

Title 20 SUBDIVISIONS

CHAPTER 20.10. GENERAL PROVISIONS

20.10.010. Purpose of provisions.

The purpose of this title is to promote an adequate and efficient street and road system, to provide necessary easements, to provide minimum standards of survey accuracy and proper preparation of plats, and to protect and improve the health, safety and general welfare of the people.

20.10.020. Statutory authority.

A. This title is adopted under the authority of AS 29.40 and AS 40.15, as now enacted or as may be hereinafter amended.

B. Consistent with AS 29.40.070, this title shall govern all matters related to the subdivision of all land within the Kenai Peninsula Borough.

20.10.030. Violations and remedies.

A. No person shall transfer, sell, offer to sell, or enter into a contract to sell land that must be subdivided under this ordinance until an approved final plat has been recorded.

B. No person shall file or record a plat or other document depicting subdivided land unless the plat or document has been approved under this ordinance.

C. A person shall not violate a provision of AS 29.40, KPB Title 20, or a term, condition or limitation imposed by the platting authority.

D. Pursuant to AS 29.40.190(a), the borough may request the superior court enjoin a violation or threatened violation of AS 29.40 to this title.

E. The borough or an aggrieved person may institute a civil action against a person who violates KPB 20.10.030(A), (B), or (C). A civil penalty not to exceed \$1,000 may be imposed for each violation. Each day that an unlawful act or condition continues is a separate violation.

F. Breach of KPB 20.10.030(A), (B), or (C) shall constitute a misdemeanor punishable by a fine not to exceed \$1,000 and by imprisonment not to exceed 90 days for each violation. Each transfer, sale, offer to sell, or entry into a contract to sell any land subdivided in violation of this title shall constitute a separate offense.

20.10.040. Abbreviated plat procedure.

A. The abbreviated plat procedure may be used where the subdivision or resubdivision is of a simple nature and meets all of the requirements of this section as follows:

1. The subdivision divides a single lot into not more than four lots;
2. The subdivision provides legal and physical access to a public highway or street for each lot created by the subdivision;
3. The subdivision does not contain or require a dedication of a street, right-of-way or other area; and
4. The subdivision does not require a vacation of a public dedication of land or a variance from a subdivision regulation.

B. Submission Requirements. All of the submission requirements of KPB Chapters 20.25 and 20.30 shall be met.

C. Statement of Plat Approval. The following form shall be printed on the final plat to be filled in after approval:

Plat Approval

This plat was approved by the Kenai Peninsula Borough in accordance with KPB 20.10.040.

Borough Official

Date

D. Procedures. The planning director shall review the submitted preliminary plat for completeness. If the preliminary plat does not comply with KPB 20.10.040(A), the planning director shall return the plat to the subdivider with a written explanation of deficiencies.

E. Action.

1. The platting authority for the abbreviated plat procedure is vested in the planning director. Within ten borough business days of acceptance of the preliminary plat, subject to prior acquisition and submittal of all necessary outside reviews by the subdivider, the planning director shall take action on the plat by the abbreviated plat process.
2. Preliminary approval of the plat shall be for a period of 24 months. No extensions of time may be granted.
3. All decisions of the planning director regarding the preliminary plat shall be final. A denied abbreviated plat may be appealed by the subdivider to the planning commission. There is no fee for appeal of an abbreviated plat to the planning commission.

F. Final Plat.

1. The requirements for the final plat shall be in accordance with KPB Chapter 20.60.
2. When the preliminary plat has been approved by the planning director under this section, the final plat may be approved by the planning director when the final plat meets the conditions of the preliminary approval and complies with this title. When approved by the planning director, such approval shall be on a notarized form. The planning director shall report such approvals at the next regular plat committee meeting.

20.10.050. Plats—Required when—Waivers.

A. Waiver standards. A plat, prepared and submitted in accordance with the applicable provisions of this title, is required for all subdivisions of land, except for subdivisions which qualify under the provision of AS 29.40.090(b), provided an application is submitted with satisfactory evidence to support a finding that:

1. A single existing division of property is not subdivided into more than four lots.
2. Legal and physical access is provided to a public highway or street for each lot created by the subdivision.
3. The subdivision does not contain or require a dedication of a street, public right-of-way, or other area.
4. The subdivision does not require a vacation of a public dedication of land.
5. The subdivision does not require a variance from KPB Title 20 Subdivision regulations.
6. Each lot created by the subdivision is five acres or larger.

B. Notice. In addition to the requirements for notice by publication in this title, all beneficial interest holders in the land subject to the plat waiver application who have not provided written non-objection to the plat waiver shall be given notice of the waiver application and the planning commission hearing at least 30 days prior to the planning commission meeting where the waiver will be considered. Applications for plat waivers within a city shall be submitted to the city by the subdivider for comment at least 30 days prior to submittal to the borough for planning commission consideration.

C. All plat waivers must meet the following requirements:

1. A certificate of ownership for plat waiver, which meets the requirements of KPB 20.60.190(A)(2) for a certificate to plat, shall be submitted with the application. The certificate of ownership shall be updated and be current to no earlier than three business days prior to the planning commission meeting where the waiver is scheduled for consideration.
2. A certificate from the borough finance department must be obtained indicating that all taxes due and payable on the land subject to the waiver application have been paid.

D. Upon satisfactory showing by the subdivider that all provisions of KPB 20.10.050 (A), (B), and (C) have been met a waiver of the preparation, submission for approval, and recording of a plat shall be granted by resolution of the commission which shall be recorded in the appropriate district recording office within 30 days after adoption or the waiver shall lapse. The applicant shall pay a plat waiver fee in the amount listed in the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees, and recording fees.

20.10.060. Illegal subdivisions.

A parcel of land that was illegally subdivided may be submitted for consideration by the planning commission as a subdivision by any person having an ownership interest of record. The submittal must meet all the requirements of this title. If approved as meeting the requirements of

this title and properly recorded, said parcel shall be considered an approved subdivision according to the Kenai Peninsula Borough Code.

20.10.070. Right-of-way acquisition plat.

A. A plat for a subdivision created by a government agency's acquisition of a street right-of-way, airport parcel, or land for other public purposes is subject to approval under this section only and is not subject to any other approval procedure for plats under this chapter, except where hereinafter stated.

1. Certain provisions of this section may also apply to other parties who volunteer a formal dedication of right-of-way to the public.

B. Submission requirements. A right-of-way acquisition plat shall contain the following information:

1. The location and name of the acquisition project.
2. The approximate timetable for the acquisition and construction.
3. The dimensions and area of the proposed tract, parcel or parcels to be acquired and the remainder parcel(s).
4. The name of the record owner(s) of the subject parcels shall be required on the preliminary plat only.

C. Review and approval procedures. The planning director shall review the preliminary right-of-way acquisition plat for completeness prior to consideration by the planning commission. If the plat does not meet the requirements of this section, it shall be returned to the submitting agency with a written explanation of the deficiencies.

1. The plat shall be considered by the planning commission at any regular meeting that is agreed upon by the planning department and the submitting agency. Preliminary approval of the plat shall be for a period of 24 months. Additional time extensions may be granted by the planning director for specified time periods upon finding that it is in the public interest to do so. Submittal of documentation from an affected agency, or if located within city limits, the city advisory planning commission, indicating concurrence with a time extension request must be submitted with the request.
2. The planning director may grant approval of minor revisions to the preliminary plat. Substantive revisions shall be subject to planning commission consideration. Substantive revisions are those which impact surrounding properties or utilities.
3. Right-of-way plats are subject to agency review. When the plat is within the boundaries of a city, documentation must be submitted with the preliminary plat showing the recommendation of the advisory planning commission of the appropriate city.
4. The land status shown on the final plat must be current as of the date of Borough signature. The planning director may authorize the use of an errata sheet to document current status on a case by case basis.
5. Statement of plat approval. The following form shall be shown on the final plat to be completed after final approval:

Right-of-Way Acquisition Plat Approval

This plat was approved by the Kenai Peninsula Borough Planning Commission in accordance with KPB 20.10.070 at the meeting of _____.

Borough Official

6. Where the plat provides dedication of rights-of-way, an ownership and dedication certificate shall be provided in accord with KPB 20.60.190. Where the dedication is located within the city limits an acceptance statement shall also be provided in accord with KPB 20.60.190(A)(7).
 7. When signed by the authorized official of the borough, the original final plat shall be recorded with the appropriate district recorder within 30 days by the submitting agency.
- D. Survey and monumentation requirements for right-of-way acquisition plats:
1. The minimum monumentation required will be a 5/8" × 24" reinforcement bar with appropriate identification cap set on the margin of the right-of-way at all points marking the beginning and end of each curve and on tangents so that no distance between monumented points exceeds 1,320 feet. An alternate method may be proposed which shall consist of placing primary type monuments at centerline points marking the beginning and end of each curve and on tangents so that no distance between monumented points exceeds 1,320 feet. The survey and monumentation shall be completed by a land surveyor.
 2. If construction of improvements is scheduled to follow the right-of-way acquisition, the placement of the centerline monuments may be delayed until such improvements have been completed, in which case a statement designating the schedule for placing the monuments must be included on the plat.
 3. The plat shall be surveyed and monumented in conformance with any applicable provisions of KPB 20.60.190.
- E. Remainder parcels. No remainder parcel resulting from the right-of-way plat shall be allowed which does not conform to applicable city and borough codes unless:
1. A note is placed on the plat indicating that damages have been paid to the owner of the remainder and that the nonconforming remainder cannot be developed without first being replatted so as to conform to applicable city and borough codes; or
 2. The remainder meets the requirement for an exception under KPB 20.30.200(C), or KPB 20.50.010.

20.10.080. Right-of-Way Vacation plat.

A. When the sole purpose of a plat is to depict right-of-way approved for vacation under KPB Chapter 20.70 as attaching to adjoining parcels in compliance with KPB 20.70.150 and AS 29.40.150, the following procedure shall apply:

1. Submission Requirements. All of the submission requirements of Chapter 20.25 shall be met.

2. Surveyor's Certificate. The surveyor's signature and seal on the plat certifies the surveyor is properly registered and licensed to practice land surveying in the State of Alaska, that the plat represents a survey made by the surveyor or under the surveyor's direct supervision, that the monuments shown thereon actually exist as described, and that all dimensions and other details are correct to the best of the surveyor's knowledge and belief. A written certificate is optional.

3 Statement of Plat Approval. The following form shall be printed on the final plat to be filled in after approval:

Right-of-Way Vacation Plat Approval

This plat was approved by the Kenai Peninsula Borough in accordance with KP
20.10.080.

Borough Official

Date

B. Procedure. The planning director shall review the submitted preliminary vacation plat for completeness. If the preliminary plat does not conform to the requirements of KP 20.10.080(A)(1), the planning director shall return the plat to the petitioner with a letter describing the deficiencies.

C. Action.

1. The platting authority for the right-of-way vacation plat procedure is vested in the planning director. The planning director shall take action on the plat within twenty Borough working days of acceptance of the preliminary plat, subject to prior acquisition of all necessary outside reviews.
2. Preliminary approval of the plat may not extend beyond one year of the vacation consent in KP 20.70.110. No extensions of time may be granted.
3. All decisions of the planning director regarding the preliminary plat shall be final.

