



**CONDITIONAL USE PERMIT APPLICATION
FOR EXTRACTION OF
NATURAL RESOURCE PERMIT
KMC 14.20.150; KMC 14.20.151 & KMC 14.20.154 – 14.20.158**

OWNER	PETITIONER REPRESENTATIVE (IF ANY)
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:
<p>Conditional Use Requested For: (Describe the project, and use additional sheets if necessary) Narratives <u>must</u> include items required in KMC 14.20.151(b)</p> <p>Section 14.20.151 of the Kenai Municipal code outlines regulations to engage in the surface extraction of natural resources. To qualify for a Conditional Use Permit for Extraction of Natural Resources, you <u>must</u> meet the following criteria:</p> <ul style="list-style-type: none"> • A site plan, drawn to scale containing the following: <ul style="list-style-type: none"> ○ Graphic (and legal) description of the proposed area, including dimensions in feet and number of acres or square feet; ○ Existing topographical contours with not less than ten foot (10') contour intervals; ○ Proposed finished topographical contours (when extraction is completed) with not less than ten foot (10') contour intervals; ○ Existing and proposed buildings and structures on the site; ○ Principal access points which will be used by trucks and equipment, including ingress and egress points and internal circulation, especially the haul road from the public road to the proposed site of the pit; ○ Indication of the existing landscape features, including cleared areas, wooded areas, streams, lakes, marsh areas, and so forth; ○ Location and nature of other operations, if any, which are proposed to take place on the site. • A narrative statement containing the following information: <ul style="list-style-type: none"> ○ Soil surveys with reference to the average year-round water table throughout the entire acreage. Piezometers may be used to determine an average water depth; ○ Estimated amount of material to be removed from the site over the entire period of operation; ○ Estimated length of time to complete the operation, or, if the pit is to be operated on a continuing basis, a statement to that effect; ○ Proposed hours of operation; ○ Method of fencing or barricading the petition area to prevent casual access; ○ Amount and location of natural screening provided by trees and vegetation, if any, between the property lines and the proposed site of the pit; ○ Plans, if any, to construct artificial screening; ○ Description of operations or processing which will take place on the site during and after the time the material is extracted; ○ Plan or program for regarding and shaping the land for future use; ○ Method of backfilling and/or replacing topsoil; ○

- Proposed future use of the land after resources are extracted, including a proposed development plan showing location of houses, parks, lakes, etc.;
- Other information which may pertain to the particular site.
- Proof that the applicant has obtained or is eligible to obtain the necessary licenses required by state or federal agencies.
- Proof that the applicant is the owner of the subject property.

Zoning: _____ **Acreage:** _____

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:

DOCUMENTATION

Required Attachments: Extraction of Natural Resources Application Form
 Site Plan/KMC 14.20.151(a)
 \$425 Fee (plus applicable sales tax)
 KPB Tax Compliance (if applicable)
 State Business License (if applicable)

AUTHORITY TO APPLY FOR A CONDITIONAL USE PERMIT:

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 Natural Resources 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 or the Planning and Zoning Commission. 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 and if Conditional Use Permit is approved to ensure the operation is operating in compliance.

Date:	Signature:
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**Conditional Use Requested For: (Describe the project, and use additional sheets if necessary)
Narratives must include items required in KMC 14.20.154**

The Commission makes a determination as to whether each of the following requirements are met:

On the basis of the application with accompanying information, any supplemental information filed, and such information as may be presented at the public hearing provided for in this chapter, the Commission shall make a determination as to whether each of the following requirements has been met:

- The application is in substantial compliance with the requirements of this chapter;
 - The boundaries of the proposed excavation at its greatest dimensions, including back slopes, are at least two hundred feet (200') from any road or public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet (150') excavation between sites;
 - The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas. If there is not sufficient natural screening, the site plan must provide for artificial screening;
 - The site plan provides that back slopes be a minimum of a 2:1 slope, except for the contiguous working face;
 - The site plan does not provide for excavation below the water table except where a reasonable method of drainage is available at the particular site or where the proposed future development plan provides for a lake on the site of the excavation;
 - If the excavation is to be below the water table and the site is likely to endanger the public safety, the site plan shall provide for fencing of the work area;
 - The proposed use of land after extraction is completed is feasible and realistic and is a use permitted in the zone in which the property is located;
 - The extraction does not destroy the land for the purposes for which it is zoned;
 - The need for the particular natural resource within the City of Kenai outweighs any detrimental effects the operation may have on surrounding property owners;
 - The applicant is the owner of the subject property.
- If the Commission determines that all requirements have been met, the Commission shall direct the administrative official to issue a conditional use permit to the applicant. The permit shall be issued for an indefinite period and shall be subject to the provisions of this chapter, and shall so state.
 - The permit may be expressly conditioned by the Commission upon the erection of artificial screening. If the permit is so conditioned, the Commission shall specify the type of screening to be erected. Such screening shall obscure the entire extraction operation from view from any public roadway or inhabited area and shall be compatible with the general character of the neighborhood. No extraction of resources can take place until the artificial screening provided for has been erected and approved by the Commission.
 - Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of this chapter.

