9
	Stray	11	Euthanized	0
	Impound	1	Claimed	10
	Protective Custody	1	Field Release	0
	Quarantine	0	Transferred to Rescue	0
	Other Intakes	2	Other Dispositions	0
CATS:				
	INTAKE	26	DISPOSITION	29
	Waiver	19	Adopted	16
	Stray	7	Euthanized	1
	Impound	0	Claimed	0
	Protective Custody	0	Field Release	0
	Quarantine	0	Transferred to Rescue	11
	Other Intakes	0	Other Dispositions	1
OTHER ANIMALS:				
	INTAKE	5	DISPOSITION	5
	Guinea Pig	5	Guinea Pig	5
	DOA:	8	OTHER STATISTICS:	
	Dog	5	Licenses (City of Kenai Dog Licenses)	34
	Cat	2	Microchips (Dog and Cat)	2
	Goat	1		



0	Citations
2	Animal dropped with After Hours (days we are closed but cleaning and with KPD)
71.38	Volunteer Hours Logged
22	Animals are <i>known</i> borough animals
21	Field Investigations & patrols

Statistical Data:

162	2017 YTD Intakes
159	2018 YTD Intakes
178	2019 YTD Intakes





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MEMORANDUM

TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: Robert J. Frates, Parks & Recreation Director
DATE: April 8, 2019
SUBJECT: **Mid-month Report - April**

The winter ice season at the MPF came to an end on March 17 with a total of 35 hours of ice rented. Overall, it was a successful season and, as always, we are very appreciative of all the use groups.

Randy Dodge completed his annual pesticide training in Anchorage on March 13. This training allowed him to keep current with his certification and network with other applicators throughout the state.

The Alaska Department of Corrections (Wildwood Correctional Complex) constructed ten (10) picnic tables for the department.

Grooming operations at the Kenai Nordic Trails concluded mid-March. The Daubenspeck pond was also closed for outdoor ice skating mid-March.

Staff have shifted gears and are now performing some pre-season maintenance tasks (cleaning sidewalks, sand removal, picking up litter and ballfield preparation). Kenai Central High school hosts their first softball game of the season April 12 followed by baseball beginning of May.

Another primary area of focus has been the removal of spruce bark beetle trees and inspecting park and outdoor space areas for syringes. Areas impacted by spruce beetle activity include Municipal Park, Ryan's Creek Trail and Elson Rest Stop (near Silver Salmon Dr.).

The department has received 20 hours community service work to date for the month of April.





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MEMORANDUM

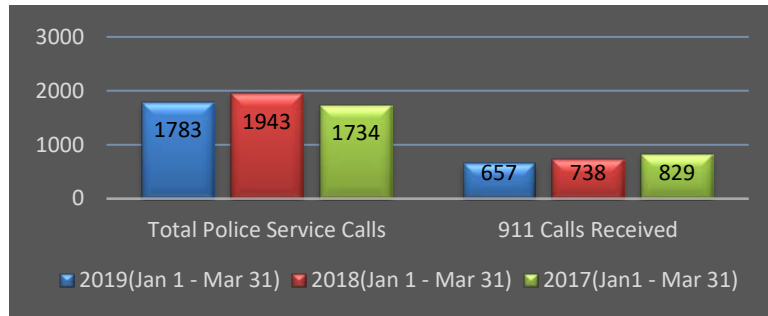
TO: Mayor Brian Gabriel and Kenai City Council
THROUGH: Paul Ostrander, City Manager
FROM: David Ross, Police Chief
DATE: April 8, 2018
SUBJECT: **Police & Communications Department Activity – March 2019**

Police handled 614 calls for service in March. Dispatch received 190 9-1-1 calls. Officers made 48 arrests. Traffic enforcement resulted in 81 traffic contacts and 32 traffic citations.

There were 5 DUI arrests. Officers investigated 8 motor vehicle crashes. There was 1 collision involving a moose. There were no collisions involving drugs or alcohol.