D. Final Plat.

1. The requirements of the final plat shall be in accord with KP 20.40.020, KP 20.70.130 and the applicable portions of KP Chapter 20.60.
2. The requirements of KP 20.60.190(A)(7) and (D) do not apply to vacation plats.
3. The vacated area shall be shown in a clearly discernible pattern, such as hatching, and shall be labeled as 'area vacated this plat'. The former lot area and current lot area shall be labeled or noted on the plat.
4. The date of the vacation approval by the planning commission, as well as the date of consent to the vacation by the assembly or appropriate city council, shall be noted on the plat.
5. When the preliminary plat has been approved by the planning director under this section, the final plat may be approved by the planning director if the final plat meets the conditions of the preliminary approval and complies with this title. The planning

director's approval shall be on a notarized form. The planning director shall report final plat approvals under this section at the next regular plat committee meeting. If the final plat does not meet the conditions of preliminary approval, the planning director shall provide a written explanation describing the deficiencies to the applicant.

20.10.090. Municipal entitlement acquisition plat.

When the sole purpose of a plat is to show a survey and delineate parcels as a condition prior to transfer of title for a municipal entitlement pursuant to AS 29.65, the following procedure shall apply:

A. Submission Requirements. All of the submission requirements of KPB Chapter 20.25 shall be met.

B. Statement of Plat Approval. The following form shall be printed on the final plat to be filled in after approval:

Municipal Entitlement Plat Approval

This plat was approved by the Kenai Peninsula Borough in accordance with KPB 20.10.090.

Borough Official

Date

C. Procedure. The planning director shall review the submitted preliminary municipal entitlement plat for completeness. If the preliminary plat does not conform to the requirements of KPB 20.10.090(A), the planning director shall return the plat to the owner or petitioner with a written explanation describing the deficiencies.

D. Action.

1. The platting authority for the municipal entitlement plat procedure is vested in the planning director. The planning director shall within thirty Borough working days of receipt of the preliminary plat, subject to prior acquisition of all necessary outside reviews, take action on the plat and notify the owner or petitioner.
2. At the discretion of the planning director, plats that propose or require dedication of right-of-way may be taken to the planning commission for approval.
3. Preliminary approval of the plat shall be for a period of 24 months. Extensions of time may be granted by the planning director.
4. All decisions of the planning director regarding the preliminary plat shall be final unless appealed by the owner or petitioner to the planning commission. Any appeal to the planning commission shall be conducted as a preliminary plat application.

F. Final Plat.

1. The requirements of the final plat shall be in accordance with KPB 20.40.020 and KPB Chapter 20.60.

2. Certificates of Ownership and Dedication are required on the final plat and signatures of owners as determined by the state and Borough are required. The requirements of KPB 20.60.190 apply to the plat.
3. The planning director may determine that portions of KPB Chapter 20.60 are not required to finalize the plat.
4. When the preliminary plat has been approved by the planning director under this section, the final plat may be approved by the planning director if the final plat meets the conditions of the preliminary approval and complies with this title. The planning director's approval shall be on a notarized form. The planning director shall report such approvals at the next regular planning commission meeting.

CHAPTER 20.25. PRELIMINARY PLATS

20.25.010. Preliminary application conference.

The purpose of the preliminary application conference is to enable the subdivider to discuss preliminary ideas with the planning director in order to:

1. Facilitate the preparation of the required submittals and plats in accordance with this title;
2. Avoid unnecessary delay and expense; and
3. Establish a schedule to give the planning director and the planning commission ample time to study the proposed subdivision and its relation to the overall needs of the Kenai Peninsula Borough and its residents.

20.25.020. Compliance with certain provisions required.

A subdivider shall prepare a preliminary plat of the proposed subdivision which shall comply with the requirements of KPB 20.25.070 and 20.25.080, and other applicable provisions of this chapter except as provided in KPB 20.10.050.

20.25.030. Prints—Type and number to be submitted.

The number of prints of the preliminary plat to be submitted shall be as determined by the planning director. Preliminary plat prints shall be folded to 8 1/2 × 13 inches or smaller in a manner such that the subdivision name and legal description show.

20.25.040. Fee required.

The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the submission of the preliminary plat.

20.25.050. Subdivision or replat in first class or home rule city submittal procedure.

A. Pursuant to AS 29.40.010, first class and home rule cities within the borough are delegated limited authority to adopt by ordinance subdivision standards different from those set forth in this chapter.

B. Proposed vacations, abbreviated subdivision plats, subdivision plat waivers, and preliminary plats showing a subdivision of land lying within the corporate boundary of a first class or home rule city shall be first submitted by the subdivider to the appropriate city for review prior to submittal of the plat to the borough planning department. In such instances, the city advisory planning commission shall have 49 days from the date of receipt in which to review the preliminary plat and take action.

C. The preliminary plat submitted to the city shall comply with the requirements of KPB 20.25.070 and 20.25.080.

D. The city advisory planning commission and, if required by city code or requested by the city advisory planning commission, other appropriate municipal departments, shall review the proposed action and prepare written comments which shall be included with the submittal to the borough. The subdivider bears the responsibility for presentations to, and discussions with, the city to ensure that the vacation, subdivision, subdivision plat waiver, or subdivision abbreviated plat will conform to lawful ordinances and requirements of said city.

E. Final plats submitted to the borough for approval will be submitted by the borough to the city for review when the design deviates from the preliminary plat by a substantial change in alignment or dedication of a right-of-way, addition of lots, or major change in lot design which has not been recommended by the city. In such instances, the city advisory planning commission shall have 49 days from the date of receipt in which to review the final plat and take action.

F. To the extent a city has been delegated limited platting authority, a final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

20.25.060. Subdivision or replat in second class city submittal procedure.

A. Preliminary subdivision plats or replats lying within the corporate boundary of a second class city shall be first submitted to the city for review prior to submittal of the plat to the borough planning department. The city shall have 49 days from the date of submittal by the subdivider to the city in which to review the preliminary plat and submit comments to the Borough.

B. To the extent limited platting authority has been delegated to a second class city, a preliminary plat shall not be submitted to the borough planning department for review unless the aspects of the subdivision subject to city authority have been first approved by the city.

C. The preliminary plat submitted to the city shall comply with the requirements of KPB 20.25.070 and 20.25.080.

D. The city council or its designee, and, if required by city code or requested by the city council, other appropriate municipal departments, shall review the plat or replat and prepare written comments which shall be included with the submittal of the plat to the borough. The subdivider bears the responsibility for presentations to, and discussions with, the city to ensure that the final plat will conform to lawful ordinances and requirements of said city.

E. Final plats submitted to the borough for approval will be submitted by the borough to said city for review by the city council or its designee when the design deviates from the preliminary plat as a condition of preliminary planning commission approval by a substantial change in alignment or a dedication of right-of-way, addition of lots, or major change in lot design which has not been recommended by the city council or its designee. In such instances, the city council or its designee shall have 49 days from the date of receipt in which to review the final plat and take action.

F. To the extent a city has been delegated limited platting authority, a final plat may not deviate from the preliminary plat unless the proposed revision has first been submitted to the city by the subdivider and has been approved by the city council or its designee.

20.25.070. Form and contents required.

The preliminary plat shall be drawn to scale of sufficient size to be clearly legible and shall clearly show the following:

- A. Within the Title Block.
 - 1. Name of the subdivision which shall not be the same as an existing city, town, tract, or subdivision of land in the borough, of which a plat has been previously recorded, or so nearly the same as to mislead the public or cause confusion;
 - 2. Legal description, location, date, and total area in acres of the proposed subdivision; and
 - 3. Name and address of owner(s), as shown on the KPB records and the certificate to plat, and registered land surveyor;
- B. North point;
- C. The location, width and name of existing or platted streets and public ways, railroad rights-of-way, and other important features such as section lines or political subdivisions or municipal corporation boundaries abutting the subdivision;
- D. A vicinity map, drawn to scale showing location of proposed subdivision, north arrow if different from plat orientation, township and range, section lines, roads, political boundaries, and prominent natural and manmade features, such as shorelines or streams;
- E. All parcels of land including those intended for private ownership and those to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purposes, conditions, or limitations of reservations that could affect the subdivision;

F. The names and widths of public streets and alleys and easements, existing and proposed, within the subdivision;

G. Status of adjacent lands, including names of subdivisions, lot lines, block numbers, lot numbers, rights-of-way; or an indication that the adjacent land is not subdivided;

H. Approximate locations of areas subject to inundation, flooding, or storm water overflow, the line of ordinary high water, wetlands when adjacent to lakes or non-tidal streams, and the appropriate study which identifies a floodplain, if applicable;

I. Approximate locations of areas subject to tidal inundation and the mean high water line;

J. Block and lot numbering per KPB 20.60.140, approximate dimensions and total numbers of proposed lots;

K. Within the limits of incorporated cities, the approximate location of known existing municipal wastewater and water mains, and other utilities within the subdivision and immediately abutting thereto or a statement from the city indicating which services are currently in place and available to each lot in the subdivision;

L. Contours at suitable intervals when any roads are to be dedicated unless the planning director or commission finds evidence that road grades will not exceed 6 percent on arterial streets, and 10 percent on other streets;

M. Approximate locations of slopes over 20 percent in grade and if contours are shown, the areas of the contours that exceed 20 percent grade shall be clearly labeled as such;

N. Apparent encroachments, with a statement indicating how the encroachments will be resolved prior to final plat approval; and

O. If the subdivision will be finalized in phases, all dedications for through streets as required by KPB 20.30.030 must be included in the first phase.

20.25.080. Petition required.

A petition shall be submitted with each subdivision, abbreviated subdivision and plat waiver subdivision and shall include:

A. Proposed means of supplying water;

B. Proposed means of wastewater disposal;

C. Proposed subdivision phases, if applicable;

D. Name, address and signature of the subdivider for the purpose of processing the plat. This may be the state, the borough, a public utility, or the owners of a majority of the land within the subdivision. The entity submitting the petition may designate on the petition a surveyor or other agent to act on their behalf for submittals and presentations. All official contact by the commission and staff concerning the plat shall be with the entity signing the petition and their designee;

E. A certificate to plat current to not more than 28 business days prior to submittal, issued by a title company authorized to issue title policies in the State of Alaska, which shall be considered as prima facie evidence of all parties having an interest in the land being subdivided. An updated certificate to plat in compliance with KPB 20.60.190(A)(2) will be required for the final plat.

F. Other information the subdivider may care to present.

20.25.090. Notice.

A. Affected property owners are defined as persons who own property within a proposed subdivision, and persons who own property within 600 feet of the boundaries of the proposed subdivision. The planning director shall determine whether additional property owners are affected based on population, density, ownership data, topography and facilities in the area of the subdivision.

B. Notice of public hearing shall appear at least once in a newspaper of general circulation stating:

- a. a general description of the subdivision or replat;
- b. who filed the subdivision petition;
- c. when the subdivision petition was filed;
- d. the time and place of the hearing on the subdivision; and
- e. the process and deadline for submittal of comments.

(1) written comments may be submitted by mail, hand-delivery, email or facsimile.

C. The notice in subsection B shall be sent by regular mail to the affected property owners at least 14 days prior to the public hearing. A certificate of mailing listing the names, addresses and parcel information for each notified owner shall be maintained in the subdivision file.

D. Parties whose sole interest in the subdivision is as a beneficiary of a deed of trust, as shown on the certificate to plat, shall be sent certified mail notice by the planning department. If a beneficial interest holder does not respond within 30 days of the date of mailing indicating that the deed of trust either prohibits or allows the proposed platting action, or requires their signature on the plat, the plat may be approved. The owner may submit a letter of non-objection from the beneficial interest holder with the plat in lieu of the notice requirement. If the final certificate to plat shows additional beneficial interest holders, and they have not signed the plat or provided a letter of non-objection, the planning department will send them notice and give them a 30 day response time prior to approval of the final plat.

E. Copies of the subdivision proposal will be provided to other agencies and borough departments that may be affected by the subdivision proposal for review and comment.

