

**KENAI HARBOR COMMISSION
REGULAR MEETING
FEBRUARY 8, 2021 – 6:00 P.M.
KENAI CITY HALL
210 FIDALGO AVE., KENAI, AK 99611
Telephonic/Virtual Information Below
<http://www.kenai.city>**

1. **CALL TO ORDER**
 - a. Pledge of Allegiance
 - b. Roll Call
 - c. Election of Chair and Vice-Chair
 - d. Agenda Approval
2. **SCHEDULED PUBLIC COMMENTS** *(Public comment limited to ten (10) minutes per speaker)*
3. **UNSCHEDULED PUBLIC COMMENT** *(Public comment limited to three (3) minutes per speaker; thirty (30) minutes aggregated)*
4. **APPROVAL OF MEETING SUMMARY**
 - a. November 9, 2020.....Pg. 3
 - b. January 25, 2021.....Pg. 6
5. **UNFINISHED BUSINESS**
6. **NEW BUSINESS**
 - a. **Discussion** – Request for Proposals (RFP) 2021 City of Kenai Bluff Bank Stabilization Professional Engineering Services.....Pg. 8
 - b. **Discussion** – KMC Title 11.10 Overview of Commission Responsibilities....Pg. 9
7. **REPORTS**
 - a. Public Works Director
 - b. Commission Chair
 - c. City Council Liaison.....Pg. 10
8. **NEXT MEETING ATTENDANCE NOTIFICATION**
 - a. March 8, 2021
9. **COMMISSIONER COMMENTS AND QUESTIONS**
10. **ADDITIONAL PUBLIC COMMENT**
11. **INFORMATION ITEMS**
 - a. Resolution No. 2021-03.....Pg. 27

12. **ADJOURNMENT**

Join Zoom Meeting

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Meeting ID: 896 3740 9420 **Password:** 947989

OR

Dial in by your Location: (253) 215-8782 or (301) 715-8592

Meeting ID: 896 3740 9420 **Password:** 947989

**KENAI HARBOR COMMISSION
REGULAR MEETING
NOVEMBER 9, 2020 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
COMMISSION CHAIR DUNN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Commissioner Chair Dunn called the meeting to order at approximately 6:00 p.m.

a. Pledge of Allegiance

Commissioner Chair Dunn led those assembled in the Pledge of Allegiance.

b. Roll Call

Roll was confirmed as follows:

Commissioners present: Chair M. Dunn, C. Crandall, B. Bornemann, B. Peters, C. Hutchison, N. Berga

Commissioners absent: J. Desimone

Staff/Council Liaison present: Public Works Director S. Curtin, City Clerk J. Heinz, Council Member J. Glendenning

A quorum was present.

MOTION:

Commissioner Crandall **MOVED** to approve the agenda as written and Commissioner Peters **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. SCHEDULED PUBLIC COMMENTS – None.

3. UNSCHEDULED PUBLIC COMMENT – None.

4. APPROVAL OF MEETING SUMMARY

a. October 12, 2020

MOTION:

Commissioner Crandall **MOVED** to approve the meeting summary of October 12, 2020 and Commissioner Hutchison **SECONDED** the motion. There were no objections; **SO ORDERED**.

5. UNFINISHED BUSINESS – None.

6. NEW BUSINESS

a. Discussion – Project Status Updates

Public Works Director Curtin provided an update on the following:

- City Dock Project: the cathodic protection system is now installed. Will be shutting down soon due to winter weather, and will re-start in the spring for incidental repairs related to grouting and repairing cracks on pier.
- Beach Vault Restroom Project: all of the concrete work and block work is now complete in all four restrooms. Will be working on roof systems over the next 2 weeks, probably will be complete in a month.
- Peninsula Avenue Buff Erosion Project: is now shut down for winter. Only work left is some topsoil and hydroseeding, which will be completed in spring. Project is on-time and on-budget, and is going very well.
- Bluff Stabilization Project: initial kickoff meeting for design phase took place on November 6 with City Manager and managers with the Army Corps of Engineers, with second meeting scheduled for November 12. Next step is hiring an engineering team to start putting project together. Currently waiting on Corps to fund their part of the project.

b. Discussion – Dock Floats Construction, Material Selections

Public Works Director Curtin provided samples of deck material for viewing and discussion. Reported that the goal this winter is to get materials on order, and have the one full run of floats built between January and March 2021.

c. Discussion – Confirmation of Current Capital Projects, Float Replacements, Boat Ramp Concrete Repairs, and Others

Public Works Director Curtin provided an update on the following:

- Boat Ramp Concrete Repairs: Will be asking for \$125,000 in July for the one that is most deteriorated. Noted that it does compete with other projects, and does not know if it will be funded.
- Dredging: hopes to coordinate some of the work with the Army Corps of Engineers while working on the Bluff Stabilization Project. A temporary grant writer is currently being recruited, and plans to seek their assistance writing a grant application.
- Current Capital Projects: noted that he feels comfortable with what they have in Capital Plan, and feels confident current projects will be completed. Provided overview of other minor maintenance and repairs that he plans to have completed.