March training included: Three investigators attended Child Advocacy Center training in Kenai. The KPD officer on the SERT team attended two days of training. Two officers attended interview training in Anchorage. One officer attended a Drug Recognition Expert (DRE) training in Anchorage. A department wide scenario based inservice training was held. Two dispatchers attended APSIN training in Soldotna.

In addition to handling police calls in various schools, the School Resource Officer taught cellphone and internet safety classes to Kenai Middle School seventh and eighth graders.



PURCHASE ORDERS BETWEEN \$2,500.00 AND \$15,000.00 FOR COUNCIL REVIEW

COUNCIL MEETING OF: APRIL 17, 2019

VENDOR	DESCRIPTION	DEPT.	ACCOUNT	AMOUNT
SPILLMAN TECHNOLOGIES	UPGRADE	COMMUNICATIONS	REPAIR & MAINTENANCE	9,771.80



April 2019 Newsletter

Kenai Historical Society

P.O. Box 1348
Kenai, Alaska 99611

Officers:

President—June Harris
Vice President—Virginia Walters
Secretary—Sharon Fisher
Treasurer—Ron Fullinck

Board of Directors:

Jim Glendenning	Joe Harris
Henry Knackstedt	Bill Nelson
Marion Nickelson	Frosty Walters

Preserving History

I have begun the process of interviewing Joanna Hollier in order to record the history of air service to and from Kenai. Joanna was involved in air service from the 1940s and off and on for many years. One never knows where an interview will go and what stories may come about, but part of what will be learned is how the airport grew and changed in the decades since she arrived to be a part of the story.

The following pages contain photos that I gleaned from the Facebook website “A Work in Progress—Growing up on the Kenai”. Many people post photos on this site and it is an endless source of history of Kenai, Soldotna, Sterling, Kasilof, and other communities on the Kenai Peninsula. The group has been organizing for several years and are working towards producing a book that I have long believed would be a wonderful sequel to “Once Upon the Kenai”.

INSIDE THIS ISSUE:

- PRESERVING HISTORY
- MARCH 2019 MEETING MINUTES
- ANNOUNCEMENTS

KENAI HISTORICAL SOCIETY NEWSLETTER

Written by Sharon Fisher

If you would like to contribute ideas and information to the newsletter, please contact me at 776-8254. I welcome and would entertain any ideas you may have for articles, and would appreciate being contacted if you see errors in the information contained in the newsletter.

Taken 1952 Kenai. Look at runway mats.
and Pacific Northern Airlines plane.
Photo appears in “A Work in Progress—
Growing Up on the Kenai”



Photo from Al Hershberger for “Growing Up On the Kenai, A Work in Progress”:

A cold winter day, Kenai airport 1952.

Photos and comments from “A Work in Progress—Growing Up on the Kenai”

[Joanna Hollier](#) “The last flight out of Kenai (was on) Dec. 31, 1981. Back to Anchorage I went.”

Editor’s note: she is referring to the date that Wein closed down their Kenai operation.

[Glenn Tauriainen](#) “Less than \$100 from Kenai to Seattle”.

Editor’s note: he is referring to the cost to fly direct from Kenai to Seattle.

Wein Air Alaska on the runway of Kenai Airport.



The infamous AAI, flights from Anchorage to Kenai (and Homer, as well). The somewhat sketchy reputation of this airline was probably not really deserved, but there were enough “interesting experiences” that people actually told their personal horror stories at social gatherings—kind of a badge of courage to have taken a flight with them and survived the experience, I guess. Editor



[Jim Taylor](#) We called it Scare Air, 12 flights daily.

[Henry Knackstedt](#) Almost Airborn Industries. Still lots of lost baggage up in the Moose Range

[Tim Humecky](#) AAI flew those Otters. When you landed I could see the wheel bearings in those wheels. Used to scare the crap out of me. Alaska Scareanautical we called them. Good planes though.

[John Sharon Williams](#) AAI..... Ask About Insurance



P.O. Box 1348
Kenai, AK 99611

kenaihistory@gmail.com

MARCH 2019 MINUTES *** NOT ABBREVIATED

On Sunday, March 3, 2019, the Kenai Historical Society met at the Kenai Visitor's and Convention Center in Kenai. President June Harris opened the meeting at 1:34 p.m.

