



"Village with a Past, City with a Future"

210 Fidalgo Avenue, Kenai, Alaska 99611-7794
Telephone: 907-283-7535 / Fax: 907-283-3014
www.ci.kenai.ak.us

CONDITIONAL USE PERMIT APPLICATION BED & BREAKFAST

Section 14.20.321 of the City of Kenai Municipal code outlines regulations that allow bed and breakfast establishments in the City of Kenai. To qualify for a Conditional Use Permit for a bed and breakfast, you must meet the following criteria:

- Use must be compatible with other permitted uses, with the residential character of a neighborhood, and is clearly secondary or incidental to the residential use of the main building.
- Establishments shall be owner-operated.
- Not more than one person outside the family shall be employed in the bed and breakfast.
- Rent out no more than thirty percent (30%) of the total floor area.
- Have adequate off-street parking for owner and all guests.
- The bed and breakfast establishment must meet all area, height, and setback requirements of the zones in which they are allowed according to the Land Use Table.
- Fire code inspections: Buildings which are the subject of a bed and breakfast permit application shall be inspected by the Fire Marshal for compliance with the fire code (KMC 8.15.20) prior to the approval of the conditional use permit. Thereafter, they shall be inspected every other year by the City Fire Marshal. Failure to comply with the fire code (KMC 8.15.20) shall be grounds for the suspension or revocation of the conditional use permit.

In addition to these requirements, you must satisfy the requirements for a Conditional Use Permit as outlined in KMC 14.20.150.

If you feel your proposed bed and breakfast qualifies as a bed and breakfast, complete the attached application. For assistance with the application process, contact the Planning Department.



APPLICATION FOR CONDITIONAL USE PERMIT
KMC 14.20.150 & KMC 14.20.321

PROPERTY OWNER	PETITIONER REPRESENTATIVE
Name:	Name:
Mailing Address:	Mailing Address:
City, State Zip:	City, State Zip:
Phone Number:	Phone Number:
Fax Number:	Fax Number:
Email:	Email:

PROPERTY INFORMATION
Property Tax ID #:
Site Street Address:
Current Legal Description:
Conditional Use Requested For: (Describe the project, and use additional sheets if necessary)
Zoning:
Acreage:

DOCUMENTATION
Required Attachments: Completed Application Form Site Plan/Floor Plan with Square Footage \$250 Fee (plus applicable sales tax) KPB Tax Compliance (if applicable) State Business License (if applicable)

AUTHORITY TO APPLY FOR CONDITIONAL USE:

I hereby certify that (I am) (I have been authorized to act for) owner of the property described above and that I petition for a conditional use permit in conformance with Title 14 of the Kenai Municipal Code. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department staff of the Planning and Zoning Commission for administrative reasons. I understand that a site visit may be required to process this application. City of Kenai personnel are authorized to access the above-referenced property for the purpose of processing this application.

Date:	Signature:
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CONDITIONAL USE STANDARD (KMC 14.20.150)

The Planning and Zoning Commission may only approve the conditional use if the Commission finds that the following six (6) standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Feel free to use additional paper if needed.

The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district:

--

The value of the adjoining property and neighborhood will not be significantly impaired:

--

The proposed use is in harmony with the Comprehensive Plan:

--

Public services and facilities are adequate to serve the proposed use:

--

The proposed use will not be harmful to the public safety, health or welfare:

--

Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to measures relative to access, screening, site development, building design, operation of the use and other similar aspects related to the proposed use.

LAND USE
Describe current use of property covered by this application:
Surrounding property: (Describe how land adjacent to the property is currently being used)
North:
South:
East:
West:

PROCEDURES FOR PERMITS REQUIRING PUBLIC HEARINGS AND NOTIFICATIONS

The permit you have applied for may require Public Hearing and Notification under KMC 14.20.280. The Planning and Zoning Commission meets the 2nd and 4th Wednesday of each month. To meet notice requirements, the Planning Department must receive your completed application **21 days prior** to the meeting when the Public Hearing is scheduled.

- Applications requiring Public Hearings must be filed no later than noon on the date of the deadline.
- Home Occupations and Landscape/Site Plans do not require a Public Hearing.
- Allow up to 4 weeks for the permitting process.
- If required:
 - The Fire Inspection Report must be received prior to processing the application.
 - The Affidavit of Posting must be received 2 weeks prior to the hearing date in order to schedule a public hearing.
 - Resolutions cannot be issued until expiration of the 15-day appeal period.
 - Resolutions cannot be issued until documentation is received that the certificate of compliance is met.

WHEN YOU HAVE A COMPLETED APPLICATION, CALL 283-8237 TO SCHEDULE AN APPOINTMENT WITH THE PLANNING DEPARTMENT TO REVIEW THE APPLICATION.