20.25.100. Approval—Commission authority—Notification required.

In order for a preliminary plat to be accepted for review by the planning director, all the material required by KPB 20.25.030 through 20.25.080 must be submitted as part of the application. Within 60 days from the date of acceptance by the planning director of the preliminary plat, the commission shall determine if the preliminary plat complies with the provisions of law and this chapter, and shall approve, conditionally approve, or disapprove the plat. The commission shall notify the subdivider and parties of record of its action, including a statement of reasons supporting the planning commission's decision. This statement of reasons shall include the commission's findings justifying denial, approval, or conditional approval of the plat. If denied, the decision shall make reference to the specific sections of this title with which the submitted plat does not comply. If the commission, in its action, relies upon the report of the planning staff, the commission may vote to adopt the staff's findings and report as the findings and reasons for the planning commission's action. The planning commission may make additional or different findings from those in the staff report.

20.25.110. Approval—Scope—Expiration restriction.

A. Approval of the preliminary plat shall not constitute approval of the final plat, but means only that the basic lot and street design is acceptable. The subdivider is on notice that it is the subdivider's responsibility to provide all the information required in this ordinance and to submit a correct final plat within two years of the date of the planning commission's conditional approval of the preliminary plat. Upon application by the subdivider prior to the two-year deadline for final plat submittal, a time extension for two years beyond the initial two-year period for submittal of the final plat may be granted by the planning director. A third and final two-year extension may be granted by the planning director when requested by the subdivider prior to expiration of the previous approval, allowing for a total approval time of six years. When the preliminary plat is located within city limits, submittal of documentation from the city advisory planning commission indicating concurrence with the time extension request must accompany a time extension request. When a preliminary plat that has been granted a time extension is finalized, the final plat must comply with the current code. Expiration of time extensions will require the submission of, and action on, a new preliminary plat.

B. Preliminary plats that will be finalized in phases must comply with current code at the time each phase is finalized. All dedications for streets that are required pursuant to KPB 20.30.030 must be provided in the first phase. The approval of a final plat for a portion of the phased preliminary shall extend the preliminary approval for two years for the remaining land within the phased subdivision, except that the commission may require a new preliminary plat if the abutting road system changes. Phases must be filed in sequential order.

C. Any plat that requires submittal to and approval by the State of Alaska, including but not limited to section line easement vacation plats and highway right-of-way plans, will be given an initial four year preliminary approval. Extensions of the approval may be given by the planning director as needed for completion of the project.

D. No more than one revision process to the same preliminary plat is allowed. Major revisions to a preliminary plat shall not be approved on the final plat without first being

processed under the public notice and hearing requirements for preliminary plats. Major revisions at the time of final plat which increase density, add or substantively move rights-of-way, or otherwise increase the subdivision's impact, are not allowed and will require submittal of a new preliminary plat, application and fee.

20.25.120. Review and appeal.

A party of record may request that a decision of the plat committee be reviewed by the planning commission by filing a written request within 10 days of notification of the decision in accordance with KPB 2.40.080. A decision of the planning commission may be appealed to the board of adjustment by a party of record within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

CHAPTER 20.30. SUBDIVISION DESIGN REQUIREMENTS

20.30.010. Subdivision standards applicable.

In its consideration of subdivisions the commission shall apply the standards set forth in this chapter.

20.30.020. Reserved strips prohibited—Exception.

There shall be no reserve strips controlling access to land dedicated or intended to be dedicated to public use, except when the control and disposition of land comprising such strips is placed within the jurisdiction of the borough under conditions specified by the commission and noted on the final plat.

20.30.030. Proposed street layout—Requirements.

A. The streets provided on the plat must provide fee simple right-of-way dedications to the appropriate governmental entity. These dedications must provide for the continuation or appropriate projection of all streets in surrounding areas and provide reasonable means of ingress for surrounding acreage tracts. Adequate and safe access for emergency and service vehicle traffic shall be considered in street layout.

B. Subdivision of land classified as agricultural conveyed subject to AS 38.05.321(a)(2)(B) may provide public access easements in lieu of fee simple dedications if necessary to comply with the minimum lot size restriction of the statute. The public access easements must meet all applicable right-of-way design criteria of Title 20 and are subject to the building setback requirements set forth in KPB 20.30.240.

C. Preliminary plats fronting state maintained roads will be submitted by the planning department to the State of Alaska Department of Transportation and Public Facilities for its review and comments.

20.30.040. Streets within 100 feet of waterbodies.

No dedications are allowed within 100 feet of the ordinary high water line of a waterbody unless necessary for access to a lot where no reasonable alternative access exists or the dedication provides access to a bridge or public facility, waterbody or watercourse. Final plats must comply with KPB 20.60.050 and 20.60.060.

20.30.050. Legal access.

A. The applicant shall provide an access plan to the planning department verifying the existence of legal access to the subdivision boundary. The plan shall consist of the documents depicting the access, a map depicting the location of the access, and topographic information indicating that construction which meets the design requirements set forth in KPB Chapter 20.30 is practical and economical. In this title, legal access exists where an unrestricted, public right-of-way connects the subdivision to the state highway system, the state marine highway system or a regularly served public airport, and one of the following is met:

1. Ingress and egress will be provided over section line easements located within a surveyed section;
2. The applicant provides copies of borough-accepted recorded conveyances creating the public easement or right-of-way where the access is located;
3. That access is a State of Alaska maintained road or municipal maintained road;
4. The applicant provides documentation satisfactory to the borough demonstrating that public legal access is guaranteed through judicial decree; or
5. The right-of-way is an easement or fee interest at least 60 feet in width dedicated or irrevocably conveyed to the public and acceptable to the planning commission.

B. The following situations may qualify for a waiver of the legal access requirement:

1. Upon finding that no practical means of providing road access to a proposed subdivision exists and upon presentation of credible and convincing evidence by the applicant that permanent public access by air, water, or railroad is both practical and feasible, the planning commission may waive the legal access requirements of KPB 20.30.050(A). If access other than by road is approved, the mode of access shall be noted on the plat.
2. Where only a 30-foot dedication exists over all or a portion of the legal access to a subdivision, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the other 30 feet will be dedicated in the future.
3. Where a road is in use for physical access but there is no right-of-way document for all or part of the access road, the provisions of KPB 20.30.050(A) may be considered met if it is reasonable to expect that the right-of-way will be dedicated in the future.

20.30.060. Easements—Requirements.

A. The planning commission may require easements it determines necessary for the benefit of the public. Such easements include, but are not limited to, lateral support (slope) easements, drainage easements for ditching or protection of a drainage, and utility easements. Required easements do not need to be for road purposes.

B. Upon submittal of a preliminary plat, the planning department shall provide a copy to public utility companies for their comments and recommended design of utility easements. If the property is subject to existing natural gas or petroleum pipeline easements, a copy shall also be furnished to the appropriate company for comment.

C. The subdivider bears the responsibility for coordination with the utility companies during the design and development phases. When a subdivider and the utility company cannot agree on easements, the final plat will be taken to the planning commission for determination of easements.

D. Unless a utility company requests additional easements, the front ten feet of the building setback shall be designated as a utility easement, graphically or by note.

20.30.070. Lots on major streets—Access requirements.

Lots fronting on arterial streets with less than 200 feet of right-of-way as identified in the arterial road plan adopted by the borough or lots fronting on state maintained roads with less than 200 feet of right-of-way may be required to provide interior or frontage road access after review and recommendation by the Kenai Peninsula Borough Road Service Area staff and upon a finding by the planning commission that due to size, topography, physical characteristics, or heavy traffic flow, that direct access to the arterial or state maintained road may present a traffic hazard.

20.30.080. Alleys.

Alleys are prohibited unless allowed by city ordinance.

20.30.090. Streets—Maximum grades allowed.

The subdivider shall demonstrate that streets can be readily constructed in accordance with current borough road standards and that the grades on any such roads shall not exceed 6 percent on arterial streets and 10 percent on other streets, or 4 percent within 130 feet of any centerline intersections. Submittal of centerline profiles and cross-sections may be required to demonstrate that compliant construction in the right-of-way is feasible.

20.30.100. Cul-de-sacs.

A. Streets designed to have one end permanently closed shall be no more than 1000 feet long. The closed end of the cul-de-sac shall have a suitable turnaround with a minimum radius of 50 feet to the property line. The turnaround shall be constructible to a 4 percent grade or less.

B. Hammerhead or T-type turnarounds may be allowed on a case-by-case basis. Adequate turning radii, width and depth must be provided for road maintenance and emergency vehicle

access. Plans must be reviewed with a recommendation by emergency service providers and the KPB Road Service Area Board prior to submittal for planning commission review.

C. Temporary turnarounds and self-vacating turnarounds shall not be granted or reserved on plats.

20.30.110. Half streets.

A. Half streets shall generally not be allowed except where one of the following circumstances applies:

1. The street is identified on the borough road plan as an arterial;
2. The street is a logical extension of an existing street; or
3. The remaining half street can reasonably be expected to be dedicated.

B. When a design change required as a condition of preliminary approval results in a half right-of-way that was not shown on the original preliminary plat, adjoining to the new half right-of-way are parties of record and will be sent a copy of the plat committee minutes and a sketch showing the new half right-of-way. Pursuant to KPB 2.40.080 review of the plat committee decision by the planning commission may be requested by parties of record.

20.30.120. Streets—Width requirements.

A. The minimum right-of-way width of streets shall be 60 feet.

B. Additional right-of-way or easement width may be required to provide for the construction of side slopes or to otherwise accommodate right-of-way construction standards set forth in KPB Title 14.

20.30.130. Streets—Curve requirements.

A. Where a deflection angle of more than 10 degrees in the alignment of a right-of-way occurs, a curve of minimum radius is required. On streets 100 feet or more in width, the centerline radius of curvature shall be not less than 300 feet; on other streets not less than 200 feet. If it is not possible to design a curve to be radial or tangential, that curve shall be clearly labeled non-radial or non-tangential.

B. A minimum 100-foot tangent is required between curves.

20.30.140. Streets—Prohibited curves.

Compound and broken-back curves are not allowed. Reverse curves will be considered on a case by case basis.

20.30.150. Streets—Intersection requirements.

A. Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than 60 degrees. Where acute street intersections are designed, a minimum 50-foot radius corner at the right-of-way line of the acute angle shall be provided.

B. Offset intersections are not allowed.

C. Intersections of access streets with arterial streets or state maintained roads shall be limited to those intersections required for safe access consistent with KPB Title 14.

D. Intersections of access streets with arterial streets or state maintained roads must be designed to the American Association of State Highway and Transportation Officials (AASHTO) standards.

20.30.160. Streets—Name requirements.

Streets shall be named to conform to KPB Chapter 14.10

20.30.170. Blocks—Length requirements.

Blocks shall not be less than 330 feet or more than 1,320 feet in length. Along arterial streets and state maintained roads, block lengths shall not be less than 800 feet. Block lengths shall be measured from centerline intersections.

20.30.180. Pedestrian ways required when.

Pedestrian ways not less than 8 feet wide shall be required in blocks longer than 600 feet where reasonably deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

20.30.190. Lots—Dimensions.

A. The size and shape of lots shall provide usable sites appropriate for the locality in which the subdivision is located and in conformance with the requirements of any zoning ordinance effective for the area in which the proposed subdivision is located. Generally lots shall be square or rectangular. Lots shall be at least 60 feet wide on the building setback line. The minimum depth shall be no less than 100 feet, and the average depth shall be no greater than three times the average width.