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. **Excavation of Natural Resources require two (2) meetings.**

- 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 – KMC 14.20.150 THROUGH KMC 14.20.158
CONDITIONAL USE PERMIT and EXTRACTION
OF NATURAL RESOURCES 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)

14.20.151 Application for conditional use permit for surface extraction of natural resources.

An application for a conditional use permit to engage in the surface extraction of natural resources shall be in writing on a form supplied by the City of Kenai and shall be filed with the administrative official, along with the appropriate fee as set forth in the City's schedule of fees adopted by the City Council. All applications shall be accompanied by the following documents and information:

- (a) A site plan, drawn to scale, containing the following:
 - (1) Graphic (and legal) description of the proposed area, including dimensions in feet and number of acres or square feet;
 - (2) Existing topographical contours with not less than ten-foot (10') contour intervals;
 - (3) Proposed finished topographical contours (when extraction is completed) with not less than ten-foot (10') contour intervals;
 - (4) Existing and proposed buildings and structures on the site;
 - (5) Principal access points which will be used by trucks and equipment, including ingress and egress points and internal circulation, especially the haul road from the public road to the proposed site of the pit;
 - (6) Indication of the existing landscape features, including cleared areas, wooded areas, streams, lakes, marsh areas, and so forth;
 - (7) Location and nature of other operations, if any, which are proposed to take place on the site.
- (b) A narrative statement containing the following information:
 - (1) Soil surveys with reference to the average year-round water table throughout the entire acreage. Piezometers may be used to determine an average water depth;
 - (2) Estimated amount of material to be removed from the site over the entire period of operation;
 - (3) Estimated length of time to complete the operation, or, if the pit is to be operated on a continuing basis, a statement to that effect;
 - (4) Proposed hours of operation;
 - (5) Method of fencing or barricading the petition area to prevent casual access;
 - (6) Amount and location of natural screening provided by trees and vegetation, if any, between the property lines and the proposed site of the pit;
 - (7) Plans, if any, to construct artificial screening;
 - (8) Description of operations or processing which will take place on the site during and after the time the material is extracted;

- (9) Plan or program for regarding and shaping the land for future use;
 - (10) Method of backfilling and/or replacing topsoil;
 - (11) Proposed future use of the land after resources are extracted, including a proposed development plan showing location of houses, parks, lakes, etc.;
 - (12) Other information which may pertain to the particular site.
- (c) Proof that the applicant has obtained or is eligible to obtain the necessary licenses required by state or federal agencies.
 - (d) Proof that the applicant is the owner of the subject property. (Ords. 925, 2565-2011)

14.20.152 Review of application.

The administrative official shall place the application for the conditional use permit on the agenda of the Commission for the first meeting of the Commission for which it is eligible, based on the date of filing with the secretary and the applicable rules of the Commission at that time. At that meeting, the Commission shall review the application and accompanying information and shall determine if it meets the requirements of this chapter. If the requirements have not been met, the Commission shall specify the deficiencies therein and shall request that a supplement to the application be filed. The Commission may, in its discretion, request additional information pertinent to the particular site to be supplied by the applicant. Such additional information shall not be requested unless it can be obtained by the applicant at a reasonable cost. The issue of reasonable cost may be appealed by the applicant directly to the Board of Adjustment before further proceedings by the Commission. (Ord. 925)

14.20.153 Public hearing.

The Commission shall hold a public hearing on the application at the first regular meeting following the meeting at which their initial review was made, if no additional information is requested, or if additional information is requested, at the first meeting following a determination by the Commission that the supplement to the application contains the requested information. The public hearing and notification procedure for this conditional use permit shall be accomplished in accordance with the requirements of this chapter. In addition, a map showing the approximate location of the proposed surface extraction, and a statement as to the nature of the proposed extraction operation shall be included. (Ord. 925)