Other topics discussed included:

- A suggestion to provide fish cleaning tables in parking lot, at which discarded fish material can be collected. Noted that this can be used as an additional revenue stream, as canneries will purchase the fish waste, and would also help control mess during fishing season.
- A request for update on the potential for a drift boat pullout.

7. REPORTS

a. Public Works Director – Nothing Additional to Report

b. Harbor Commission Chair – No Report

c. City Council Liaison – B. Molloy noted the actions of the previous Council Meetings.

8. **NEXT MEETING ATTENDANCE NOTIFICATION** – February 8, 2021

9. **COMMISSIONER COMMENTS AND QUESTIONS**

Commissioner Hutchison inquired about dredging grants, and expressed interest in making the dredging happen.

Commissioners Peters welcomed back B. Molloy as Council Liaison. He expressed his support for the idea of fish-cleaning tables that was presented earlier. Commended Public Works Director and his staff for their work on the Float Replacement Project. Wished happy holidays to the public, administration, and fellow commissioners.

10. **ADDITIONAL PUBLIC COMMENT** – None.

11. **INFORMATION ITEMS** – None.

12. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 6:46 p.m.

Meeting summary prepared and submitted by:

Jamie Heinz, CMC
City Clerk

**KENAI HARBOR COMMISSION
REGULAR MEETING
JANUARY 25, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
COMMISSION CHAIR DUNN, PRESIDING**

MEETING SUMMARY

1. CALL TO ORDER

Chair Dunn called the meeting to order at approximately 6:00 p.m.

a. Pledge of Allegiance

Commissioner Chair Dunn led those assembled in the Pledge of Allegiance.

b. Roll Call

Roll was confirmed as follows:

Commissioners present: Chair M. Dunn, C. Crandall, B. Bornemann, C. Hutchison, N. Berga, D. Peck

Commissioners absent: B. Peters

Staff/Council Liaison present: Public Works Director S. Curtin, Deputy Clerk M. Thibodeau, Council Member B. Molloy

A quorum was present.

MOTION:

Commissioner Crandall **MOVED** to approve the agenda as written and Commissioner Berga **SECONDED** the motion. There were no objections; **SO ORDERED**.

2. UNSCHEDULED PUBLIC COMMENT – None.

3. NEW BUSINESS

a. Discussion/Recommendation – Commission Formal Approval of Harbor-Related Capital Projects.

Public Works Director Curtin provided an overview of Harbor-related Capital Projects. He noted that the ones up for approval tonight are the same ones that the Harbor Commission discussed and vetted out last year, and they are just continuing to work the plan. Float replacements and concrete ramp repairs are included for this next year, with another round of float replacements in 2023. Regarding the dredging, he noted that the City does not have enough information at this time in regards to cost, funding, and Corps assistance to include in the plan. As this information becomes available, it will be added to the plan at a later date.

MOTION:

Commissioner Crandall **MOVED** to approve the Harbor-Related Capital Projects as presented, and Commissioner Bornemann **SECONDED** the motion.

VOTE:

YEA: Dunn, Bornemann, Hutchison, Peck, Crandall, Berga
NAY:

MOTION PASSED UNANIMOUSLY.

4. **NEXT MEETING ATTENDANCE NOTIFICATION** – February 8, 2021

5. **COMMISSIONER COMMENTS AND QUESTIONS**

Commissioner Crandall thanked everyone for attending and welcomed new Commissioner Peck.

Commissioner Peck noted that it was good to meet everyone, and he looks forward to meeting in person.

Commissioner Hutchison requested that the Public Works Director provide an update on the Bluff Erosion Project for the February 8th meeting.

6. **ADDITIONAL PUBLIC COMMENT** – None.

7. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 6:15 p.m.

Meeting summary prepared and submitted by:

Meghan Thibodeau
Deputy City Clerk

MEMORANDUM

TO: Harbor Commission

FROM: Meghan Thibodeau, Deputy City Clerk

DATE: February 1, 2021

SUBJECT: RFP 2021 Bluff Bank Stabilization – Website and Related Documents

For further information about Request for Proposals (RFP) 2021 City of Kenai Bluff Bank Stabilization Professional Engineering Services, please use the link below to access the City of Kenai's website page and related documents:

<https://www.kenai.city/publicworks/page/request-proposals-rfp-2021-city-kenai-bluff-bank-stabilization-professional>

Thank you for your consideration.

[Municipal Code](#) → [Title 11. Harbor and Harbor Facilities](#) →

Chapter 11.10 HARBOR COMMISSION

Sections:

11.10.010 Duties and powers.

Prior legislation: Ord. 1032.

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 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) 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.
 - (5) Make and prepare reports and plans for approval by the City Council.
 - (6) Coordinate public efforts, individual and group, to the effectuation of approved plans.
 - (7) Shall act in advisory capacity in the selection of a Harbor Master should such a position be created by the City Council.

