

Introduced by: Popp
Date: 06/16/98
Hearing: 07/14/98
Action: Enacted
Vote: 8 Yes, 1 No

**KENAI PENINSULA BOROUGH
ORDINANCE 98-28**

**AN ORDINANCE ADOPTING A DECERTIFICATION PROGRAM
FOR ROAD MAINTENANCE BY AMENDING KPB 14.06**

WHEREAS, the borough has certified numerous roads for maintenance which do not meet borough standards; and

WHEREAS, it is more expensive to maintain substandard roads; and

WHEREAS, substandard roads deteriorate at a faster rate and may be cost prohibitive to improve to borough standards; and

WHEREAS, substandard roads present inherent unsafe travel conditions that cannot be corrected by maintenance; and

WHEREAS, there are substandard roads certified for maintenance that do not provide access to residents; and

WHEREAS, the cost of maintenance has increased since these roads were certified, and the contribution of state dollars has decreased for maintenance;

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

SECTION 1. That KPB 14.06.070 is enacted to read as follows:

14.06.070 Road decertification

A. Authority. Roads may be decertified for maintenance by the borough as provided in this section.

- B. Procedure. Any road decertification must comply with the following procedures:
1. A road that has received borough maintenance may only be decertified by the assembly between May 15 and September 15.
 2. The roads director shall make a written recommendation to the road service area board with findings based on the standards set forth in KPB 14.06.070(C).
 3. A public hearing shall be held before the road service area board regarding decertification. Notice of the hearing shall be published once a week for a

one-month period prior to hearing with the last publication appearing not less than seven days, nor more than 21 days, before the hearing date. A notice of the decertification hearing shall also be posted at the beginning and ending points of the road proposed for decertification for a two-week period prior to the date of the hearing. Both posted and written notices shall invite public comment, state the name and phone number of a contact person regarding decertification information, state the date, place, and time of the public hearing, and a deadline for the submittal of written comments.

4. If the roads board finds that the proposed road meets the decertification standards set forth in KPB 14.06.070(C), and there has been no objection to the decertification, it shall recommend decertification to the assembly by resolution. If written or oral public comment is received objecting to decertification, the roads board shall not recommend decertification at this time, but shall require the roads director to explore options to bring the road to borough standards.
5. The roads director or his designee may meet with property owners to discuss the necessary upgrades to avoid decertification. A local improvement district may be considered pursuant to KPB 14.31 or 14.32. The borough may engage in cooperative efforts to the extent allowed by law with property owners to upgrade roads where property owners contribute material, equipment, professional services, and right-of-way for the project.
6. Not less than 90 days nor more than 270 days after the public hearing, the roads director shall report to the road service area board whether there is a feasible alternative to decertification. If the roads board finds that there is no viable option presented for bringing the road to borough standards, the roads board, by resolution, shall recommend to the assembly decertification of the road.
7. At least 180 days shall pass after the road board resolution before a decertification resolution is forwarded to the clerk for assembly consideration.
8. If the road has been brought to borough standards or the roads director determines that a viable plan for bringing the road to borough standards has been proposed prior to the assembly hearing regarding decertification, the roads director may withdraw the proposed decertification from assembly consideration.
9. A public hearing shall be held before the assembly regarding decertification in conjunction with consideration of a decertification resolution. Notice of the public hearing shall appear once a week for four weeks prior to the hearing.
10. If the assembly finds that the road is eligible for decertification based on KPB 14.06.070(C) and (D), the assembly shall decertify the road. If the decertification resolution is adopted by the assembly between September 15 and May 15, the decertification shall not be effective until on or after May 15, unless the road has never received maintenance.
11. Decertification shall not be effective until signage has been placed regarding discontinued maintenance.


C. Dwellings Standards. No road shall be decertified which provides the only vehicular access to dwellings. Dwellings are structures currently habitable by human beings, either for residential or recreational purposes. "Habitable" for purposes of this chapter means adequate permanent shelter from the elements such as rain, wind, snow, and sun.

D. Additional Standards. The following standards support, but each alone does not require decertification:

1. Safety. The road service area will review whether maintenance can provide adequate grade, width for travel, room for snow removal, adequate sight distances and clear zone, and prevent accumulation of water and snow in the traveled right-of-way. The potential for accidents because of inadequate road design or inability to maintain the road to a safe standard on a regular basis shall be considered in a decertification determination.
2. Road condition. Whether the types of road material, soils, terrain, road surface and width of right-of-way do not meet borough road standards shall be considered in a decertification determination.
3. Drainage problems. Whether a road has inadequate ditching, culverts, and drainage causing water to accumulate on the road surface or which undermines the road bed shall be considered in a decertification determination.
4. Access. Whether roads are outside a dedicated right-of-way and whether substandard roads on the maintenance system are accessed by a state or borough maintained road shall be considered in a decertification determination.
5. Snow storage. Whether snow easements or places to store snow are inadequate to maintain sufficient travel width and vision shall be considered in a decertification determination.
6. Funding. Excessive cost of maintaining a particular substandard road shall be considered in a decertification determination.
7. Prior maintenance. Whether the road is not now nor has in the past received either summer or winter maintenance shall be considered in a decertification determination.

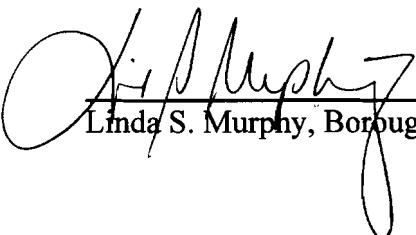
SECTION 2. That this ordinance shall take effect immediately upon enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 14TH DAY OF JULY, 1998.



Jack Brown, Assembly President

ATTEST:



Linda S. Murphy, Borough Clerk