IF THE APPLICATION IS DETERMINED COMPLETE AND ACCEPTED, THE PUBLIC HEARING FEE OF \$125 PLUS TAX WILL BE COLLECTED. YOU WILL BE GIVEN A SIGN TO POST AND AN AFFIDAVIT OF POSTING TO SIGN AND RETURN TO THE PLANNING DEPARTMENT TO BEGIN PROCESSING THE APPLICATION.



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KENAI MUNICIPAL CODE – 14.20.321 BED AND BREAKFAST PERMIT

- (a) Intent. It is the intent of this chapter to permit bed and breakfast establishments by conditional use which is compatible with other permitted uses, with the residential character of a neighborhood, and which is clearly secondary or incidental to the residential use of the main building.
- (b) Provided that these establishments shall be owner-operated, not more than one person outside the family shall be employed in the bed and breakfast; rent out no more than thirty percent (30%) of the total floor area; have adequate off-street parking for owner and all guests; and shall meet all other requirements as set forth by the Planning and Zoning Commission at the time of public hearing.
- (c) The bed and breakfast establishment must meet all area, height, and setback requirements of the zones in which they are allowed according to the Land Use Table.
- (d) Fire Code Inspections. Buildings which are the subject of a bed and breakfast permit application shall be inspected by the Fire Marshal for compliance with the fire code (KMC 8.05) prior to the approval of the conditional use permit. Thereafter, they shall be inspected every other year by the City Fire Marshal. Failure to comply with the fire code (KMC 8.05) shall be grounds for the suspension or revocation of the conditional use permit.
- (e) Issuance of the Permit. Following approval by the Commission, the administrative official shall not issue the permit until the expiration of the fifteen (15) day appeal period contained in KMC 14.20.290. After approval by the Commission and before the issuance of the permit, the administrative official must determine that the applicant is current on all obligations (e.g. sales tax, property tax, lease payments, utility payments) to the city or has entered into an approved payment plan with the city on any obligations owed and the applicant is in compliance with the payment plan and (if the permit is for a use required to collect sales tax) must show a valid borough sales tax account. If a timely appeal is filed pursuant to KMC 14.20.290, the permit shall not be issued unless authorized by the Board of Adjustment.
- (f) Yearly Reports. The permit holder shall submit a yearly report between October 1st and December 31st to the administrative official. Such report shall include a summary of the on-site activity.
- (g) Revocation for Noncompliance/Compliance Notices. If the Commission determines, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2) the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments)

to the city unless the applicant has entered into an approved payment with the city on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC 14.20.290. If the administrative official determines the permit holder is in compliance with the conditions in this paragraph, it shall send a notice of compliance to the Commission and the permit holder.

(Ords. 1305-89, 1884-2000, 1915-2001)

KMC 14.20.150 – CONDITIONAL USE PERMIT

- (a) **Intent:** It is recognized that there are some uses that may be compatible with designated principal uses in specific zoning districts provided certain conditions are met. The conditional use permit procedure is intended to allow flexibility in the consideration of the impact of the proposed use on surrounding property and the application of controls and safeguards to assure that the proposed use will be compatible with the surroundings. The Commission may permit this type of use if the conditions and requirements listed in this chapter are met. The allowed uses are listed in the Land Use Table. Before a conditional use permit may be granted, the procedures specified in this chapter must be followed.
- (b) **Applications:** Applications for a conditional use permit shall be filed in writing with the Planning Department. The application shall include, but is not limited to, the following:
 - (1) Name and address of the applicant;
 - (2) Verification by the owner of the property concerned if other than the applicant;
 - (3) A legal description of the property involved;
 - (4) A description of the proposed use;
 - (5) Dimensioned plot plans showing the location of all existing and proposed buildings or alteration, and such data as may be required; and
 - (6) The appropriate fee as set forth in the City's schedule of fees adopted by the City Council.
- (c) **Public Hearing:** If the application is in order, a public hearing shall be scheduled in accordance with the requirements of KMC 14.20.280.
- (d) **Review Criteria:** Prior to granting a conditional use permit, it shall be established that the use satisfies the following conditions:
 - (1) The use is consistent with the purpose of this chapter and the purposes and intent of the zoning district;
 - (2) The value of the adjoining property and neighborhood will not be significantly impaired;
 - (3) The proposed use is in harmony with the Comprehensive Plan;
 - (4) Public services and facilities are adequate to serve the proposed use;
 - (5) The proposed use will not be harmful to the public safety, health or welfare; and
 - (6) Any and all specific conditions deemed necessary by the Commission to fulfill the above-mentioned conditions should be met by the applicant. These may include, but are not limited to, measures relative to access, screening, site development,

building design, operation of the use and other similar aspects related to the proposed use.