(Ords. 474, 1161, 1802-98, 3106-2020)



Kenai City Council - Special Meeting

November 23, 2020 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

Telephonic/Virtual Information Below

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval

B. PUBLIC COMMENT

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

C. PUBLIC HEARING

1. **ADOPTED UNANIMOUSLY AS AMENDED. Resolution No. 2020-89** - Opposing Alternative 4 Proposed to the North Pacific Fishery Management Council that would Close All Federal Waters in Cook Inlet to Commercial Salmon Fishing. (Mayor Gabriel)

E. 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.

Join Zoom Meeting

<https://us02web.zoom.us/j/85172783701>

Meeting ID: 851 7278 3701 **Passcode:** 960578

OR

Dial In: (253) 215-8782 or (669) 900-6833

Meeting ID: 851 7278 3701 **Passcode:** 960578



Kenai City Council - Regular Meeting

December 02, 2020 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

Telephonic/Virtual Information on Page 3

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. 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)

C. UNSCHEDULED PUBLIC COMMENTS

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

D. COUNCIL APPOINTMENT

1. **VICTORIA ASKIN APPOINTED TO CITY COUNCIL.** Selection of Appointee with the Continuation of Interviews if Needed.
[Clerk's Note: Council May Convene into Executive Session to Discuss this Agenda Item which May be a Subject that Tends to Prejudice the Reputation and Character of the Candidates for the Vacant City Council Seat (AS 44.62.310(C)(2))]
2. Appointee Oath of Office

E. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY. Ordinance No. 3166-2020** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and Airport Improvements Capital Project Funds and Authorizing a Professional Services Agreement to Develop Condition Assessments for the Airfield Drainage Safety Area and Asphalt Runway Areas of the Kenai Municipal Airport.

2. **ADOPTED UNANIMOUSLY. Resolution No. 2020-90** - Approving the Use of the Fleet Replacement Fund for the Purchase of Three Police Department Trucks Utilizing the State of Alaska Equipment Fleet Contract.
3. **ADOPTED UNANIMOUSLY. Resolution No. 2020-91** - Authorizing a Budget Transfer in the COVID-19 CARES Act Recovery Fund to Increase Funding for Housing Assistance, Food Assistance, and First Responder Payroll.
4. **ADOPTED UNANIMOUSLY. Resolution No. 2020-92** - Adopting an Alternative Allocation Method for the FY21 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in FMA 14: Cook Inlet.

F. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of November 4, 2020.

G. UNFINISHED BUSINESS

H. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified.
2. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3167-2020** - Increasing Estimated Revenues and Appropriations in the Cares Act Recovery Special Revenue Fund.
3. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3168-2020** - Increasing Estimated Revenues and Appropriations in the Airport Operations Facility, Airport Snow Removal Equipment, Terminal Improvement, Airport Improvements, Personal Use Fishery, Animal Control Improvements, Public Safety Improvements, City Shop Improvements, Municipal Roadway Improvements, Water and Sewer Improvements, and Wastewater Treatment Facility Improvements Capital Project Funds to Transfer Residual Balances from Completed or Canceled Projects Back to their Original Funding Sources.
4. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3169-2020** - Increasing Estimated Revenues and Appropriations in the General Fund, Finance Department for the Payment of Fees in Connection with the Collection of Remote Seller Sales Tax by the Alaska Remote Seller Sales Tax Commission on Behalf of the City of Kenai.
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3170-2020** - Accepting and Appropriating a Grant from the State of Alaska for the Purchase of Library Books.
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3171-2020** - Accepting and Appropriating a State of Alaska Grant Passed through the Southern Region EMS Council, Inc. for Two Automatic External Defibrillator (AED) Trainers and One Advanced Life Support (ALS) Skills Training Mannequin.

7. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 12/16/2020.**
***Ordinance No. 3172-2020** - Waiving the \$5,000 Limitation in KMC 7.25.020 (A) for Allocating CARES Act Funds to Allow the City Manager to Allocate the Funds to the Proper Account as Needs Arise and Time to Utilize the Funds Expires, and Declaring an Emergency.
8. **APPROVED UNANIMOUSLY AS AMENDED. Action/Approval** - Amendment to a Special Use Permit to RAVN for Additional Space of Warm Storage.
9. **APPROVED UNANIMOUSLY. Action/Approval** - Council Confirmation of Mayoral Nominations to the City's Commissions and Committee.
10. **APPOINTMENTS OF GLENDA FEEKEN, DEREK LEICHLITER, PAUL MINELGA, TERRI WILSON, DON ERWIN, RACHAEL CRAIG, MIKE DUNN, BOB PETERS, T. GRAND WISNIEWSKI, AND DAVID RIGALL CONFIRMED. Discussion** - Future Council and Commission Meeting Format.

I. COMMISSION / COMMITTEE REPORTS

1. Council on Aging report.
2. Airport Commission report.
3. Harbor Commission report.
4. Parks and Recreation report.
5. Beautification Committee report.
6. Mini-Grant Steering Committee report.

J. REPORT OF THE MAYOR

K. ADMINISTRATION REPORTS

1. City Manager report.
2. City Attorney report.
3. City Clerk report.

L. ADDITIONAL PUBLIC COMMENT

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

M. EXECUTIVE SESSION – See D.1.

N. PENDING ITEMS

O. ADJOURNMENT

P. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000.

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.