14.20.154 Issuance of permit.

- (a) On the basis of the application with accompanying information, any supplemental information filed, and such information as may be presented at the public hearing provided for in this chapter, the Commission shall make a determination as to whether each of the following requirements has been met:
 - (1) The application is in substantial compliance with the requirements of this chapter;
 - (2) The boundaries of the proposed excavation at its greatest dimensions, including back slopes, are at least two hundred feet (200') from any road or public right-of-way and at least one hundred fifty feet (150') from other surrounding property lines, except that adjoining permitted surface extraction of natural resources sites are not required to maintain the above one hundred fifty feet (150') excavation between sites;
 - (3) The buffer strips between the excavation site and roadways and property lines contain sufficient natural screening to obscure the entire excavation from sight of roadways and inhabited areas. If there is not sufficient natural screening, the site plan must provide for artificial screening;

- (4) The site plan provides that back slopes be a minimum of a 2:1 slope, except for the contiguous working face;
 - (5) The site plan does not provide for excavation below the water table except where a reasonable method of drainage is available at the particular site or where the proposed future development plan provides for a lake on the site of the excavation;
 - (6) If the excavation is to be below the water table and the site is likely to endanger the public safety, the site plan shall provide for fencing of the work area;
 - (7) The proposed use of land after extraction is completed is feasible and realistic and is a use permitted in the zone in which the property is located;
 - (8) The extraction does not destroy the land for the purposes for which it is zoned;
 - (9) The need for the particular natural resource within the City of Kenai outweighs any detrimental effects the operation may have on surrounding property owners;
 - (10) The applicant is the owner of the subject property.
- (b) If the Commission determines that all requirements have been met, the Commission shall direct the administrative official to issue a conditional use permit to the applicant. The permit shall be issued for an indefinite period and shall be subject to the provisions of this chapter, and shall so state.
 - (c) The permit may be expressly conditioned by the Commission upon the erection of artificial screening. If the permit is so conditioned, the Commission shall specify the type of screening to be erected. Such screening shall obscure the entire extraction operation from view from any public roadway or inhabited area and shall be compatible with the general character of the neighborhood. No extraction of resources can take place until the artificial screening provided for has been erected and approved by the Commission.
 - (d) Appeals from decisions of the Commission under this section shall be made in accordance with the provisions of this chapter. (Ords. 925, 1957-2002)

14.20.155 Operation.

During the period of conditional use permit, the permit holder shall comply with the following provisions:

- (a) The pit shall be operated substantially in accordance with the site plan and statements that accompanied the application for the conditional use permit, as such may be amended from time to time in accordance with this chapter.
- (b) The permit holder shall submit a yearly report to the administrative official within thirty (30) days following the anniversary of the issuance of the conditional use permit. Such report shall show the area which has been cleared during the previous year, the current working area and any area which has been reclaimed or partially reclaimed, and shall state the quantity of material which was actually removed during the preceding work year. The report shall also contain projections of the same information for the next work year.
- (c) No part of the extraction operation shall be visible from public roadways or inhabited areas. (Ord.925)

14.20.156 Yearly review.

The administrative official shall review the operations of the permit holder annually to determine whether such permit holder is in compliance with the provisions of this chapter. He shall compile a report based on his review and shall submit his report, along with the report of the permit holder as required by this chapter, to the Commission. (Ords. 925, 1862-2000)

14.20.157 Termination.

- (a) If the administrative official determines, based on his yearly review or any other investigation undertaken by him, that the conduct of the operation is not in compliance with the provisions of this chapter, he may revoke the permit. He shall not revoke the permit, however, unless and until the permit holder has been notified of the violation and given a reasonable opportunity to correct it. In the event that a pit is unused for a period of three (3) years, the administrative official may revoke the conditional use permit.
- (b) Appeals from decisions of the administrative official under this section shall be made in accordance with the provisions of this chapter. (Ord. 925)

14.20.158 Amendment or transfer.

- (a) No conditional use permit issued hereunder shall be transferred until the proposed transferee has made application for transfer in writing filed with the administrative official, which application shall state that he intends to be bound by the plan and statements contained in the application of the permit holder or shall contain the amendments to the plan his proposed operation would mandate. The Commission shall approve the application for transfer and in so doing amend the site plan and statements if such amendments as are contained in the application for transfer would have been approved had they been contained in the original application.
- (b) A permit holder may amend his site plan and statements by filing an application for amendment in writing with the administrative official. The Commission shall approve the application for amendment if the original application would have been approved had it contained the provisions of the application for amendment. (Ord. 925)



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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.: _____