B. The access portion of a flag lot shall not be less than 20 feet wide. A flag lot with the access portion less than 60 feet wide may be subject to a plat note indicating possible limitations on further subdivision based on access issues, development trends in the area, or topography. If the access portion is less than 60 feet wide, it may not exceed 150 feet in length. The access portion may not be used for permanent structures or wastewater disposal area, must meet the design standards of KPB 20.30.030(A) and 20.30.090 for access, and, if at least 60 feet wide, will be subject to the building setback restrictions of KPB 20.30.240.

20.30.200. Lots—Minimum size.

Except in cities where zoning and subdivision regulations establish different minimums, lots must be designed to meet the following area requirements:

A. Lots shall contain at least 6,000 square feet if served by public wastewater disposal and water systems.

B. Lots shall contain at least 40,000 square feet if both the well and wastewater disposal are to be located on the lot unless it can be demonstrated to the satisfaction of the commission that a smaller lot size is adequate for the safe location and operation of an on-site well and wastewater disposal system.

C. Subdivisions designed to be served by public wastewater disposal and water systems but not yet served by such systems may be permitted to contain lots of less than 40,000 square feet if the following conditions are met:

1. The available area may be reduced to 20,000 square feet when public water or wastewater disposal system is available, complying with KPB 20.40;
2. A statement from an engineer affixed with his seal and signature attesting that the proposed lot design and associated building restrictions will assure adequate area is available to each building site for safe on-site well and wastewater disposal, including area for a replacement wastewater disposal system.

20.30.210. Lots—Access to street.

Each lot shall abut on a fee simple dedicated street except as provided by KPB 20.30.030(B).

20.30.220. Lots—Side line requirements.

Where reasonable, side lines of lots shall be at right angles to straight portions of the right-of-way or radial to curved portions of the right-of-way.

20.30.230. Lots—Double frontage prohibited when.

Double frontage lots with depths less than 250 feet will not be approved except where necessitated by topographic or other physical conditions, or to provide reverse frontage along arterial streets. Corner lots are not subject to the double frontage prohibition.

20.30.240. Building setbacks.

A. The commission shall require a building setback of at least 70 feet from the centerline of all fee simple arterial rights-of-way in a subdivision. A minimum 20-foot building setback shall be required for fee simple non-arterial rights-of-way in subdivisions located outside incorporated cities.

B. The setback shall be graphically depicted and labeled on the lots; if such depiction will interfere with the legibility of the plat, a typical lot showing the depiction and label may be

provided on the plat, clearly indicating that the typical setback applies to all lots created by the plat.

C. The setback shall be noted on the plat in the following format:

Building setback - A setback of _____ feet is required from all street right-of-ways unless a lesser standard is approved by resolution of the appropriate planning commission.

20.30.250. Building setbacks—Within cities.

The building setback requirements for subdivisions located within cities shall be governed by the provisions of municipal zoning districts.

20.30.260. Unsubdivided remainders prohibited.

All parent parcels must be included in the boundary of the subdivision and all divisions must be given lot or tract numbers and must include areas.

20.30.270. Different standards in cities.

Where cities have been delegated partial platting powers by the borough and have enacted by ordinance different subdivision design standards than those set forth in this chapter, the planning commission shall apply the city standards in lieu of those set forth in this chapter. The application of the city design standard is subject to the city having an ordinance in place that satisfies the notice requirements of KPB 20.25.090(A) through (D) and a process to appeal decisions made by the city regarding application of its subdivision design standards.

20.30.280. Floodplain requirements.

A. All subdivision plats which are within areas where the floodplain has been identified by the Federal Emergency Management Agency (FEMA), and which involve 50 lots or five acres whichever is lesser, shall include the base flood elevation source.

B. Any area of the subdivision within the floodplain, floodway or Seward Mapped Flood Data Area (SMFDA) is to be shown and labeled on the plat.

C. All subdivisions which are within areas where the floodplain has not been mapped and base flood elevation data is not available shall provide the information in compliance with KPB 21.06.050.

D. All subdivisions or replats within the Flood Insurance Rate Map (FIRM) area or SMFDA, as amended, as defined by KPB 21.06.020, shall contain the following note:

FLOOD HAZARD NOTICE:

Some or all of the property shown on this plat has been designated by FEMA or the Kenai Peninsula Borough Seward Mapped Flood Data Area as a flood hazard area district as of the date this plat is recorded with the district recorder's office. Prior to development, the Kenai Peninsula Borough floodplain administrator should be contacted for current information and regulations. Development must comply with Chapter 21.06 of the Kenai Peninsula Borough Code.

E. All subdivisions or replats that include any portion of the mapped floodway shall contain the following note:

FLOODWAY NOTICE:

Portions of this subdivision are within the floodway. Pursuant to KPB Chapter 21.06, all development (including fill) in the floodway is prohibited unless certification by an engineer or architect is provided demonstrating that encroachments shall not result in any increases in flood levels during the occurrence of the base flood discharge.

F. Each plat within a city which has met the requirements of this section shall contain the following statement: "The first finished and habitable floor of a building constructed within a floodplain shall be built at or above the 100-year flood level."

G. This section applies to all cities which adopt a resolution requesting participation in the FEMA floodplain program and which are subsequently recognized by the state as participants.

H. A city may adopt an ordinance as part of its building code with greater restrictions than those set forth in KPB 20.30.280(A). A note shall be placed on the plat to indicate that the developer is responsible for contacting the city to determine the restrictions prior to any development.

20.30.290. Anadromous habitat protection district

If any portion of a subdivision or replat is located within an anadromous habitat protection district, the plat shall contain the following note:

ANADROMOUS HABITAT PROTECTION DISTRICT NOTE:

Portions of this subdivision are within the Kenai Peninsula Borough Anadromous Habitat Protection District. See KPB Chapter 21.18, as may be amended, for restrictions that affect development in this subdivision.

CHAPTER 20.40. WASTEWATER DISPOSAL

20.40.010. Wastewater disposal.

A. All lots within a proposed subdivision in the Kenai Peninsula Borough must meet the following applicable standards of this chapter for wastewater disposal.

B. This chapter is not applicable to a subdivision proposed under 43 U.S.C. 1613(c) before subdividing, platting or disposition under that act. A person proposing to subdivide land after transfer under that act must comply with the provisions of this chapter.

C. Subdivision plans for a no-water carried method of wastewater disposal must conform to the provisions of KPB 20.40.030.

D. Subdivision plans with a holding tank method of wastewater disposal are prohibited.

20.40.020. Wastewater system review not required

A. Wastewater system review will not be required if any of the following criteria are satisfied:

1. The existing parent subdivision was approved by the Department of Environmental Conservation, current state agency, or the Kenai Peninsula Borough under this chapter and the proposed subdivision is limited to:
 - a. Vacating lot lines to create fewer lots;
 - b. Moving one or more lot lines a total distance of ten feet or less without increasing the number of lots having prior onsite wastewater approval; or
 - c. Moving one or more lot lines without increasing the number of developable lots, while maintaining a minimum of 20,000 square feet of contiguous area, as described in KPB 20.40.040(A)(4)(a), for each lot affected by the lot line movement.
2. The plat increases lot sizes by 1,000 square feet or more of area suitable for conventional development.
3. The sole purpose of a plat is to depict right-of-way approved for vacation under KPB Chapter 20.70 as attaching to adjoining parcels in compliance with KPB 20.70.150 and AS 29.40.150, under KPB 20.10.090.
4. The sole purpose of a plat is to show a survey and delineate parcels as a condition prior to transfer of title for a municipal entitlement pursuant to AS 29.65, under KPB 20.10.100.

B. Plats described in subsection (A) shall have one of the following plat notes, as applicable:

1. Before a final plat qualifying for the exemption under KPB 20.40.020(a)(1) is recorded or filed for subdivision, an engineer or surveyor must complete the following plat note which shall be placed on the plat:

WASTEWATER DISPOSAL: The parent subdivision for lots resulting from this platting action was approved by the (Alaska Department of Environmental Conservation) or (Kenai Peninsula Borough) on (DATE). Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

2. Before a final plat qualifying for the exemption under KPB 20.40.020(A)(2), (3) or (4) is filed, the following plat note shall be placed on the plat:

WASTEWATER DISPOSAL: Wastewater treatment and disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

20.40.030. Abbreviated submittal.

Lots within the proposed subdivision that will be at least 200,000 square feet or nominal five acres in size do not require a soils analysis and report prepared by a qualified engineer. Before a final plat is recorded or filed for subdivision, the following note must be placed on the plat:

WASTEWATER DISPOSAL: Lots which are at least 200,000 square feet or nominal five acres in size may not be suitable for onsite wastewater treatment and disposal. Any wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

20.40.040. Conventional onsite soil absorption systems.

A. If any lots within a subdivision will utilize conventional onsite soil absorption systems and are less than 200,000 square feet, the following requirements must be met and submitted to the planning director:

1. A soils analysis and report, sealed by a qualified engineer, which meets the requirements of KPB 20.40.100;
2. A pollution abatement report, sealed by a qualified engineer, which meets the requirements of KPB 20.40.090 if:
 - a. Lot size is less than 40,000 square feet; and
 - b. There will not be a public water system serving the subdivision lots as described in KPB 20.40.090(C);
3. A working map depicting:
 - a. Ground slopes greater than 20 percent, or 5 percent where a bed system is proposed, and other topographic features as needed by a qualified engineer to meet the design requirements for wastewater disposal as defined in this chapter;
 - b. The location of all soils field work, including the location of borings, percolation tests, and test holes;
 - c. Each existing water source for a public drinking water system within the subdivision and within 200 feet of the subdivision boundary;
 - d. Each existing water source for a private drinking water system within the subdivision or within 100 feet of the subdivision boundary; and
 - e. An approximate delineation of the apparent usable initial wastewater disposal area as described in KPB 20.40.040(A)(4);
 - f. An approximate delineation of the apparent usable wastewater disposal area for a replacement system;
 - g. An approximate location for a well, with the appropriate radius shown;
4. Documentation from the engineer that:
 - a. There is on each lot at least 20,000 square feet of contiguous area suitable for use for an initial and replacement wastewater disposal system. This area can include driveways, and an average single-family residence with associated appurtenances, but excludes dedicated rights-of-way, public access easements, including section

- line easements, the panhandle portion of flag lots, and existing well protection zones;
- b. The soil types, moisture content (in areas of known or suspected permafrost), soil slopes, distances to downhill terrain breaks, and depths to seasonal high water table and impermeable strata must:
 - 1) Meet the requirements of soils analysis and report described in KPB 20.40.100;
 - 2) Be suitable for use in a soil absorption system, as shown by the soils analysis and report;
 - c. Separation distances in or from any part of the proposed usable wastewater disposal area must be maintained as required by 18 AAC 72.020; if an area outside the subdivision boundary cannot be visually inspected to determine existence and position of water system sources, the applicant may use existing records as the basis for this information;
5. Plans for initial and replacement soil absorption systems for each lot that does not contain 20,000 square feet of contiguous suitable area described in KPB 20.40.040(A)(4); the plans shall show the location of the system(s) and must be sealed by a qualified engineer.