Join Zoom Meeting

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OR

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Meeting ID: 867 3974 8798 **Passcode:** 785923

Meeting ID: 867 3974 8798 **Passcode:** 785923



Kenai City Council - Regular Meeting

December 16, 2020 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

****Telephonic/Virtual Information on Page 4****

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. 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)

1. **John Williams** - Nomination to Cook Inlet Regional Citizen's Advisory Council Seat, Summer 2021 Events, and Visitor Center Anniversary.

C. UNSCHEDULED PUBLIC COMMENTS

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

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY. Ordinance No. 3167-2020** - Increasing Estimated Revenues and Appropriations in the Cares Act Recovery Special Revenue Fund.
2. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3168-2020** - Increasing Estimated Revenues and Appropriations in the Airport Operations Facility, Airport Snow Removal Equipment, Terminal Improvement, Airport Improvements, Personal Use Fishery, Animal Control Improvements, Public Safety Improvements, City Shop Improvements, Municipal Roadway Improvements, Water and Sewer Improvements, and Wastewater Treatment Facility Improvements Capital Project Funds to Transfer Residual Balances from Completed or Canceled Projects Back to their Original Funding Sources.
3. **ENACTED UNANIMOUSLY. Ordinance No. 3169-2020** - Increasing Estimated Revenues and Appropriations in the General Fund, Finance Department for the Payment of Fees in

Connection with the Collection of Remote Seller Sales Tax by the Alaska Remote Seller Sales Tax Commission on Behalf of the City of Kenai.

4. **ENACTED UNANIMOUSLY. Ordinance No. 3170-2020** - Accepting and Appropriating a Grant from the State of Alaska for the Purchase of Library Books.
5. **ENACTED UNANIMOUSLY. Ordinance No. 3171-2020** - Accepting and Appropriating a State of Alaska Grant Passed through the Southern Region EMS Council, Inc. for Two Automatic External Defibrillator (AED) Trainers and One Advanced Life Support (ALS) Skills Training Mannequin.
6. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3172-2020** - Waiving the \$5,000 Limitation in KMC 7.25.020 (A) for Allocating CARES Act Funds to Allow the City Manager to Allocate the Funds to the Proper Account as Needs Arise and Time to Utilize the Funds Expires, and Declaring an Emergency.
7. **ADOPTED UNANIMOUSLY. Resolution No. 2020-93** - Authorizing the City Manager to Execute a Professional Services Agreement for 2021 Fire Systems Testing, Inspection & Monitoring Project.
8. **ADOPTED UNANIMOUSLY. Resolution No. 2020-94** - Authorizing the City Manager to Enter into an Amended Restaurant Concession Agreement at the Kenai Municipal Airport with Brothers Cafe.
9. **ADOPTED UNANIMOUSLY. Resolution No. 2020-95** - Authorizing the City Manager to Execute a Professional Engineering Services Agreement for the Kenai Waste Water Treatment Plant (WWTP) Sludge Press Replacement Project.
10. **ADOPTED UNANIMOUSLY AS AMENDED. Resolution No. 2020-96** - Further Extending the Disaster Emergency Declaration for the City of Kenai Made on March 18, 2020 in Response to the COVID-19 Health Emergency.

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Special Meeting of November 23, 2020.
2. **APPROVED BY THE CONSENT AGENDA.** *Work Session Summary of December 2, 2020.
3. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of December 2, 2020.
4. **APPROVED BY THE CONSENT AGENDA.** *Work Session Summary of December 9, 2020.

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified.
2. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Purchase Orders Over \$15,000.

3. **APPROVED BY THE CONSENT AGENDA. *Action/Approval** - Non-Objection to Liquor License Renewals for Kenai Golf Course and 2 Go Mart.
4. **APPROVED BY THE CONSENT AGENDA. *Action/Approval** - Special Use Permit to Schilling Alaska, Inc., d/b/a the Uptown Motel for Snow Storage.
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/6/2021. *Ordinance No. 3173-2020** - Accepting and Appropriating Asset Forfeiture Sharing Funds for the Police Department for the Purpose of Purchasing Law Enforcement Equipment.
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/6/2021. *Ordinance No. 3174-2020** - Accepting And Appropriating a FM Global Fire Prevention Grant for the Purchase of Two Ipad and Accessories to be Used Toward Fire Prevention Efforts.
7. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/6/2021. *Ordinance No. 3175-2020** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Fund and Authorizing an Increase to the Construction Purchase Order to Kirila Fire, Inc.
8. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/6/2021. *Ordinance No. 3176-2020** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and the Airport Snow Removal Equipment Capital Project Funds to Provide Supplemental Funding for the Project, and Authorizing a Purchase Agreement for the Purchase of a Replacement Wide-Area Tractor & Mower.
9. **APPOINTMENTS OF GARY GREENBERG, JOE HALSTEAD, AND ALEX DOUTHIT CONFIRMED. Action/Approval** - Confirmation of Mayoral Nominations for Appointment to the Planning and Zoning Commission.
10. **APPOINTMENTS OF MICHAEL BERNARD AND ROY WILLIAMS CONFIRMED. Action/Approval** - Confirmation of Mayoral Nominations for Appointment to Various City Commissions.
11. **APPOINTMENT OF JOHN WILLIAMS CONFIRMED. Action/Approval** – Confirmation of Mayoral Nomination for Appointment of City of Kenai Representative to the Cook Inlet Regional Citizens Advisory Council Board.
12. **APPOINTMENT OF COUNCIL MEMBER HENRY KNACKSTEDT CONFIRMED. Action/Approval** - Mayoral Nomination of a Council Member to the Supervisory Sub-Committee.
13. **Discussion** - Update Regarding Remote Sellers Sales Tax.
14. **AGREEMENT THAT CITY OF KENAI COORDINATE WITH CITY OF SOLDOTNA IN CAMPAIGN AGAINST COVID-19 THAT WILL PROVIDE INFORMATION REGARDING THE VACCINE AND OTHER HEALTH PROTECTIONS. Discussion** - Coordinating with Soldotna on a Community Led Campaign Against COVID-19.
15. **Discussion** - COVID-19 Response.

