

Introduced by:	Smith
Date:	04/19/11
Hearings:	05/17/11 & 06/07/11
Action:	Postponed as Amended Until 06/07/11
Date:	06/08/11
Action:	Postponed as Amended Until 06/21/11
Date:	06/21/11
Action:	Enacted as Amended
Vote:	7 Yes, 2 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2011-12**

**AN ORDINANCE AMENDING KPB 21.18.025 TO ADD ADDITIONAL WATER
BODIES SUBJECT TO ANADROMOUS STREAM HABITAT PROTECTION**

WHEREAS, KPB Chapter 21.18, Anadromous Streams Habitat Protection, was initially adopted in 1996 to protect salmon spawning and rearing habitat; and

WHEREAS, initially the provisions of the ordinance only applied to portions of the Kenai River; and

WHEREAS, through Ordinance 2000-08 the assembly expanded the scope of this chapter to apply to 10 tributaries of the Kenai River and 14 additional streams within the east side of Cook Inlet; and

WHEREAS, the findings in KPB 21.18.010, supporting expanding the scope of Chapter 21.18, apply with equal force to virtually all of the other anadromous streams in the Borough excluding those found within the Seward-Bear Creek Flood Service Area; and

WHEREAS, the best interests of the Borough would be served by consistently applying this ordinance to the remaining anadromous streams in the Borough as provided in this ordinance; and

WHEREAS, the Borough recognizes that it may not supersede some laws enacted by the state and federal government; and

WHEREAS, at its regularly scheduled meeting of April 25, 2011, the Planning Commission recommended approval;

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

SECTION 1. That KPB 21.18.025 is hereby amended as follows:

21.18.025. Application.

A. The following anadromous streams, as identified in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" published by the Alaska Department of Fish and Game, are subject to this chapter:

[A.] Within the east side of Cook Inlet as follows:

1. Kenai River, Stream No. 244-30-10010, and its following tributaries:
 - (a) Beaver Creek, Stream No. 24430-10010-2025
 - (b) Slikok Creek, Stream No. 24430-10010-2030
 - (c) Soldotna Creek, Stream No. 24430-10010-2039
 - (d) Funny River, Stream No. 24430-10010-2050
 - (e) Moose River, Stream No. 24430-10010-2063
 - (f) Killey River, Stream No. 24430-10010-2076
 - (g) Upper Killey River, Stream No. 24430-10010-2110
 - (h) Russian River, Stream No. 24430-10010-2158
 - (i) Quartz River, Stream No. 24430-10010-2177
 - (j) Trail River, Stream No. 24430-10010-2225
2. Swanson River, Stream No. 247-90-10020
3. Kasilof River, Stream No. 244-30-10050
4. Ninilchik River, Stream No. 244-20-10090
5. Deep Creek, Stream No. 244-20-10100
6. Stariski Creek, Stream No. 244-10-10050
7. Anchor River, Stream No. 244-10-10010
8. Fox River, Stream No. 241-14-10645
9. Seldovia River, Stream No. 241-11-10730
10. English Bay River, Stream No. 241-30-10500
11. Bradley River, Stream No. 241-1410625-2010
12. Bishop Creek, Stream No. 246-90-10030
13. Chickaloon Creek, Stream No. 247-60-10110

14. North Fork of Anchor River, Stream No. 24410-10010-2011

15. Seven Egg Creek, Stream No. 24780-10010

B. In addition to the water bodies listed in 21.18.025(A), all anadromous waterbodies within the municipal boundaries of the Kenai Peninsula Borough which are listed in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" as periodically updated and published by the Alaska Department of Fish and Game, excluding all portions of waterways found within the Seward-Bear Creek Flood Service area, are subject to this chapter as of January 1, 2012.

C. The additional anadromous streams set forth in KPB 21.18.025 (B) are subject to KPB 21.18.090 governing prior existing uses and structures, as of January 1, 2012, unless the anadromous stream is not published in the "Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish" until a later date. The date that an anadromous stream is added to the Atlas will be the date that KPB 21.18.090 is effective for that stream."

SECTION 2. That a new KPB 21.18.137 is added as follows:

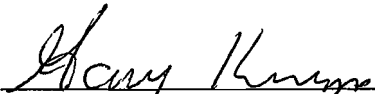
21.18.137. State regulation not superseded.

Nothing in this chapter supersedes the state authority to manage, regulate or authorize the extraction or development of its natural resources.

SECTION 3. The administration is authorized to implement the ordinance in geographical phases. Phased implementation for streams published in the Atlas and Catalogue of Waters Important for Spawning, Rearing, or Migration of Anadromous Fish shall occur no later than three years after the effective date of this ordinance unless that date is extended or otherwise modified by the assembly.

SECTION 4. That this ordinance takes effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF JUNE, 2011.

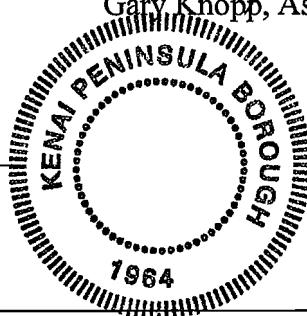


Gary Knopp, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Yes: Haggerty, Johnson, McClure, Murphy, Smalley, Smith, Tauriainen
No: Pierce, Knopp
Absent: None