B. Before a final plat is recorded or filed for subdivision under this section, the borough will require the engineer to sign the following note on the final plat:

WASTEWATER DISPOSAL: Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a qualified engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

(signature of) Engineer License # Date

20.40.050. Alternate onsite wastewater treatment and disposal.

A. If any lots within a subdivision will employ alternate onsite wastewater treatment and disposal, the following requirements must be met and submitted to the planning director:

1. A soils analysis and report, prepared and sealed by a qualified engineer containing sufficient soils data to:
 - a. Demonstrate that a conventional onsite soil absorption system is not practicable; and
 - b. Support the functional use of the proposed system;
2. A pollution abatement report, sealed by a qualified engineer, meeting the requirements of KPB 20.40.090 if:
 - a. Disposal of wastewater to onsite soils is proposed;
 - b. The subdivision's minimum lot size is less than 40,000 square feet; and

- c. There will not be a public water system serving the lots of the subdivision, as set out in KPB 20.40.090(C);
- 3. Plans for a treatment and disposal system for each lot (or a single typical design for each group of identical systems), as required by 18 AAC 72.205. The plans must be sealed by a qualified engineer;
- 4. An adequate demonstration that a conventional onsite soil absorption system, collector wastewater or collector system and treatment disposal system, individual lot treatment system, or connection to an existing system are not practicable due to either lack of suitable soils or economic considerations;
- 5. Evidence that separation distances set out in 18 AAC 72.020 will be met; if an area outside the subdivision boundary cannot be visually inspected to determine existence and position of water system sources, the subdivider may use existing records as the basis for this information; and
- 6. Evidence that lots with a minimum size of less than 40,000 square feet for which a pollution abatement report is required meet the requirements of KPB 20.40.090(B).

B. Before a final plat is filed for subdivision, the engineer must sign the following note on the final plat:

WASTEWATER DISPOSAL: Soil conditions in this subdivision have been found unsuitable for conventional onsite wastewater treatment and disposal systems. Plans showing a suitable alternate wastewater disposal system that could be used on lots in this subdivision are included in the Engineer's Subdivision and Soils Report and are available from the Kenai Peninsula Borough. All alternate onsite wastewater treatment and disposal systems must be designed for the specific installation by a qualified engineer registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation prior to construction.

(signature of) Engineer License # Date

20.40.060. Onsite treatment systems with individual marine outfalls.

A. If any lots within a subdivision will employ an onsite treatment system plan with an individual marine outfall, the following requirements must be met:

- 1. The preliminary subdivision plat must clearly show access from the lot to marine waters for wastewater disposal for each lot with a proposed marine outfall, by direct access, easement, or other authorization (this may require a detail drawing);
- 2. A soils analysis and report, sealed by a qualified engineer, with sufficient soils data to demonstrate that neither a conventional nor an alternate onsite soil absorption system is practicable for the lot in question;
- 3. Plans for the treatment and disposal system proposed for each lot, or single typical design for each group of identical systems, as required under 18 AAC 72.200 - 18 AAC 72.205, the plans must be sealed by a qualified engineer;
- 4. Construction and necessary operation of the treatment system by the lot owners is feasible;

5. Dispersion and mixing calculations must show that each outfall and the cumulative impact from all of the outfalls complies with this chapter and 18 AAC Chapter 70, Water Quality Standards, or otherwise complies with permit conditions; and
6. A minimum lot size necessary to maintain the applicable separation distances set out in 18 AAC 72.020 from any part of the wastewater systems.

B. For a wastewater treatment and disposal system proposed under this section, the requirements of 18 AAC 72. 205 and 18 AAC 72.275 for prior Alaska Department of Environmental Conservation approval of wastewater discharge permits will apply only to persons who propose actual discharges, and will not apply to conceptual plan of wastewater treatment and disposal for a subdivision covered under this section.

C. Before a final plat is filed for subdivision, the qualified engineer must complete the following plat note which shall be placed on the plat:

WASTEWATER DISPOSAL: Plans for wastewater treatment systems with individual marine outfalls serving single family or duplex residences, that meet the regulatory requirements of KPB 20.40.060, are on file at the Kenai Peninsula Borough. Any type of wastewater treatment and disposal system disposing of wastewater onsite or through an outfall must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

(signature of) Engineer License # Date

20.40.070. Connection to an existing system.

A. If any lots within a subdivision will be connected to an existing collector wastewater and treatment system, the following requirements must be met:

1. Proof that the owner of the collector wastewater and treatment system has agreed to allow the lots to be connected;
2. Documentation from the municipality, ADEC or system design engineer that the receiving system is adequate to accept the additional hydraulic and organic loading; and
3. The minimum lot size necessary to maintain the applicable separation distance set out at 18 AAC 72.020 from any part of the wastewater system.

B. Before a final plat is filed for subdivision, the qualified engineer or surveyor, as applicable, must complete the following plat note which shall be placed on the plat:

WASTEWATER DISPOSAL: Plans for wastewater disposal that meet regulatory requirements are on file at the Department of Environmental Conservation.

(signature of) Engineer License # Date

20.40.080. Subdivisions with no wastewater disposal.

A. This section applies to subdivisions where no wastewater will be generated or disposed, and the land use cannot produce wastewater.

B. Before a final plat is filed for subdivision, the surveyor must complete the following plat note which shall be placed on the plat:

WASTEWATER DISPOSAL: Conditions might not be suitable for onsite wastewater treatment and disposal systems. No wastewater will be generated or disposed of on these lots as of the date of this plat. If circumstances change to allow lawful onsite wastewater treatment and disposal systems, those systems must meet the wastewater disposal requirements of KPB Chapter 20.40 and regulatory requirements of the Alaska Departmental of Environmental Conservation.

20.40.090. Pollution abatement report.

A. In addition to the foregoing, a subdivision must be planned so it will not:

1. Contribute to nitrate concentrations in groundwater that exceed existing State standards;
2. Contribute to fecal coliform bacteria contamination; or
3. Cause other pollutants to exceed concentrations beyond the acceptable limits set by 18 AAC Chapter 70.

B. Except as provided in KPB 20.40.090(C) of this section, if an applicant proposes disposal of wastewater to onsite soils for a single-family or duplex residential lot of less than 40,000 square feet, the applicant shall submit a pollution abatement report containing calculations showing that the nitrate concentration of the groundwater aquifer most likely to be affected by the proposed disposal systems will not be increased beyond State drinking water standards at the property line of each lot smaller than 40,000 square feet. The calculations must be sealed by a qualified engineer. To prepare the calculations required under this subsection, there are many groundwater modeling references from which to choose, including those listed in 18 AAC 72.070. For a subdivision with lot sizes of 40,000 square feet or more, these calculations are not required.

C. The requirements of (B) of this section do not apply to lots in subdivisions that have, or will have, a public water system capable of delivering water to each lot. If a public water system is proposed for a subdivision, but not constructed, construction assurance for the water system is required.

20.40.100. Soils analysis and report.

A. The soils analysis and report required by this chapter must demonstrate subsurface conditions and soils are suitable for designation as a usable wastewater disposal area under KPB 20.40.040(A)(4). Soils testing, test results, and the soils report must meet the following criteria:

1. The soils analysis and report must be sealed by a qualified engineer;

2. Test holes and borings must be located to yield representative data for, and provide KPB 20.40.coverage of, the entire subdivision;
3. Test holes and borings must have the following minimum depth below the ground surface:
 - a. In areas known or suspected to contain permafrost, the lesser of
 - 1) 20 feet deep; or
 - 2) A depth below seasonal high groundwater table;
 - b. The least depth associated with the following conditions, where applicable:
 - 1) Two feet below the initial encounter with the water table;
 - 2) Ten feet deep for shallow trench or bed systems;
 - 3) Twelve feet deep for areas where deep trench or seepage pits will likely be used; or
 - 4) The depth to bedrock, clay, or other impermeable strata with an expected percolation rate slower than 120 minutes per inch;
4. Soils in a usable wastewater disposal area must be:
 - a. Shown to be visually classified as GW, GP, SW, or SP under Unified Soils Classification System, and expected to have a percolation rate faster than 60 minutes per inch; or
 - b. Shown to be GM or SM under the Unified Soils Classification System by a sieve analysis; or
 - c. Shown by a percolation test conducted in accordance with 18 AAC 72.265(9) to have a percolation rate as described in 18 AAC 72.265(7); and
5. The restrictions of 18 AAC 72.035(d)(7) and (8) must be met.

B. Use of soils with percolation rates other than those set out in 18 AAC 72.265(7) must be on a case-by-case basis as described in Table C in 18 AAC 72.260(a)(4)(D). A definitive explanation authored and stamped by an engineer must be submitted.

C. In areas known or suspected to contain permafrost, a soil moisture content profile analysis derived from laboratory testing methods, and taken from each test hole used for soils testing in the subdivision, must show that the soils throughout the subdivision are adequately drained.

D. Subject to (E) of this section, the minimum number of test holes and soils analyses required under this section is at least one per two acres of subdivision, with at least one test hole and one soils analysis for a subdivision of two acres or less.

E. The engineer may use less than the minimum number of test holes and soils analyses required by (D) of this section if sufficient soils data indicates general consistency throughout all or a portion of the subdivision. A definitive explanation authored and stamped by a qualified engineer must be submitted. The soils report shall contain a recommended application rate, limited to within 25' of the test hole, determined by the soil classification or percolation rate(s) at the test hole and a recommended soil absorption type (trench or bed).

F. Soil testing requirements for subdivision lots equal or greater than nominal five acres consist of general soils and water table description with sufficient detail to support the applicability of the proposed means of wastewater disposal; the description must be based on:

1. Existing information; or
2. Visual analysis by, or local knowledge of, a qualified engineer.

G. Except as provided in (H) of this section, the minimum depth from the ground surface to seasonal high water table and impermeable strata must conform to the values listed below. The listed depth must provide at least the following:

1. Four feet or reduced by depth of freeze calculations by a qualified engineer;
2. One foot for the distribution pipe, sewer rock, and barrier material;
3. Four feet of separation from the bottom of the system to the seasonal high water table;
4. Four feet minimum ground cover over the soil absorption system including tank, piping, and affective leach area;
5. Nine feet minimum depth to seasonal high water; and
6. Eleven feet to impermeable strata.

H. The minimum depth from the ground surface to the seasonal high water table or impermeable strata set out in (G) of this section may be reduced by up to two feet by insulating with non-absorbing insulation or by mounding above grade to provide protection from frost penetration. Insulation material may be substituted for up to two feet of earth cover if material type and thickness allow per 18 AAC 72.035(d)(7) and 18 AAC 72.035(d)(8).

I. When the water table is encountered in the test holes, the depth to the seasonal high water table must be determined by:

1. Monitoring test holes or soil borings at times between May and October (inclusive); or
 2. Soil mottling analyses; or
 3. Interpretation of levels of standing open water; or
 4. Local knowledge and experience; or
 5. A combination of these methods.
- J. The depth to any seeps must be noted, and may require subsequent monitoring.

CHAPTER 20.50. EXCEPTIONS

20.50.010. Exceptions to regulations—Procedure—Commission authority.

A. Unless prohibited under this title, the commission may authorize exceptions to any of the requirements set forth in this title. Application for an exception shall present the commission with substantial evidence, justifying the requested waiver or exception stating fully the grounds for the application and the facts relied upon. The commission shall make findings of fact meeting the following standards before granting any exception:

1. That special circumstances or conditions affecting the property have been shown by application;
2. That the exception is necessary for the preservation and enjoyment of a substantial property right and is the most practical manner of complying with the intent of this title;
3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

B. Where a design requirement of this title is addressed by a zoning regulation adopted by the borough assembly or city council, the variance procedures of the applicable zoning code shall be utilized in lieu of the exception procedures.

C. All exceptions must be requested and granted at the time of preliminary plat approval. Exceptions may not be requested with a final plat submittal.

D. Upon reconsideration of a plat committee decision following the procedure in KPB 20.25.210, an appeal of a decision of the planning commission made under this section shall be taken to the board of adjustment, in accordance with the requirements of KPB Chapter 21.20.