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks and Recreation Commission
5. Planning & Zoning Commission report.
6. Beautification Committee
7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

1. City Manager
2. City Attorney
3. City Clerk

K. ADDITIONAL PUBLIC COMMENT

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

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000.
2. Marathon Pipe Line Emergency Notification Letter
3. Thank You from Kenai Chamber of Commerce
4. Cook Inlet Regional Citizens Advisory Council Report - December

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.

Join Zoom Meeting

<https://us02web.zoom.us/j/85067488222>

Meeting ID: 850 6748 8222 **Passcode:** 616807

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 850 6748 8222 **Passcode:** 616807



Kenai City Council - Regular Meeting

January 06, 2021 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. 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)

1. **Jodi Stuart** - Annual update of Project Homeless Connect.
2. **Coy West** - City of Kenai Tourism and Marketing Update.

C. UNSCHEDULED PUBLIC COMMENTS

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

D. PUBLIC HEARINGS

1. **ENACTED UNANIMOUSLY. Ordinance No. 3173-2020** - Accepting and Appropriating Asset Forfeiture Sharing Funds for the Police Department for the Purpose of Purchasing Law Enforcement Equipment.
2. **ENACTED UNANIMOUSLY. Ordinance No. 3174-2020** - Accepting And Appropriating a FM Global Fire Prevention Grant for the Purchase of Two Ipads and Accessories to be Used Toward Fire Prevention Efforts.
3. **ENACTED UNANIMOUSLY. Ordinance No. 3175-2020** - Increasing Estimated Revenues and Appropriations in the Airport Improvements Capital Fund, and Authorizing an Increase to the Construction Purchase Order to Kirila Fire, Inc.
4. **ENACTED UNANIMOUSLY AS AMENDED. Ordinance No. 3176-2020** - Increasing Estimated Revenues and Appropriations in the Airport Special Revenue and the Airport Snow Removal Equipment Capital Project Funds to Provide Supplemental Funding for the

Project, and Authorizing a Purchase Agreement for the Purchase of a Replacement Wide-Area Tractor & Mower.

- **Substitute Ordinance No. 3176-2020**

E. MINUTES

1. ***APPROVED BY THE CONSENT AGENDA.*** *Regular Meeting of December 16, 2020.

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. ***APPROVED BY THE CONSENT AGENDA.*** *Action/Approval - Bills to be Ratified.
2. ***APPROVED BY THE CONSENT AGENDA.*** *Action/Approval - Purchase Orders Over \$15,000.
3. ***INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/20/2021.***
*Ordinance No. 3177-2021 - Authorizing a Shop Local Economic Stimulus Program to Benefit Kenai Small Businesses And Award of a Professional Services Agreement to the Kenai Chamber of Commerce and Visitor Center for Administration of the Program.
4. ***INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 1/20/2021.***
*Ordinance No. 3178-2021 - Accepting and Appropriating a COVID Cares Act for Older Adults and Their Caregivers 2021 Grant Passed Through the State of Alaska for Kenai Senior Center Expenditures in Support of its Response to the COVID-19 Public Health Emergency.
5. **Discussion** - COVID-19 Response.

H. COMMISSION / COMMITTEE REPORTS

1. Council on Aging
2. Airport Commission
3. Harbor Commission
4. Parks & Recreation Commission
5. Planning & Zoning Commission
6. Beautification Committee
7. Mini-Grant Steering Committee

I. REPORT OF THE MAYOR

J. ADMINISTRATION REPORTS

1. City Manager

2. City Attorney

3. City Clerk

K. ADDITIONAL PUBLIC COMMENT

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

2. Council Comments

L. EXECUTIVE SESSION

M. PENDING ITEMS

N. ADJOURNMENT

O. INFORMATION ITEMS

1. Purchase Orders Between \$2,500 and \$15,000.

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Join Zoom Meeting

<https://us02web.zoom.us/j/81091666825>

Meeting ID: 810 9166 6825 **Passcode:** 941200

OR

Dial In: (253) 215-8782 or (301) 715-8592

Meeting ID: 810 9166 6825 **Passcode:** 941200



Kenai City Council - Regular Meeting

January 20, 2021 – 6:00 PM

Kenai City Council Chambers

210 Fidalgo Avenue, Kenai, Alaska

www.kenai.city

Action Agenda

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Agenda Approval
4. 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)

1. **Dr. Kristin Mitchell** - COVID-19 Vaccine Update and Q & A.
2. **Joy Merriner, BDO USA, LLP** - Presentation of the FY2020 City of Kenai Comprehensive Annual Financial Report, Federal and State Single Audit Reports, and Audit Wrap Up.

