

Introduced by: Mayor
Date: 10/11/94
Committee Referral:
Land Use Planning
Hearing: 11/29/94
Postponed to: 1/03/95
Postponed to: 1/17/95
Amended & postponed to: 3/21/95
Amended & postponed to: 5/02/95
Postponed to: 5/16/95
Carried over to: 6/06/95
Action: Enacted as Amended
Vote: Unanimous

**KENAI PENINSULA BOROUGH
ORDINANCE 94-57**

**AN ORDINANCE ESTABLISHING REGULATIONS GOVERNING AND LIMITING
ACTIVITIES WITHIN DEDICATED ROAD RIGHTS OF WAY IN THE
KENAI PENINSULA BOROUGH**

- WHEREAS,** over 1800 miles of dedicated rights of way are located within the Kenai Peninsula Borough outside of the first- and second-class cities; and
- WHEREAS,** by ordinance, these rights of way were dedicated to provide road and utility access to property and to promote orderly development of land within the borough; and
- WHEREAS,** changes in population and growing use of those rights of way creates conflicts in use that did not exist previously or that existed at much lower levels; and
- WHEREAS,** there has been an increase in the unauthorized removal of trees and materials from rights of way for personal use with little ability of the borough to seek redress; and
- WHEREAS,** repetitive use of these rights of way by overweight vehicles can ruin or degrade the right of way so that others may not be able to use it until repaired; and
- WHEREAS,** the cost of repairing rights of way ruined or degraded by such overweight vehicles should be borne by the entity which caused the need for repair; and
- WHEREAS,** some users park their vehicles in rights of way that are too narrow to allow parking thus leaving insufficient space for other users to traverse the right of way; and
- WHEREAS,** excessive speeds in the rights of way can result in extensive amounts of dust being generated which is a nuisance to those residing near those rights of way; and
- WHEREAS,** clear rules for use help prevent misuse and abuse of the rights of way;

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

SECTION 1. That a new Chapter 14.14 to the Kenai Peninsula Borough Code of Ordinances entitled "Protection of Public Roads and Road Rights of Way." is enacted as follows:

14.14.010. Purpose.

The purpose of this section is to provide for the protection of public rights-of-way dedicated to the Kenai Peninsula Borough.

14.14.020. Administration.

This chapter shall be administered by the road director under the direction of the mayor unless the mayor has authorized another person or body to administer all or portions of this chapter. The mayor shall report to the assembly any authorization for administration by another person or body than the road director. All regulations not requiring assembly approval under this ordinance must be approved by the mayor, but the mayor may delegate the task of developing these regulations to the road service area board.

14.14.030. Prohibited activities within rights-of-way.

Except as provided in this chapter, the following activities are prohibited within dedicated rights-of-way:

A. Unless express permission of the borough has been given, no person may extract, excavate, or remove sand, gravel or soil from a dedicated right-of-way except as necessary for the construction of a road or driveway within the right-of-way and then only from the area of the construction and only to the extent necessary for the construction.

B. No person may remove trees from a right-of-way, except as necessary for the construction or maintenance of a road within the right-of-way, without the express permission of the Kenai Peninsula Borough.

C. No private person, individual, or entity may, by any manner, regulate or purport to regulate the flow of traffic, or place any traffic regulatory device or sign within a right-of-way without the express permission of the Kenai Peninsula Borough. Nor may any private person, individual, or entity prevent others lawful use of the right-of-way by constructing or erecting any barricade or other blockage.

14.14.040. Parking regulation.

A. No person may park a vehicle or other device within a dedicated road right-of-way except in a manner which allows reasonable use of the right-of-way by other persons. Parking in any manner for such periods of time that interferes with or impedes the use of the right-of-way by other persons is prohibited.

B. The mayor may establish specific parking limitations within areas of a right-of-way if the mayor determines a need exists for the limitation due to inadequate space, damage to the right-of-way of adjacent property and waters, or for the orderly use and maintenance of the right-of-way. Such limitations will be posted at that location by the borough.

14.14.050. Traffic regulation.

The mayor may establish traffic regulations within the right-of-way for the purpose of limiting weight and controlling dust as deemed necessary for the protection of the roads, road users, and those residing near the roads. The mayor is authorized to place such traffic regulatory signs or devices in the rights-of-way or to provide such other notice as is reasonably necessary for the implementation

of any weight and dust control restrictions adopted pursuant to this section.

14.14.060. Adoption of regulations implementing this chapter.

Procedures governing adoption of regulations to implement these measures shall be approved by assembly resolution prior to implementing any restriction authorized by sections .040 and .050 of this chapter.

14.14.070. Violations — Criminal penalty — Civil Penalty.

A. The borough may impose a civil penalty of up to \$250 for each violation of this chapter or violation of any of the regulations or restrictions adopted as authorized herein. Each day a violation continues may be considered a separate violation. The mayor may adopt a civil penalty schedule that will be applicable to the various violations that may occur.

B. The borough may direct any person to cease and desist from any act that is in violation of or is prohibited by this chapter or violation of any of the regulations or restrictions adopted as authorized herein. If any person receives an order to cease such violation and fails to do so, the borough may initiate action to enjoin the continued violation as well as pursuing any other remedies and penalties available to it under this chapter or at law.

14.14.080. Definitions.

A. "Dedicated road right-of-way" or "right-of-way" means a right-of-way dedicated on a plat for road and street and utility purposes in accordance with the platting requirements of the Kenai Peninsula Borough, or such rights-of-way as have been specifically granted and dedicated to such use by the borough. It does not include such rights-of-way within the boundaries of a city within the borough.

B. "Road board or service area board" shall mean the board of the Kenai Peninsula Borough road service area created under KPB 16.41.

SECTION 2. That this ordinance shall take effect immediately upon its enactment.

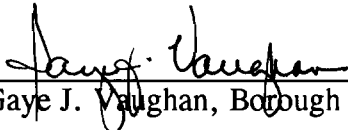
SECTION 3. Section 1 shall be automatically repealed on December 31, 1995 unless the Assembly by ordinance has altered or extended that date.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6th DAY OF JUNE, 1995.



Andrew P. Scalzi, Assembly President

ATTEST:



Gaye J. Vaughan, Borough Clerk