CHAPTER 20.60 FINAL PLAT

20.60.010. Preparation requirements generally.

The final plat shall be prepared in accordance with this chapter and the preliminary plat as approved. Information required for the preliminary plat by KPB 20.25.070 shall be included on the final plat except that the information required by KPB 20.25.070 (K) - (N) shall not be included. The approximate dimensions required by KPB 20.25.070(J) shall be replaced with accurate dimensions as required by KPB 20.60.110 and KPB 20.60.120. If the final plat contains only a portion of the preliminary plat, it must comply with KPB 20.25.110(B).

20.60.020. Filing—Form and number of copies required.

The subdivider shall file a standard number of prints as determined by the planning director. All prints shall be folded as required by KPB 20.25.030 except those to be recorded with the district recorder.

20.60.030. Certificate of borough finance department required.

All taxes levied on the property within the subdivision shall be paid prior to recordation of the final plat. If approval is sought between January 1 and the tax due date, there shall be on deposit with the borough finance department an amount sufficient to pay the entire estimated real property tax for the current year. Prior to filing of the final plat, a certificate to this effect shall be provided by the borough finance director or his designee upon request by the planning director. Estimated tax payments shall be applied to the actual bill as of July 1 or such earlier date as the taxes due have been determined.

20.60.040. Dedication of public use lands.

Any land shown on a plat as a street, public park or other public area must be dedicated on the final plat to a tax exempt governmental entity. If the governmental entity is not the Kenai Peninsula Borough, the governmental entity shall be required to execute an acceptance of the dedication on the plat.

20.60.050. Dedication and construction of anadromous waterbody crossings.

A. Where a dedication crosses a waterbody within the Kenai Peninsula Borough Road Service Area cataloged as important to the protection of anadromous fish under AS 16.05.871 as now enacted or as may be hereinafter amended, additional right-of-way dedication or slope easements may be required by the planning commission as necessary for construction to meet the criteria of KPB 14.40.061(B).

B. Where a dedication is proposed over an existing road crossing a waterbody within the Kenai Peninsula Borough Road Service Area cataloged as important to the protection of anadromous fish under AS 16.05.871 as now enacted or as may be hereinafter amended, the road and crossing must be brought up to the permitting standards established by KPB 14.40.061(A) prior to planning commission approval of the final plat.

C. Where a plat dedicates a right-of-way over an existing road which crosses an anadromous waterbody as described in KPB 20.60.050(B), the applicant shall have three years from the approval of the preliminary plat to have the final plat approved. The time frame may be extended by the planning director if the extension is requested prior to the termination of the initial three-year period for final plat approval or any previously granted extension, and only if there has been no change in the design of the subdivision's road system since preliminary plat approval. Extensions may only be granted for one year at a time.

D. The road service area shall inspect and provide certification to the planning department that waterbody crossings meet the permitting requirements of KPB 14.40.061(A) prior to the approval of the final plat.

20.60.060. Dedications within 100 feet of waterbodies.

In addition to the criteria set forth in KPB 14.40.061(B), where dedications are proposed within 100 feet of a waterbody, the requirements of KPB 20.30.040 shall be met as part of the subdivision design.

20.60.070. Plat specifications.

The final subdivision plat shall be clearly and legibly drawn to scale on good quality polyester film at least 3 mm in thickness. All lines, letters, figures, certifications, acknowledgements and signatures shall be clear and legible. The plat shall be so made, and shall be in such condition when filed, that legible prints and negatives can be made therefrom. Sheets shall be one of these sizes: 8 1/2" x 14"; 11" x 17"; 18" x 24"; and 24" or 30" x 36". When more than one sheet is required, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the total number (e.g. sheet 1 of 3). When more than one sheet is submitted, all sheets shall be the same size. Indelible ink or sealant shall be used to insure permanency.

20.60.080. Improvements—Installation agreement required.

A final plat of a subdivision located within city limits shall not be recorded with the district recorder prior to compliance with any city ordinances concerning the installation of improvements. Evidence of compliance shall be provided by the subdivider in the form of a written statement from the appropriate city official that improvements required by city ordinance are or will be installed. Evidence of compliance shall be a part of the final plat submission and the time for action required by KPB 20.60.210 shall not commence until evidence of compliance is submitted.

20.60.090 Improvements—Other public systems.

A final plat of a subdivision outside city limits served by a public or existing ADEC approved water or wastewater disposal system shall not be approved prior to provision of documentation from the owner of the system that service to the system is installed and available to each lot in the subdivision, and that connection to all lots will not exceed the capacity of the system.

20.60.100. Reversion to acreage

A. Plats filed for the purpose of reverting subdivided land to acreage shall be conspicuously designated "THE PURPOSE OF THIS PLAT IS A REVERSION TO ACREAGE."

B. Reverted acreage may carry the original lot or tract designation.

20.60.110. Dimensional data required.

A. The bearing and length of every lot line, block line, and boundary line shall be shown. Dimensions of lots shall be given as net dimensions to the boundaries of adjoining streets and shall be shown in feet. No ditto marks shall be used. Information shall be shown for all curves, including radius, central angle, arc length, chord length and chord bearing. The initial point of survey shall be shown and labeled.

B. The natural meanders of ordinary high water (or mean high water line as applicable) is for area computations only, the true corners being on the extension of the sidelines and the intersection with the natural meanders.

20.60.120. Accuracy of measurements.

All linear measurements shall be shown to the nearest 1/10 foot, and angular measurements shall be at least to the nearest minute. All lot areas shall be shown to the nearest 10 square feet or to the nearest 1/1,000 of total acres. Meander lines, dry land areas and submerged land areas shall be shown in addition to total area when applicable. All boundary closures shall be to a minimum accuracy of 1:5,000. Boundary and lot closure computations must be submitted with the final plat.

20.60.130. Boundary of subdivision.

The boundary of the subdivision shall be designated by a wider border and shall not interfere with the legibility of figures or other data.

20.60.140. Block and lot numbering.

Blocks and lots within each block shall be numbered consecutively or all lots shall be numbered consecutively. If possible, each block should be shown entirely on one sheet. Each lot shall be shown entirely on one sheet.

20.60.150. Utility easements.

A. The utility easements approved by the planning commission shall be clearly shown on the final plat in dimensioned graphic form or as a note.

B. The following note shall be shown on the final plat:

No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.

20.60.160. Easements.

A. The plat shall clearly show the location, width, and use of all easements. The easements must be clearly labeled and identified and, if already of record, the recorded reference given. If public easements are being granted by the plat, they shall be properly set out in the owner's certification of dedication.

1. Special purpose easements being granted by the plat shall be clearly defined for allowed use. Special purpose easements may require a signed acceptance statement on the plat.

B. Private easements may not be granted on the plat.

20.60.170. Other data required by law.

A. The plat shall show all other data that are or may be required on the plat by statute or ordinance.

B. Private covenants and restrictions of record in effect at the time the final plat is approved shall be referenced on the plat.

20.60.180. Plat notes.

Plat notes shall not be placed on a final plat unless required by borough code or by the planning commission in order to promote or protect the public health, safety, and welfare consistent with borough and state law.

20.60.190. Certificates, statements, and signatures required.

A final plat submitted for review and approval shall bear the following certificates with signatures of appropriate parties signed with permanent black ink:

A. Certificate of ownership, dedication, and acknowledgement:

1. All parties having an interest of record in land being subdivided shall sign a certificate of ownership and dedication printed on the plat, affixed thereto, or by separate affidavit. If such title interest is vested in other than named individuals, including but not limited to corporations, partnerships, limited liability companies, trusts or homeowner's associations, the certificate shall be signed and acknowledged by an individual(s) under written authority granted by its board of directors or shown by official documentation appropriate to the entity. Documentation of such authority shall be submitted with the final plat.
2. A certificate to plat, current to not more than three business days prior to submittal of the final plat, issued by a title company authorized to issue title policies in the State of Alaska, shall be submitted with the final plat and shall be considered as prima facie evidence of all parties having an interest in the land being subdivided. A certificate to plat shall be valid for thirty days from date of issuance or update.
3. The certificate of ownership for a replat of multiple parcels owned by separate parties shall show to which original parcel the signatory attests.
4. Multiple or otherwise notarized affidavits or certificates of ownership and dedication may be substituted on separate 8 1/2 x 11 inch sheets, each containing the title of the plat, surveyor's name and seal, and the date. The separate certificates shall be recorded simultaneously with the plat, each bearing appropriate references. A minimum of one signed certificate must be on the face of the plat.
5. The certificate of ownership and dedication shall be substantially as follows:

Certificate of Ownership and Dedication

(I) (We) hereby certify that (I am) (we are) the owner(s) of the real property shown and described hereon and that (I) (we) hereby adopt this plan of subdivision and by (my) (our) free consent dedicate all rights-of-way and public areas to public use and grant all easements to the use shown, (if a special use easement being accepted by city, include description and city name).

Owner's name and address

Certificates or affidavits of those parties having legal and equitable interest in the property shall contain appropriate modifications to the owner's certificate.

6. All parties affixing their signature to a certificate of ownership and dedication shall sign before an officer duly authorized to take acknowledgements who shall notarize the signature in essentially the following form:

Notary's Acknowledgement

For: _____
Acknowledged before me this ____ day of _____, 20__.

Notary Public for Alaska
My commission expires: _____ (Notary seal affixed)

- 7. A certificate of acceptance for any dedicated right-of-way, easement, or other public area in substantially the following form shall be executed by a government official authorized to bind the governmental entity accepting the dedication. Nothing in this paragraph impairs the authorized official from refusing a dedication for reasonable public cause, consistent with applicable law or ordinance.

Certificate of Acceptance

The undersigned official identified by name and title is authorized to accept and hereby accepts on behalf of _____ for public uses and for public purposes the real property to be dedicated by this plat including easements, rights-of-way, alleys, and other public areas shown on this plat identified as follows:

The acceptance of lands for public use or public purpose does not obligate the public or any governing body to construct, operate, or maintain improvements.

By: _____ Date: _____
(Name and title of authorized official)
City of (insert name)

- 8. Where a party's sole interest in the property is as beneficiary of a deed of trust, and the deed of trust contains no prohibition against subdivision or replat of the property, the owner of record may provide, in lieu of the beneficiary's signature, a notarized statement on the plat, signed by the owner of record, which sets out a description of the deed of trust and states that subdivision and/or replat are not prohibited thereby.

B. Surveyor's Certificate. By affixing the surveyor's signature and seal on the plat the surveyor certifies that he/she is properly registered and licensed to practice land surveying in the State of Alaska, that the plat represents a survey made by the surveyor or under the surveyor's direct supervision, and that the monuments shown thereon exist as described, and that all dimensions and other details are correct to the best of the surveyor's knowledge and belief. A written certificate is optional.

C. Statement of Plat Approval. The signature of an authorized official of the borough signifies that all applicable provisions of KPB Title 20 have been met and that the planning

commission has granted approval of the plat. The following form shall be shown on the final plat to be executed by an authorized official after all conditions have been met:

Plat Approval

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____.

Kenai Peninsula Borough

By: _____
Authorized Official

D. Engineer's Wastewater Disposal Certificate. In addition to any plat notes required by KPB Chapter 20.40, an engineer's dated signature on the face of the plat is required unless excepted under KPB 20.40.020. By such dated signature, the qualified engineer is certifying that he/she is properly registered and licensed to practice engineering in the State of Alaska and the wastewater disposal data complies with all relevant sections of KPB Chapter 20.40.

20.60.200. Survey and monumentation.

A. All subdivisions shall be surveyed except subdivisions which only eliminate existing property lines.

B. The subdivision of sections into aliquot parts and restoration of lost corners shall be performed in accordance with the current U.S. Bureau of Land Management Manual of Surveying Instructions unless the historical survey record indicates otherwise. Reference to the BLM manual used shall be noted on the plat. All section subdivision details executed as part of the subdivision work shall be monumented and shown on the plat. When a center 1/4 corner must be determined it shall be set. A minimum survey accuracy of 1:5000 is required. Monuments shall be set in a professional manner.