C. UNSCHEDULED PUBLIC COMMENTS

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

D. PUBLIC HEARINGS

1. **ENACTED AS AMENDED. Ordinance No. 3177-2021** - Authorizing a Shop Local Economic Stimulus Program to Benefit Kenai Small Businesses And Award of a Professional Services Agreement to the Kenai Chamber of Commerce and Visitor Center for Administration of the Program.
 - **Substitute Ordinance No. 3177-2021** - Authorizing a Shop Local Economic Stimulus Program to Benefit Kenai Small Businesses And Residents And Award of a Professional Services Agreement to the Kenai Chamber of Commerce and Visitor Center for Administration of the Program.
2. **ENACTED UNANIMOUSLY. Ordinance No. 3178-2021** - Accepting and Appropriating a COVID Cares Act for Older Adults and Their Caregivers 2021 Grant Passed Through the State of Alaska for Kenai Senior Center Expenditures in Support of its Response to the COVID-19 Public Health Emergency.

3. **ADOPTED UNANIMOUSLY. Resolution No. 2021-01** - Approving Amendments to the Kenai Community Library Policies to Adopt Rules Regarding the Lending of Various Electronic Devices and to Make Housekeeping Changes.
4. **ADOPTED UNANIMOUSLY. Resolution No. 2021-02** - Further Extending the Disaster Emergency Declaration for the City of Kenai Made on March 18, 2020 in Response to the COVID-19 Health Emergency.
5. **ADOPTED UNANIMOUSLY AS AMENDED. Resolution No. 2021-03** - Supporting an Amendment Under Consideration by the Kenai Peninsula Borough Anadromous Waters Habitat Protection Work Group to Allow Limited Commercial Activities Within the Habitat Protection District in the City of Kenai.
6. **ADOPTED UNANIMOUSLY. Resolution No. 2021-04** - Accepting a Quitclaim Deed from the Kenai Peninsula Borough for the Land Described as T.6N., R.11W. Sec. 31, Lots 40, 41, and 42 Containing 3.75 Acres, More Commonly Known as the 4th Avenue Park, for the Public Purposes of Maintaining a Public Park.

E. MINUTES

1. **APPROVED BY THE CONSENT AGENDA.** *Regular Meeting of January 6, 2021.

F. UNFINISHED BUSINESS

G. NEW BUSINESS

1. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Bills to be Ratified.
2. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Purchase Orders Over \$15,000.
3. **APPROVED BY THE CONSENT AGENDA.** *Action/Approval - Non-Objection to the Liquor License Renewals for The Bow Bar and The Cannery Lodge.
4. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 2/3/2021.** *Ordinance No. 3179-2021 - Amending Positions in the Classified Service in the Public Works and Senior Center Departments as Established by the Annual Budget.
5. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 2/3/2021.** *Ordinance No. 3180-2021 - Amending Kenai Municipal Code 3.05.070-Citation Procedure, and Kenai Municipal Code 13.10.015 – Minor Offense Fine Schedule to Incorporate Various Animal Control Offenses into the Minor Offense Fine Schedule and Make Other Housekeeping Changes.
6. **INTRODUCED BY THE CONSENT AGENDA/PUBLIC HEARING SET FOR 2/3/2021.** *Ordinance No. 3181-2021 - Waiving Kenai Municipal Code 21.10.130 - Lease Execution and Approving a Lease Execution Extension to July 27, 2021 to Kenai Aviation Operations, LLC for Lot 9A, Block 5, General Aviation Apron Subdivision No. 5.
7. **APPOINTMENT OF DAVID PECK CONFIRMED.** Action/Approval - Confirmation of Mayoral Nomination for Appointment to Harbor Commission.

8. **APPROVED UNANIMOUSLY AS AMENDED. Action/Approval** - Supporting a Transportation Program for Individuals Receiving COVID-19 Vaccinations at Locations in Kenai.
9. **APPROVED UNANIMOUSLY. Action/Approval** - Supporting an Amendment to the Grant Agreement with the Kenai Peninsula Food Bank of Alaska.
10. **Discussion** - Development of City of Kenai Business Stimulus / Incentive Programs.
11. **Discussion** - Kenai Fine Arts Center Remodel Update.
12. **Discussion** - COVID-19 Response.

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Meeting ID: 880 4357 9001 **Passcode:** 372771



Sponsored by: Administration

CITY OF KENAI

RESOLUTION NO. 2021-03

A RESOLUTION OF THE CITY OF KENAI, ALASKA, SUPPORTING AN AMENDMENT UNDER CONSIDERATION BY THE KENAI PENINSULA BOROUGH ANADROMOUS WATERS HABITAT PROTECTION WORK GROUP TO ALLOW LIMITED COMMERCIAL ACTIVITIES WITHIN THE HABITAT PROTECTION DISTRICT IN THE CITY OF KENAI.