The minutes of the February 2019 meeting were reviewed by the membership and with two typos to be corrected were approved as written.

The treasure report shows the Alaska USA checking balance stands at \$13,576.12 and our Credit Union Money Market account balance is \$10,321.40. The Edward Jones Account as of February 28, 2019 is \$24,592.49 and a loss of \$1790.66 and a total value of \$24,592.49 on an invested amount of \$25,541.10. The Kenai Community Foundation balance as of December 31, 2018 stands at \$57,164.03 (from \$50,000.00 invested on February 18, 2016). A motion to approve by Virginia Walters, seconded by Paula Bute, this report was approved unanimously.

Old Business:

The Cabin Fund Balance of \$13,078.37., with \$5050.00 salary for the 2019 summer cabin guide. The City Manager wants a security system installed and is seeking a grant. This system would put cameras by the North Beach fence, Art Guild, the individual cabins, and Dr. Pete's cabin. The City of Kenai has no record of the transfer of the cabins. Need to look through our records to see if there is any record.

New Business:

We need to thank Joanna and the staff of the Visitor Center for the use of this meeting space.

The next meeting is scheduled for April 7, 2019, and the speaker will be Ray Rawley.

Howard Hill moved and Joe Harris seconded the close of today's business meeting.

Today's speaker is Terri Wilson with a visual presentation of the 1964 earthquake.

Respectfully submitted by Sharon Fisher, Secretary.

KENAI HISTORIC SOCIETY

Our Organization

There has been a Historic Society since the days before Kenai becoming a city. The Society was formed a few years before Statehood in 1959, and then went inactive in the early 60's. It restarted in the latter part of the 60's and has met regularly since. The Society had a museum in Fort Kenay for some years, and then continued to meet after that closed. The non-profit Society implemented and operates the Kenai Historic Cabins Park, open for tours in the summer months. We have office space at the Moosemeat John cabin, but are not open to the public in that building. Our member meetings are Sept., Nov., Dec., Jan., Feb., Mar., and April at the Kenai Visitor Center. For Oct. and May, we meet with the Kenai Peninsula Historical Association. Please check the Meetings and Announcements section on this page for date information.

MEETINGS AND ANNOUNCEMENTS

Kenai Historical Society Monthly Meeting

April 7, 2019—1:30 p.m.

Kenai Visitor Center

Speaker—Ray Rawley

Kenai Peninsula Historical Association

Spring Meeting

May 4, 2019 at 10:00

**Seward Library-Museum Community Room 239
6th Avenue Seward. This room is across the lobby
from the Museum which will be open for the meet-
ing, to show off some of the new exhibits!**

Kenai Historic Society
P.O. Box 1348
Kenai, AK 99611

Phone: 283-1946
Phone: 776-8254
E-mail: ak.kyaker@yahoo.com

[www.facebook.com/Kenai-
Historical-Society](http://www.facebook.com/Kenai-Historical-Society)

PLEASE
PLACE
STAMP
HERE





United States Department of the Interior



U.S. FISH AND WILDLIFE SERVICE
1011 East Tudor Road
Anchorage, Alaska 99503-6199

IN REPLY REFER TO:
AFES/MMM

MAR 27 2019

Mr. Brian Gabriel
Mayor
Kenai City
210 Fidalgo Avenue
Kenai, Alaska 99612



Dear Mr. Gabriel:

The U.S. Fish and Wildlife Service (Service) has published in the *Federal Register* (84 FR 10224, March 19, 2019) proposed Incidental Take Regulations (ITR) under the Marine Mammal Protection Act of 1972 (MMPA). If finalized these ITRs would authorize the incidental take of small numbers of northern sea otters (*Enhydra lutris kenyoni*) in Cook Inlet, Alaska. The Service is interested in any comments you may have on these proposed regulations.