C. All corners and monuments found and set shall be shown and described on the plat with the following information: date set, type of monument, and surveyor, as well as any other information marked on the corner or monument. Standard or recurring information may be shown in the monument description in the legend.

D. All monuments of record essential to the subdivision must be found. If any monument is missing or is found disturbed or destroyed, it shall be remonumented or reference monumented as appropriate.

E. Monuments shall be set at all 1/4 and 1/16 corners controlling the location of a subdivision. When these requirements cannot be met, a reference monument shall be tied to the subdivision lines. Exterior angle points in the subdivision and lot corners shall be marked by at least 5/8" x 24" iron rod and cap if not otherwise monumented. Unless approved by the planning director, only monuments pertinent to the boundary of the subdivision, lot corners, angle points, or points on line needed due to topography or to keep the distance between monumented points

to less than 1,320 feet may be set. Extraneous or incorrectly set monuments shall be removed prior to filing the final plat.

F. Bearings and distances between the nearest subdivision property lines and official GLO or BLM monuments shall be accurately described and delineated on the plat and the basis of bearings shall be indicated.

G. Unless otherwise provided, the $\frac{1}{4}$ and $\frac{1}{16}$ monuments required by KPB 20.60.200(E) shall consist of a marker equivalent in permanence to a metal marker which is 30 inches in length and has a metal cap at the top with a minimum diameter of 2 inches. Such monuments shall clearly display the following information: year set, monument identification (township, range, section, and corner number), and registration number of surveyor.

20.60.210. Approval—Authority—Certificate issued when.

A. The planning director or commission shall approve, modify, or disapprove the final plat of subdivision or dedication within 60 calendar days after the date of acceptance of the final plat and shall transmit to the surveyor, with a copy to the subdivider, a letter of final review indicating additions and revisions required prior to final borough approval and borough signature. The planning director or commission shall not approve a final plat which does not meet the requirements of this title or deviates in any significant way from the preliminary plat as approved.

B. If not acted upon within 60 calendar days from the date of acceptance, the plat shall be deemed to have been approved and a certificate to that effect shall be issued by the commission on demand; provided, however, that the applicant for plat approval may consent to the extension of such period.

C. Within one year of final plat approval by the planning director or the planning commission, the applicant shall present the original plat for signature of either the planning director or mayor. Failure to adhere to the time limits of this section shall void the final approval of the plat.

D. When signed by either the mayor or planning director, the original plat shall be recorded with the appropriate district recorder within ten business days by the director. The planning director may authorize the surveyor who prepared the plat to record the plat.

20.60.220. Administrative approval.

A. Where a preliminary plat has been approved by the planning commission, the final plat may be approved by the planning director when the final plat meets the conditions of preliminary approval and complies with this title. The director's approval shall be on a notarized form. The planning director shall report final plat approvals at the next regular plat committee meeting.

B. The planning director may refer the final plat to the planning commission when:

1. Major redesign was a condition of preliminary approval by the planning commission or the advisory planning commission of the city in which the subdivision is located;
2. Final approval by the commission was a condition of preliminary approval; or
3. The planning director determines there are other conditions to support referral to the commission.

CHAPTER 20.70. VACATION REQUIREMENTS

20.70.010. Purpose of provisions.

The purpose of this chapter is to provide a means of evaluating the public necessity for public rights-of-way and other public areas and to establish vacation procedures for the transfer of unnecessary rights-of-way and other public areas to adjoining properties.

20.70.020. Statutory authority.

This chapter is enacted under the authority of AS 29.40.120 to 29.40.160.

20.70.030. Jurisdiction of provisions.

Except as otherwise provided by statute this chapter shall govern all vacation requests and vacation actions within the Kenai Peninsula Borough. A recorded plat may not be altered or replatted which affects a platted street, right-of-way, or other dedicated public area except as herein provided.

20.70.040. Application—Petition required.

A. A platted right-of-way or platted public area may not be vacated, except upon petition by resolution of the governing body from a municipality in which the property is located or by the owners of the majority of land fronting or abutting the right-of-way or public area to be vacated. The petition shall be filed with the planning commission.

B. A petition to vacate a utility easement only must be submitted by the owners of the land subject to the easement.

20.70.050. Petition—Information required.

A. A recorded plat may not be altered or replatted except by the platting authority on petition of the state, the borough, a public utility, or the owners of the majority of the land affected by the alteration or replat. A platted street may not be vacated, except on petition of the state, the borough, a public utility, or the owners of a majority of the land fronting the part of the street sought to be vacated. The petition shall be filed with the platting authority and shall be accompanied by a copy of the existing plat showing the proposed alteration or replat.

B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. The petition shall include a statement containing the reasons in support of the vacation and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days

in advance of the meeting at which it will be considered. Additional copies may be required as needed. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travelways, amount of encroachment, and any other submittal as requested by the planning commission. The burden of proof shall lie with the petitioner to support the vacation.

C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

20.70.060. Fee required.

The fee established by the current Kenai Peninsula Borough Schedule of Rates, Charges and Fees shall accompany the filing of the vacation petition.

20.70.070. Public hearing required.

Upon receipt of the complete vacation application including petition, sketches, and fee, the planning commission shall schedule a public hearing on the petition to be conducted within 60 calendar days after filing.

20.70.080. Utility easement vacations.

A. Where a vacation petition is for a utility easement only, the petitioner has the responsibility to obtain comments from the KPB Road Service Area and all appropriate utility providers and submit those comments with the petition. The petition must be signed by the owners of the land subject to the easement. A sketch showing the location of the requested vacation must accompany the petition. A public hearing is not required in the case of vacation of a utility easement that is not associated with the vacation of a right-of-way.

B. Publication of a notice in the newspaper is not required for utility easement vacations.

C. A notice shall be sent by regular mail to each property owner as shown on the Kenai Peninsula Borough tax rolls within a 300-foot radius from the utility easement proposed for vacation.

D. When the application is complete, the planning director will take action on the requested vacation within ten working days, either approving or denying the requested vacation. If the director approves the vacation, a vacation resolution will be prepared and taken to the planning commission for adoption, in accordance with KPB 20.70.140. If the director denies the vacation, a letter containing the reasons supporting the denial will be sent to the petitioner. The director may choose to forward any utility easement vacation request to the planning commission

for action. If the reasons for denial are resolved, the petitioner may submit a new petition for vacation with documentation that the issues have been resolved, accompanied by a new fee.

20.70.090. Notice required.

The planning director shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the public hearing. The notice shall describe, through both legal and general description, the location, nature, and extent of the vacation. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area of the vacation. Certified mail notice shall also be mailed to each property owner as shown on borough tax rolls within a 300-foot radius and regular mail notice sent to owners within the next 300-foot radius to equal a 600-foot total notice radius from the boundaries of the area proposed to be vacated. If the 600 foot radius does not include owners other than the petitioner(s), notice must be sent to owners of parcels adjoining the boundaries of the parcel(s) that contain the area of the proposed vacation. Notice by regular mail shall be sent to all public utilities operating within the general area of the vacation and to the municipality in which the property is located.

20.70.100. Hearing board—Authority and determination.

The planning commission shall conduct the public hearing, consider the vacation petition, and make its decision on the merits of the proposal. The planning director shall forward a copy of the minutes pertaining to the action to the assembly or appropriate city council within five calendar days following their decision.

20.70.110. Vacation consent—City council or assembly.

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council. A vacation of a street right-of-way, public area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

20.70.120. Action after denial of vacation petition.

A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.

B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

20.70.130. Vacation plat—Preparation, approval and recording.

Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB 20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

20.70.140. Vacation resolution—easement.

Upon approval of an easement vacation not associated with the vacation of a right-of-way or not requiring transfer of title or platting action, a vacation resolution may be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to finalize the vacation. The petitioner is responsible for the recording fees.

20.70.150. Title to vacated area.

A. The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city if it lies within the city and to the borough if it lies within the borough outside a city. If the property vacated is a lot or tract, title vests in the rightful owner.

B. If the borough or city acquired the street or other public area vacated for legal consideration or by express dedication to and acceptance by the borough or city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the borough or city on final vacation.

20.70.160. Partial vacation allowed.

Where the planning commission finds that a right-of-way must be preserved, but determines there is excessive width for all intended uses within the right-of-way, the commission may approve a partial vacation of a right-of-way such that the width is reduced to the maximum necessary for the intended use. Such vacation shall conform to this title for the class of right-of-way involved except where the right-of-way is not intended to be used for vehicular purposes.

20.70.170. Vehicular access.

The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

20.70.180. Other access.

Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

20.70.190. Utility provisions.

All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

20.70.200. Waterfront access provisions.

A right-of-way which serves to provide access to public waters shall not be vacated unless such a right-of-way is wholly impractical to all modes of transport including pedestrian or the use of such right-of-way causes damage to the right-of-way, adjacent properties, the waterbody or the watercourse, or threatens public safety which cannot otherwise be corrected and where such continued damage or threat would be contrary to the public interest.

20.70.210. Other public areas.

Dedications of land for use other than rights-of-way, which are considered for vacation, shall be approved only when it is in the public interest. The commission shall consider the intended purpose of the area, and any future uses of the area when making a decision. When a legitimate public purpose is or would be served by use of the area proposed for vacation, the commission shall not approve the vacation, unless the ownership of the land by the city or borough in a form other than dedicated would adequately serve the intended use.

20.70.220. Section line easement vacations.

Section line easement vacation petitions must comply with the requirements of KPB 20.70.040, 20.70.050 and 20.70.060. A fee is required in compliance with KPB 20.70.060. Public hearing and notice must comply with the requirements of KPB 20.70.070, 20.70.080, 20.70.100, 20.70.110 and 20.70.120. The mail notice required in KPB 20.70.090 may be by regular mail. Publication on the planning commission agenda, advertised once in local papers, posted in public areas and on the borough website prior to the meeting will satisfy the publishing requirements. The petitioner is responsible for all submittals required by the State of Alaska Department of Natural Resources (DNR) in compliance with their procedures. The petition must be reviewed and approved by the planning commission but final authority for approval and

plating of the vacation rests with DNR. The petitioner is responsible for coordination with DNR and submittals to DNR.

CHAPTER 20.90. DEFINITIONS

20.90.010. Definitions generally.

In this title, unless otherwise provided, or the context otherwise requires, the following definitions shall apply.

“Access street”: See definition of “Street” (A).

“Agenda” means the list of items to be considered by the planning commission or plat committee, in the order in which they are to be taken up, and includes the time and location of the meeting; the agenda also serves as public notice, published in local papers and online, and posted in public locations.

"Aliquot part" means a rectangular portion of a section created by midpoint protraction as defined by the "Manual of Surveying Instructions 1973," U.S. Department of the Interior, Bureau of Land Management.

“Alley”: See definition of “Street” (B).

"Alternate onsite wastewater treatment and disposal" and "alternate soil absorption system" mean a method of soil absorption treatment and disposal other than a conventional soil absorption system, but exclude holding tanks or no-water carried disposal methods such as composting, incineration, or privies.

“Anadromous” means fish migrating up rivers and streams from the sea to breed in fresh water.

“Area suitable for conventional development” means ground not subject to slopes greater than 25 percent or cataloged as potential wetlands on the KPB Geographic Information System (GIS) wetland map.

“Arterial road”: See definition of “Street” (C).

"ADEC" means Alaska Department of Environmental Conservation.

"ADEC approval" means Alaska Department of Environmental Conservation letter to construct or operate.