WHEREAS, Kenai Peninsula Borough Code Chapter 21.18- Anadromous Waters Habitat Protection, established an anadromous waters habitat district on all lands within 50 horizontal feet of certain waters including the Kenai River; and,

WHEREAS, City Administration had been in contact with the Borough in regards to allowing greater flexibility for development within the habitat protection district in certain areas in the City that have historical commercial/ industrial uses and existing footprints in the district and are zoned industrial or commercial; and,

WHEREAS, it is important that there is reasonable flexibility for responsible development, or re-development along the river in certain areas as long as the purposes of Chapter 21.18 can be maintained; and,

WHEREAS, the Borough recently established an Anadromous Waters Habitat Protection Work Group to review KPB Chapter 21.18 and make recommendations; and,

WHEREAS, the City Administration worked with the Work Group's Chair, Robert Ruffner, and the Borough's Legal Department to develop a proposed amendment to 21.18; and,

WHEREAS, the amendment provides a permit process for certain commercial development within the habitat protection district in the City of Kenai; and,

WHEREAS, the uses that can be permitted include docks, boat launches, pedestrian stairs and boardwalks, utility infrastructure and other activities that do not expand the applicants surface area footprint, within the habitat protection district; and,

WHEREAS, allowing a process for responsible commercial development within the Borough created Habitat Protection District in the City of Kenai is in the City's best interest.

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

Section 1. That the City Council support an amendment to KPB Chapter 21.18 that allows for responsible development in certain areas of the Habitat Protection District in the same or a similar form as provided in the attached recommendation from Sean Kelley, dated January 21, 2021

Section 2. That this resolution takes effect immediately upon passage.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this 20th day of January, 2021.


BRIAN GABRIEL, SR., MAYOR

ATTEST:


Jamie Heinz, CMC, City Clerk





MEMORANDUM

TO: Mayor Gabriel and Council Members
FROM: Scott Bloom, City Attorney
DATE: January 14, 2021
SUBJECT: Resolution 2021-03 Anadromous Waters Habitat Protection

Resolution 2021-03 supports an amendment to KPB Chapter 21.18- Anadromous Waters Habitat Protection that would allow responsible development within the habitat protection district in certain areas in the City of Kenai. KPB Chapter 21.18 creates a habitat protection district 50 horizontal feet from certain anadromous waters including the Kenai River, for the purpose of protecting and preserving anadromous fish, providing a guide for growth and development, achieving goals and implementing policies of the Borough's comprehensive plan, protecting and enhancing property values and continuing to enjoy the prosperity and abundance provided by anadromous fish. This habitat district has restricted certain development along the river. Within the City of Kenai, there is existing commercial and industrial development along the river that would benefit from further development or redevelopment that has previously been prohibited by KPB 21.18. The City Administration has worked with a Borough Work Group, reviewing KPB Chapter 21.18 to promote an exception for development in the City in these industrial and Commercial zones (and in other municipalities) that would allow for reasonable commercial or industrial uses of the land that either are water dependent with mitigation or would not expand the existing development footprint.

Your support and consideration for the approach provided in the attached memo from Sean Kelley is appreciated.

Kenai Peninsula Borough
Legal Department

MEMORANDUM

TO: Robert Ruffner, Chair
Members, Anadromous Waters Habitat Protection Work Group

THRU: Melanie Aeschliman, Planning Director *MA*
Samantha Lopez, Acting River Center Manager *SL*

FROM: Sean Kelley, Deputy Borough Attorney *SK*

COPY: Paul Ostrander, City of Kenai Manager

DATE: January 14, 2021

RE: Commercial Activities Re-Write – KPB 21.18.072 – to Improve the
Permitting Code Related to Commercial Activities

This proposed amendment was drafted in collaboration with City of Kenai Administration pursuant to Chair Ruffner's request.

KPB 21.18.072 (Limited commercial activity within the habitat protection area) is the only section of code within KPB 21.18 specific to commercial or business activities, uses or structures with the HPD. The current wording of this section permitting commercial activities is difficult to interpret, often open to debate, and has proven to have little useful, practical application. For example, in the past 5 years, it appears that no permits have been issued under this section of code.

It has been requested that this group review commercial activities, specifically commercial activities within the municipal district, to allow necessary flexibility, including development or re-development, for growth within our cities while at the same time continuing to protect important fish habitat.

The proposed amendment essentially repeals current KPB 21.18.072 and replaces it with a more efficient, standard-driven permitting process specific to commercial activities. The opening paragraph establishes a permit process for commercial activities within a municipal district. Subsection A provides for activities that do not require a permit pursuant to KPB 21.18.065. Subsection B provides 4 categories of allowed commercial activities with the HPD. Subsection C provides the general standards applicable to a permit application under this section. Subsection D sets out the general conditions. Subsection E provides that commercial activities not permitted under this section are prohibited, unless the use or structure otherwise qualifies for prior existing status under KPB 21.18.090.

Page 2 of 4

January 14, 2021

To: Anadromous Waters Habitat Protection Work Group

RE: Commercial Activities (KPB 21.18.072) Repeal & Replace

This proposed amendment provides the planning commission authority to impose permit conditions necessary to meet the general standards. The proposed amendments will require mitigation when the proposed activity seeks to expand the applicant's surface footprint within the HPD.