Under the MMPA, otherwise prohibited actions that result in taking of marine mammals may be authorized by the Service. We received a request to allow the incidental take of small numbers of northern sea otters during oil and gas exploration, development, production, and transportation activities in the Cook Inlet between May 2019 and April 2024. These proposed activities will be conducted by Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation, which have requested the ITRs. Their work will include marine seismic surveys, exploratory drilling, pipeline work, and dock construction. The ITRs would authorize harassment, which includes disturbance, to northern sea otters; however, no lethal take would be authorized under these proposed regulations.

Before proposing these regulations, the Service evaluated the effects of the requested ITRs and prepared a draft Environmental Assessment (EA) in compliance with the National Environmental Policy Act. We made preliminary determinations that take from the activities will affect a small number of northern sea otters, will have a negligible impact on the affected stocks of northern sea otters, and will not have an unmitigable adverse impact on the availability of northern sea otters for subsistence uses. We also made a preliminary determination that authorization of take of sea otters will have no significant impact on the human environment. We also identified mitigation measures that Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation will be required to implement in order to ensure their work will have the least practicable adverse impact on northern sea otters and their habitat in the Cook Inlet.

The proposed ITRs, including our analysis of effects, the proposed authorization, the draft EA, and the supporting documents provided by the applicants are now available for public review and comment. In order to view these documents or to provide the Service with comment, visit www.regulations.gov and search for docket number: FWS-R7-ES-2019-0012. The Service will accept comments on these proposed regulations until April 3, 2019.

We will review all comments prior to making a final determination. Should you have questions, please contact Regulatory Program Supervisor, Mr. Christopher Putnam, by email at christopher_putnam@fws.gov or by phone at 907-786-3844.

Sincerely,

A handwritten signature in blue ink, appearing to read "Putnam", with a stylized flourish at the end.

Chief, Marine Mammals Management

Executive Board:

Chair: Buddy Custard
Alaska Maritime Secretary:
Prevention & Response Network

Chair-Elect: Open

Secretary: Joe Gerace
Dimond Chevron

Board Members at large:

Michael Bourdukofsky
ANSEP

Clint Brooks
Fairbanks Memorial Hospital / Denali Center

Simon Brown
Alaska State Defense Force

Peter Chaille
Tatoosh School

Lee Daniels
Wells Fargo Bank, N.A.

Omar Drammeh
State of Alaska

Matthew Fagnani

Brenda Franz
Providence Alaska Medical Center

Mike Guillory
Grainger Industrial Supply

Jim Hickerson
Educational Consultant

Josh Howes
Premier Alaska Tours

Lynn Johnson
Dowland-Bach Corporation

Mark Johnson
GCI Industrial Telecom

Trina Landlord
Alaska Federation of Natives

David Lawer
First National Bank Alaska

John Lewis III
Community Volunteer

Tamera Lienhart
BP Exploration Alaska, Inc.

Christina Livesey
Petrotechnical Resources of Alaska

Sean Murphy
Alaska Regional Hospital

Karen Petersen
Southeast Conference

Gabrielle Rubenstein
Manna Partners

Janet Sheldon
ExxonMobil

Scott Stewart
Arctic Controls, Inc.

Sandra Vasquez
Marsh & McLennan Agency

David Wulf
ConocoPhillips Alaska

Jennifer Yuhaz
Cardinal Point Strategic Resources LLC



American Red Cross
of Alaska

To the Community Leaders of Kenai,

On behalf of the Board of Directors of the American Red Cross of Alaska, thank you for your overwhelming generosity! It is by working hand in hand with dedicated community leaders and volunteers such as yourselves that the American Red Cross is able support Alaskan families, preventing and alleviating human suffering in the face of emergencies.

You have embodied this spirit of collaboration and service by allowing us a space to serve the Kenai Peninsula community, expanding our capacity to provide care, shelter and hope for people in their time of greatest need.

Your caring attitude to your community is an inspiration. Friday's official opening of the American Red Cross of Alaska office Serving the Kenai Peninsula is a momentous event worth celebrating. Thank you!

Sincerely,

A handwritten signature in blue ink, appearing to read "Buddy Custard".

Buddy Custard
Chairman, Board of Directors
American Red Cross of Alaska