

MEMORANDUM

TO: Grace Merkes, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Milli Martin, Assembly Member

DATE: March 20, 2008

SUBJECT: Ordinance 2008-10, amending KPB Title 20 requiring documented legal access to subdivisions

In the past, subdivisions have been developed, including by the state of Alaska, without documenting that there is legal access to the subdivision. A state statute was adopted which specifies that State of Alaska Department of Natural Resources (DNR) should not be relieved of its obligation to provide legal access to a subdivision. However, the Kenai Peninsula Borough has not adopted any specifications for DNR or private developers to provide legal access to subdivisions. This ordinance requires subdividers to document constructible legal access to their subdivisions. The ordinance does not require construction but is intended to ensure that the access is feasible to construct in the future. A waiver process is available for subdivisions which have inadequate legal access but may be accessed by other modes of transportation such as plane, boat, or train. Additionally, where it is reasonable to expect that a half right-of-way will be matched or a road subject to historical use will be dedicated in the future, the legal access requirement will be considered met.

A case in point is the development of Caribou Lake Subdivision by the State of Alaska in the early 1980s. The State anticipated access would be by plane; however, inadequate land access has developed instead causing damage to wetlands and which requires costly surveying and construction to remedy the situation. While an amendment to Title 29 was adopted in 1985 which provides that the state can no longer avoid providing legal access to its subdivisions, the borough has yet to adopt a companion ordinance that requires documentation of legal access by either the state or private developers.