“Basis of Bearing” means the bearing in degrees, minutes and seconds, or equivalent, between two monuments of record on a common line, which serves as the reference bearing for all other lines on the survey.

"Block" means a piece or parcel of land entirely surrounded by public streets, streams, railroads, rights-of-way, parks, and other public dedications, or a combination thereof.

"Building setback" is the area of the lot where permanent structures are not allowed. The purpose of the setback is to promote safe public access, areas for emergency response, and traffic sight distance. (See "Permanent Structures" definition.)

"Collector wastewater" means that line used as a common receiver of wastewater from more than one service line.

"Collector system" means a wastewater collection system using methods of collection other than pipes.

"Community soil absorption system" means a soil absorption system serving more than one single-family or duplex residence.

"Contiguous" means parcels sharing a boundary or touching each other.

"Conventional soil absorption system" means a soil absorption system of typical trench, bed, or seepage pit design as described by On-Site Wastewater Treatment and Disposal Systems (Design Manual), EPA 625/1-80-012, October 1980, or A 1979 State of The Art Manual of On-Site Wastewater Management, 1979, The National Environmental Health Association, using natural subsurface undisturbed soils for the treatment media, or any soil absorption system with the same characteristics.

"Corner" unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

"Cul-de-sac": See definition of "Street" (D).

"Date of acceptance" means the date the planning director determines the submittal has met all the submittal requirements of the appropriate portions of Chapter 20 and is accepted for processing, scheduling and review.

"Date of distribution" or "distribution" means the date a notice, decision or other document is provided, manually or electronically, or is postmarked, to a party of record.

"Date of notice" means the date a certified mail notice is postmarked or a public notice is published.

"Date of submittal" means the date a preliminary or final plat, vacation, time extension, or other item requiring planning department or planning commission review and action is submitted for evaluation of completeness prior to acceptance for review.

"Disposal system" means a system, whose sole function is to provide a means of final disposal of domestic wastewater to the environment.

"Domestic wastewater" means waterborne human wastes or gray water derived mainly from dwellings, commercial buildings, institutions, or similar structures; domestic wastewater includes contents from individual removable containers used in dwellings to collect human waste.

"Domestic wastewater disposal system" means a device, structure, or formation used to dilute, dispose, treat, or discharge domestic wastewater, including injection wells, soil absorption systems, outfalls, percolating lagoons, and land irrigation systems.

"Duplex" means a single structure designed to house two family dwelling units.

"Easement" means the grant of a certain right to the use of the land by parties other than the owner. An easement is generally perpetual; if temporary, the condition for termination must be stated.

A. Ingress and Egress Easement. The right to enter and leave or travel through property.

B. Utility Easement. The right to install and maintain utilities normally associated with developed land such as electric, telephone, gas, drainage, wastewater disposal, and water facilities. The right of ingress and egress for conducting utility operations is implicit.

C. Other Easements. Special purpose easements include, but are not limited to, slope, screening, pedestrian, and pipeline easements. The specific conditions of these easements can vary.

"Engineer" or "qualified engineer" means a licensed engineer registered to practice in Alaska under AS 08.48 and 12 AAC 36 in the branch of engineering defined by 12 AAC 36.990(a)(17) applicable to the project.

"Engineering plans" means a set of plans approved and sealed by a registered engineer.

"Exception" means in this title a waiver, reduction, or variance from a subdivision regulation.

"Flag lot" or "panhandle lot" means a lot with two discernible portions, one a building site portion not fronting on or abutting a street and the second portion abutting on the street and providing private access by a narrow strip of land to the building site portion.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, usually 1 foot, at any point.

"Frontage" means that dimension of a lot which abuts upon a road right-of-way or other access.

"Frontage roads": See definition of "Street" (E).

"Groundwater" means the subsurface water permanently or seasonally occupying the zone in which the voids in the rock or soil are filled with water at a pressure greater than atmospheric.

"Holding tank" means of a watertight vessel or tank for the temporary storage of wastewater, urine, or excrement.

“Initial point of survey” means the point at which the closure of a boundary survey commences and ends. The initial point of survey must be labeled on the final plat and must agree with the closure computations submitted with the final plat.

“Land survey” means measuring the field location of corners that:

- A. Determine the boundary or boundaries common to two or more ownerships;
- B. Retrace or establish land boundaries;
- C. Retrace or establish boundary lines of public roads, streets, alleys, or trails; or
- D. Plat lands and subdivisions thereof.

"Legal access" means a contiguous section line easement, platted public right-of-way, or public access granted by recorded document and acceptable to the borough planning commission, all of which must be constructible to the standards in KPB Chapter 14.06 from a road right-of-way maintained by a municipality or State of Alaska DOTPF to a parcel.

"Lot" means the smallest portion of a subdivision, constituting a single parcel, division, or piece of land with sides connecting the front and rear boundary lines of the parcel intended for building development or conveyance as a single unit.

"Lot depth" means the average distance from street right-of-way to the rear lot line, which is the lot line opposite and most distant from said street right-of-way.

"Lot width" means the distance between lot lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines, unless otherwise specified.

“Mean high water line” means the intersection of the mean high water (the average height of all tidal high waters at a location for a period of 19 years) and the shore; may be labeled as MHWL.

“Meander line” means a line described by courses and distances, being a straight line between fixed points or monuments, or a series of connecting straight lines, used under this title for purposes of calculating areas, and not used for fixing boundaries.

"Monument" means a point marked on the surface of the earth for commencing or controlling a survey.

"Nominal five acres" means of, like, or relating to an aliquot five-acre part.

“Notice of decision” means written documentation of the decision of the planning commission, plat committee, or assembly.

"Onsite treatment system with marine outfall" means a treatment system located on each lot, or shared by adjacent lots, from which effluent is discharged through a single outfall extending to marine water.

“Ordinary high water line” means that line of nontidal waters on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas; may be labeled as OHWL.

“Parties of record” unless specified otherwise means those persons who have commented in a written and signed document or in person on an agenda item before the planning commission or plat committee who own property within the notification radii established in this chapter.

“Permanent structures” for purposes of the building setback shall mean anything of a permanent nature that requires footings, foundations or pilings. Improvements of a minor nature that do not interfere with the sight distance from the right-of-way are allowed. Examples of allowable improvements are well casings, low retaining walls, vent pipes, individual mailboxes, address sign posts and transparent fencing such as metal chain link. (See “Building setback” definition).

“Physical access” means access by the highest level of feasible, accepted transportation for the area is possible. Unless in a remote location not accessed by the road system, this is generally a minimum of 2-wheel drive motor vehicle access.

"Planning director" means the principal executive officer of the department of planning, or designee, as described in KPB 2.36.010.

"Planning commission" or "commission" means the Kenai Peninsula Borough planning commission as established in KPB Chapter 2.40 and unless otherwise stated shall also mean plat committee as established in KPB 2.40.080.

“Plat” means a map or dedicated representation of a tract or parcels of land showing the subdivision of such land into lots, blocks and streets, or other divisions, and other information in compliance with the requirements of all applicable sections of this title and of local ordinances, and may include the terms “replat” or “final plat.”

“Platting authority” means the Kenai Peninsula Borough, the planning director, planning commission or plat committee as appropriate to the context in which the term is used.

“Public water system” means a Class A or B system approved by the State of Alaska Department of Environmental Conservation.

"Registered land surveyor" means a professional land surveyor registered to practice in Alaska under AS Chapter 08.48.

“Right-of-way dedication” means transfer of the fee simple underlying ownership of a right-of-way to the state, borough, or a municipality.

"Sealed" means prepared by an engineer or registered land surveyor, or a person under the engineer's or surveyor's direct supervision, and bearing the signature and seal of that engineer or

surveyor as required by AS 08.48.221 and 12 AAC 36.185. The particular sealing requirement in this chapter is covered by one or more seals and signatures (whichever applies) of a registered engineer or registered land surveyor, appearing on the plans, drawings, reports, or other documents.

"Soil absorption system" means a surface or subsurface system using soil for the treatment and disposal of effluent from a domestic wastewater treatment works; "soil absorption system" includes a filtering field, leaching field, seepage bed, or seepage pit, but does not include a cesspool.

"Street" is a general term used to describe a right-of-way serving as a means of vehicular and pedestrian travel, also furnishing spaces for public utilities, and vegetation; it includes avenues, boulevards, roads, lanes, and other ways. Streets are classified as follows:

A. "Access streets" provide direct access to business, commercial, industrial, and residential areas.

B. "Alley" generally means a narrow street or thoroughfare through the middle of a block giving access to the rear of lots or buildings; allowed only under city codes.

C. "Arterial road" means a road intended to carry traffic from local and subdivision roads to major highways. May also be called a "collector road."

D. "Cul-de-sac streets" serve no through traffic and are closed permanently at one end with a vehicular turnaround area.

E. "Frontage roads" parallel to and abutting an arterial street provide access to abutting land.

"Subdivider" means any person, group, corporation, or other entity acting as a unit, or any agent thereof, dividing or proposing to divide lands so as to constitute a subdivision as defined herein.

"Subdivision" means the division of a tract or parcel of land into two or more lots, or other divisions for the purpose of sale or building development, and includes resubdivision and relates to the process of subdividing or to the land or areas subdivided. As used in this Chapter, it also includes the elimination of lot lines.

"Surveyor" means any person licensed by the State of Alaska to practice land surveying.

"Vacation" means the process in which the right of public use or right of use of a dedicated street, right-of-way, easement, or other public area is terminated.

"Wastewater" means water that has been used, as for washing, flushing or in a manufacturing process, and so contains waste products.

"Watercourse" means a running stream of water fed from permanent or periodical natural sources, such as rivers, creeks, glaciers and rivulets which flow in a particular direction in a defined channel, having a bed and banks or sides, and usually discharging itself into another stream or body of water. It must be more than mere surface drainage.

“Waterbody” means any permanent body of water, including any stream, creek, canal, river, lake or bay, or any other body of water, natural or artificial.

SECTION 2. That KPB 14.06.160(B) is hereby amended as follows:

14.06.160. Road construction standards—Alignment.

...

B. Horizontal alignment. Horizontal alignment shall meet the requirements of KPB [20.20.120, 20.20.130, and 20.20.140] 20.30.130, 20.30.140, and 20.30.150. Roads shall be constructed along the centerline of the right-of-way and shall have curves meeting the minimum radius requirements of not less than 300 feet for rights-of-way 100 feet in width or more, and not less than 200 feet on all other roads.

SECTION 3. That KPB 14.06.240(E) is hereby amended as follows:

14.06.240. Road decertification.

...

E. Vacations. Notwithstanding KPB 14.06.240(B), a road that is vacated through the process set forth in KPB [20.28] 20.70 shall be decertified for maintenance by resolution of the RSA board.

SECTION 4. That KPB 21.20.210(A)(7) is hereby amended as follows:

21.20.210. Definitions.

A. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

...

7. "Quasi-judicial decisions" are those decisions where general law or policy are applied or affect an individual's property interests. Such decisions include but are not limited to [VACATIONS OF PUBLIC INTEREST IN LAND,] preliminary and final plat approvals, conditional use permits, and exception and variance applications.

SECTION 5. That KPB 21.20.230(B) is hereby amended as follows:

21.20.230. Jurisdiction.

...

B. The assembly shall consider vacation petitions approved by the planning commission in accordance with the procedures in KPB Chapter [20.28] 20.70.

SECTION 6. That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS
11TH DAY OF FEBRUARY, 2014.**

Hal Smalley, Assembly President

ATTEST:

Johni Blankenship, MMC, Borough Clerk

Yes: Bagley, Haggerty, Johnson, McClure, Ogle, Pierce, Smith, Wolf, Smalley

No: None

Absent: None