- (e) Issuance of the Permit: Following approval by the Commission, the administrative official shall not issue the permit until the expiration of the fifteen (15) day appeal period contained in KMC 14.20.290. After approval by the Commission and before the issuance of the permit, the administrative official must determine that the applicant is current on all obligations (e.g., sales tax, property tax, lease payments, utility payments) to the City or has entered into an approved payment plan with the City on any obligations owed and the applicant is in compliance with the payment plan and (if the permit is for a use required to collect sales tax) must show a valid borough sales tax account. If a timely appeal is filed pursuant to KMC 14.20.290, the permit shall not be issued unless authorized by the Board of Adjustment.
- (f) Yearly Reports: The permit holder shall submit a yearly report between October 1st and December 31st to the administrative official. Such report shall include a summary of the on-site activity.
- (g) Revocation for Noncompliance/Compliance Notices: If the Commission determines, based on the yearly review or any other investigation undertaken by the official, that the conduct of the operation(s) is not in compliance with: (1) the terms and conditions of the permit; (2) the provisions of the Kenai Zoning Code; (3) or that the permit holder is not current on any obligations (e.g., sales tax, property tax, utility payments, lease payments) to the City unless the applicant has entered into an approved payment with the City on any obligations owed and the applicant is in compliance with the payment plan, the Commission may revoke the permit. The Commission shall not revoke the permit until the permit holder has been notified and given reasonable opportunity to correct the deficiency(s) or to provide information relating to or rebutting the alleged deficiency(s). Appeals from decisions under this section shall be made in accordance with the provisions of KMC 14.20.290. If the administrative official determines the permit holder is in compliance with the conditions in this subsection, it shall send a notice of compliance to the Commission and the permit holder.
- (h) Modification of Final Approval:
 - (1) An approved conditional use permit may, upon application by the permittee, be modified by the Planning and Zoning Commission:
 - (a) When changed conditions cause the conditional use to no longer conform to the standards for its approval,
 - (b) To implement a different development plan conforming to the standards for its approval;
 - (2) The modification application shall be subject to a public hearing and the appropriate fee as set forth in the City's schedule of fees adopted by the City Council in order to help cover the costs of the public hearing notice.
- (i) Expiration—Extensions—Transferability:
 - (1) An approved conditional use permit lapses twelve (12) months after approval if no building permit is procured or if the allowed use is not initiated.
 - (2) A conditional use permit shall automatically expire if for any reason the conditioned use ceases for a period of one (1) year or longer.
 - (3) The Commission may grant time extensions to stay the lapse or the expiration of a permit for periods not to exceed one (1) year each upon a finding that

circumstances have not changed sufficiently to warrant reconsideration of the approval of the conditional use permit or that good cause exists to grant the time extension. A permittee must request a time extension in writing, and submit any supporting materials, within ninety (90) days of the date of the administrative official's written notice to the permittee that either the permit has lapsed under subsection (1) or that the permit has expired under subsection (2) by a date certain. If the administrative official does not issue a written notice concerning lapse or expiration, the permittee may request a time extension at any time within two (2) years of the date the permit was issued or the use ceased, whichever is later. A permittee may be granted time extensions not to exceed a total of two (2) years from the date of the Commission's grant of the first time extension. The Commission may, but is not required to, hold a public hearing prior to issuing a decision under this subsection.

- (4) A permittee who disputes the administrative official's determination that the conditioned use has not been timely initiated or has ceased for a period of one (1) year or longer may appeal the official's determination to the Board of Adjustment in accordance with KMC 14.20.290. If the permittee has requested a stay under subsection (3), above, the time for appeal of the administrative official's determination of lapse or expiration shall not run until such time as the Commission has made a final decision on the request for a stay.
- (5) A conditional use permit is not transferable from one (1) parcel of land to another. Conditional use permits may be transferred from one (1) owner to another for the same use, but if there is a change in use on the property, a new permit must be obtained.
- (6) Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of KMC 14.20.290.
- (j) A proposed conditional use permit shall not be considered if a substantially similar conditional use permit has been considered and denied within the nine (9) months immediately preceding.

(Ords. 925, 1460, 1504-92, 1549-93, 1779-98, 1797-98, 1916-2001, 2173-2006, 2565-2011, 2611-2012)



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AFFIDAVIT OF POSTING PUBLIC HEARING NOTICE

I, _____, hereby certify that I have posted a Notice of
Public Hearing as prescribed by Kenai Municipal Code 14.20.280 (d) on the property that
_____ (Name of Applicant) has petitioned for a

_____.

The notice was posted on _____, which is _____
days prior to the public hearing on this petition. I acknowledge this Notice must be posted so as to be
visible from each improved street adjacent to the property and must be maintained and displayed
until all public hearings have been completed. I acknowledge that the Notice must be removed
within five (5) days after the hearing.

Affirmed and signed this _____ day of _____, _____.

Signature

Legal Description:

Tract or Lot: _____
Block: _____
Subdivision: _____
KPB Parcel No.: _____