Code additions are in **bold** underline and code deletions are shown in [CAPS], bracketed. Since this amendment proposes a repeal and replace, the deleted code follows the proposed new language for this section.

21.18.072. - Limited commercial activity within habitat protection district [AREA].

Within the habitat protection district and subject to the requirements of this chapter, the planning commission may issue a permit for commercial activities to be conducted within the municipal district as defined in KPB 21.04.010. Commercial activities are operations, uses, structures or other activities implemented for a private business purpose. Public parks, docks, and other public infrastructure are not considered commercial activities for purposes of this section.

- A. Activities not requiring permit. Commercial activities of the same nature as those allowed under KPB 21.18.065 do not require a permit under this section.
- B. Allowable Activities. The following commercial activities, uses or structures may be permitted under this section:
 - 1. Dock and boat launch.
 - 2. Stairs and pedestrian use boardwalks.
 - 3. Gas, electric, water or other utility connections, lines, or poles.
 - 4. Other activities, uses, or structures that either do not expand the applicant's surface area footprint within the habitat protection district or are necessary to the operation of the applicant's business and cannot be located outside of the habitat protection district due to conditions specific to the property. The burden is on the applicant, through a registered professional engineer, to show that conditions specific to the property exist.
- C. General standards. The following standards apply to permits issued under this section:

Page 3 of 4

January 14, 2021

To: Anadromous Waters Habitat Protection Work Group

RE: Commercial Activities (KPB 21.18.072) Repeal & Replace

1. The use or structure will not damage the riparian ecosystem or riparian wetlands. If substantial evidence supports a finding that the use or structure will damage the riparian ecosystem or riparian wetlands, then mitigation shall be required.
 2. Granting of the permit shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough code, and other applicable planning documents adopted by the borough;
 3. The development of the use or structure shall not physically damage the adjoining property;
 4. The proposed use or structure is water-dependent or does not expand the surface area footprint of the structure or use in the habitat protection district.
 5. Applicant or owner's compliance with other borough permits and ordinance requirements.
 6. If the use or structure expands the applicant's surface area footprint within the habitat protection district then mitigation offsets shall be required.
- D. General Conditions. The planning commission may impose permit conditions that it finds are necessary to meet the standards under this section and establish such conditions on the commercial activity, use or structure, for which the permit is granted as it determines necessary to prevent erosion, sedimentation, ground or surface water pollution, or damage to the habitat protection district, riparian wetlands, or riparian ecosystems. The planning commission may require the performance of mitigation activities to offset impacts that the planning commission finds may occur as a result of the proposed project or activity.
- E. Prohibited Activities. A commercial activity, use or structure, that is not permitted under this section and does not qualify for prior existing status under KPB 21.18.090 is prohibited.
- F. Application procedure. Applicants must complete the application and pay any applicable filing fee(s) to the river center on a form provided by the river center and receive planning commission approval prior to commencement of the project. An applicant's failure to abide by the terms and conditions of the planning commission's resolution approving the permit is grounds for revocation of the permit and removal of all non-compliant uses or structures.

Page 4 of 4

January 14, 2021

To: Anadromous Waters Habitat Protection Work Group

RE: Commercial Activities (KPB 21.18.072) Repeal & Replace

[THE PLANNING COMMISSION MAY ISSUE A PERMIT FOR ACTIVITIES TO BE CONDUCTED WITHIN OR USING THE HABITAT PROTECTION AREA AS PROVIDED IN THIS SECTION. PERMITS ARE REQUIRED FOR COMMERCIAL ACTIVITIES OF THE SAME NATURE AS THOSE ALLOWED UNDER KPB 21.18.065 FOR PRIVATE NON-COMMERCIAL USE UPON CONDITIONS THAT THE ACTIVITY IS LIMITED TO PEDESTRIAN USE OVER BOARDWALKS, STAIR AND DOCKS NECESSARY TO ALLEVIATE THE INCREASED LEVELS OF ACTIVITY ATTENDANT TO THE COMMERCIAL ACTIVITY. A PERMIT MAY NOT BE ISSUED UNLESS THE PLANNING COMMISSION DETERMINES THE ACTIVITY WILL BE CONDUCTED IN A MANNER THAT DOES NOT RESULT IN SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS. IN GRANTING A PERMIT, THE PLANNING COMMISSION MAY ESTABLISH SUCH CONDITIONS ON THE DEVELOPMENT, USE OR OPERATION OF THE ACTIVITY OR FACILITY FOR WHICH THE CONDITIONAL USE PERMIT IS GRANTED AS IT DETERMINES NECESSARY TO PREVENT SIGNIFICANT EROSION, SEDIMENTATION, DAMAGE TO THE HABITAT PROTECTION DISTRICT, AN INCREASE IN GROUND OR SURFACE WATER POLLUTION, AND DAMAGE TO RIPARIAN WETLANDS AND RIPARIAN ECOSYSTEMS. THE ACTIVITY MUST BE CONDUCTED ON A PORTION OF PROPERTY ADJACENT TO THE PROPERTY WITHIN THE HABITAT PROTECTION AREA FOR WHICH THE PERMIT IS SOUGHT.]