

Introduced by: Anderson
Date: Jan. 8, 1991
Hearing: Feb. 5, 1991
Vote: UNANIMOUS
Action: ENACTED

KENAI PENINSULA BOROUGH
ORDINANCE 91-2 (SUBSTITUTE)

AMENDING CHAPTER 20.28 OF THE KENAI PENINSULA BOROUGH CODE TO
CHANGE PROCEDURES AND FEES FOR VACATION OF DEDICATED UTILITY
CORRIDORS

WHEREAS, the borough often requires dedication of existing utility easements or corridors for future utilities as a condition of approval of a plat; and

WHEREAS, these utility corridors and easements are often separate and distinct from the dedicated road rights-of-way within the subdivisions; and

WHEREAS, the existing ordinance does not differentiate between the vacation of a dedicated right-of-way for vehicular traffic and other uses and these more specific dedicated corridors and easements;

WHEREAS, separate fees for vacation applications and plats to accomplish the vacation should be eliminated; and

WHEREAS, publication requirements can be changed to provide faster processing of vacation applications and still provide adequate notice to those persons affected by a vacation;

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

Section 1. That KPB 20.28.060 is amended to read as follows:

20.28.060 Petition--Information required. Each petition filed by the adjoining property owners shall be signed by a majority of the legal owners of the abutting properties constituting the majority of the front footage, as required under Section 20.28.050. 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 9 copies of a sketch clearly indicating the proposed vacation to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. In cases where encroachments on public

A. In the case of vacation of a utility easement only, the following procedures shall apply:

1. Publication of a notice in a newspaper is not required.
2. A notice shall be mailed to each property owner as shown on KPB tax rolls within a 300 foot radius from the utility easement proposed to be vacated.

Section 5. That KPB 20.28.090 is amended as follows:

20.28.090 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 5 calendar days following their decision.

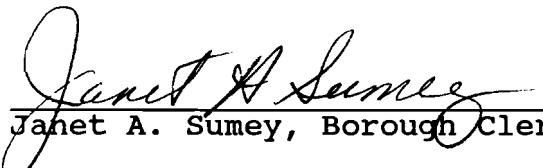
A. In the case of a request to vacate a utility easement, the commission shall consider the petition and make a decision on the merits of the proposal in a similar manner as given to consideration of plats.

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

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 5th DAY OF February, 1991.


James W. Skogstad, Assembly President

ATTEST:


Janet A. Sumey, Borough Clerk

rights-of-way are in question, an as-built survey 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.

A. In the case of a request to vacate a utility easement only, the petitioner has the responsibility to obtain comments from all appropriate utility companies and submit those comments with the petition.

Section 2. That KPB 20.28.065 is amended to read as follows:

20.28.065 Fee required. The fee established by the planning commission by resolution shall accompany the filing of the vacation petition.

A. A fee is not required in the case of vacation of a utility easement only.

Section 3. That KPB 20.28.070 is amended to read as follows:

20.28.070 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.

A. A public hearing is not required in the case of vacation of a utility easement only.

Section 4. That KPB 20.28.080 is amended to read as follows:

20.28.080 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 2 consecutive weeks in a newspaper of general circulation in the area of the vacation. Notice shall also be mailed to each property owner as shown on borough tax rolls within a 300 foot radius from the boundaries of the area proposed to be vacated and to all public utilities operating within the general area of the vacation and to the municipality in which the property is located.