

Introduced by:

Mayor

Date:

09/18/01

Hearing:

10/23/01

Action:

Enacted as Amended

Vote:

9 Yes, 0 No

**KENAI PENINSULA BOROUGH  
ORDINANCE 2001-33**

**AN ORDINANCE REVISING THE PROCEDURES FOR ROAD  
MAINTENANCE DECERTIFICATION**

**WHEREAS,** there are a number of roads certified for maintenance which are substandard and have no resident access; and

**WHEREAS,** the borough assembly adopted decertification standards in 1998; and

**WHEREAS,** the decertification process is lengthy and cumbersome; and

**WHEREAS,** only three roads have been decertified under KPB 14.06.070 despite there being a number of roads that meet decertification standards; and

**WHEREAS,** the proposed revisions require the same amount of public notice for the road service area board hearing regarding decertification as the current code; and

**WHEREAS,** the proposed revisions to decertification procedures still require a public hearing before the assembly; and

**WHEREAS,** the road service area board recommended revisions to the decertification process at its August 14, 2001 meeting;

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

**SECTION 1.** That KPB 14.06.070 is hereby amended 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]1. Staff recommendation. The roads director shall make a written recommendation to the road service area ("RSA") board with findings based on the standards set forth in KPB 14.06.070(C).
- [3]2. Notice and hearing. A public hearing shall be held before the [ROAD SERVICE AREA] RSA board regarding decertification. Notice of the hearing shall be published once a week for [A ONE-MONTH PERIOD] four consecutive weeks prior to hearing with the last publication appearing [NOT LESS THAN SEVEN DAYS, NOR MORE THAN 21] within 14 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 which are drivable by motor vehicles as defined by KPB 14.06.200 for a four-week period prior to the date of the first 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]3. Board action. If the [ROADS] RSA board finds that the proposed road meets the decertification standards set forth in KPB 14.06.070(C), and there has been no written objection to the decertification, it shall recommend decertification by resolution to the assembly [BY RESOLUTION]. If written [OR ORAL PUBLIC] comment is received objecting to decertification, the [ROADS] RSA board shall not recommend decertification at this time, but shall require the [ROADS] RSA director to explore options to bring the road to borough standards.
- [5]4. Decertification alternatives. The [ROADS] RSA 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. The RSA director shall report at a subsequent meeting of the RSA board what efforts have been met to bring the road to RSA maintenance standards and if there are feasible alternatives to decertification.
- [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]5. Decertification withdrawal. If the road has been brought to borough standards or the [ROADS] RSA 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] RSA director may withdraw the proposed decertification from assembly consideration.

[9]6. Assembly—hearing required. 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 two weeks prior to the hearing.

[10]7. Assembly action. 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] not received maintenance within five years prior to assembly decertification.

[11]8. Signage. Decertification shall not be effective until signage has been placed regarding discontinued maintenance if the road has received maintenance within five years prior to the assembly resolution.

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] RSA 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.

E. *Vacations*. Notwithstanding KPB 14.06.070(B), a road that is vacated through the process set forth in KPB 20.28 shall be decertified for maintenance by resolution of the [ROAD SERVICE AREA] RSA board.

F. *Alternate Route*. Notwithstanding KPB 14.06.070(B), any portion of a road that has been maintained outside of dedicated right-of-way may be decertified for maintenance by resolution of the [ROAD SERVICE AREA] RSA board where the travel surface has been moved into the right-of-way and the new travel surface is certified for maintenance by the borough. Every decertification approved by the [ROAD SERVICE AREA] RSA board under this subsection shall be submitted to the assembly for consideration. The assembly shall have 45 days from the date of the [ROAD SERVICE AREA] RSA board decertification resolution to veto decertification of a road under this subsection.

**SECTION 2.** That KPB 14.06.200 is hereby amended as follows:

**14.06.200. Road Construction Standards—Definitions.**

For purposes of this chapter, the following definitions apply:

"AASHTO" means "American Association of State Highway and Transportation Officials."

"Arterial road" means a road intended to carry traffic from local and subdivision roads to major highways. Such roads primarily accommodate relatively large volumes of traffic for relatively long distances at relatively high speeds.

"Board" means the Kenai Peninsula Borough Road Service Area Board, unless otherwise specified.

"Collector road" means roads which provide both land access and carry traffic from local or subdivision roads to arterial or major highway systems.

"Local roads" means internal subdivision roads or a road designed and intended to serve local areas. Such roads primarily accommodate land access to abutting property. Local roads feed traffic into collector and arterial street systems.

"Motor vehicle" means a vehicle which is self-propelled except a vehicle manned by human or animal power.

"Road construction standards" means the minimal standards set forth in this chapter for the purposes of certification for RSA maintenance.

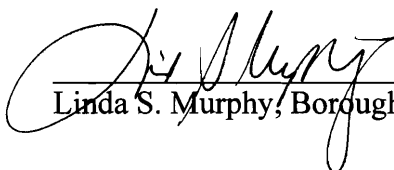
"Subcollector road" means a local road which also provides through traffic service between local roads and collector, arterial, or major highway roads.

**SECTION 3.** That this ordinance takes effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 23RD DAY OF OCTOBER, 2001.**

  
Timothy Navarre, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

