

KPB 21.18

Items for Review

21.18.070 Activities Not Requiring a Permit

21.18.070(B)(3) Abdicating to Feds & State

21.18.070(B)(4) Height & Light Requirements

21.18.070(B)(6) Fish Cleaning Stations

KPB 21.18.070 Activities not requiring a permit

■ **Current Ordinance Language:**

- A. *The activities specified in this section may be conducted within the habitat protection area zone without obtaining a permit from the borough under this chapter. This section in no way waives or modifies the necessity of adherence to other provisions of the KPB code, including KPB 21.06 (flood plain management), or requirements of a permit from federal, state or local governments. Conduct of activities listed in this section are expressly conditioned upon obtaining all applicable permits. Conduct of activity without obtaining necessary permits shall be considered a violation of this chapter, subject to the provisions of Section 21.18.110."*
- B. *The following activities, to the extent they do not result in significant erosion or damage to riparian habitat, or result in or increase ground or water pollution, do not require the issuance of a permit under this chapter:*

Purpose of Proposed Code Change:

- To be consistent with current practice of writing “permits” for allowable activities
- To ensure Borough standards are followed
- To better inventory and follow development within the habitat protection area. This allows us to evaluate the effectiveness of the code.
- To provide consistency with other permitting agencies
- To be consistent with standard planning & zoning practice of listing allowable, conditional and prohibited uses, activities and structures.

21.18.070(A & B) Recommended Language

21.18.071. Staff permits.

- A. *A permit shall be obtained before commencement of certain activities, uses and structures set forth in this section if they do not result in erosion, damage to the district, or an increase in ground or water pollution. An application for a permit shall be made to the Kenai Peninsula Borough at the River Center. Upon determination that the submitted information of record supporting the permit application meets the terms of this chapter, staff shall issue a permit for the following activities, uses and structures in the habitat protection district:*

KPB 21.18.070(B)(3) Abdicating to Federal & State Governments

KPB 21.18.070(B)(3) Abdicating to Federal & State Governments

■ **Current Ordinance Language:**

“Construction, installation, repair and maintenance of ladders, steps, cantilevered walkways, platforms, docks, and bank restoration and protection and maintenance dredging that are regulated by and require a permit from the Alaska Department of Natural Resources, State Parks Division, and the Alaska Department of Fish & Game, U.S. Army Corps of Engineers and other applicable agencies. The activity must comply with all conditions and regulations imposed on such activity.

Purpose of Proposed Code Change:

- Currently, the Borough gives up its power to regulate activities in this section even if the state and federal agencies refuse or fail to act.
- The Borough assumes that these other jurisdictions are not only competent but willing to step into the void of responsibility ceded by the Borough
- The Borough should retain its power to protect its environment and independently evaluate and permit projects based on the standards that it has developed.

21.18.070(B)(3) Recommendation

- Remove this section from the code.

KPB 21.18.070(B)(4)

Height & Light Requirements

KPB 21.18.070(B)(4)

Height & Light Requirements

■ Current Ordinance Standards:

- *Boardwalks with 25 to 75% light penetration must be 18" off ground*
- *Boardwalks with over 75% light penetration must be 8" off ground*
- *Boardwalks must be no longer than one-third of frontage and no wider than 8-feet*

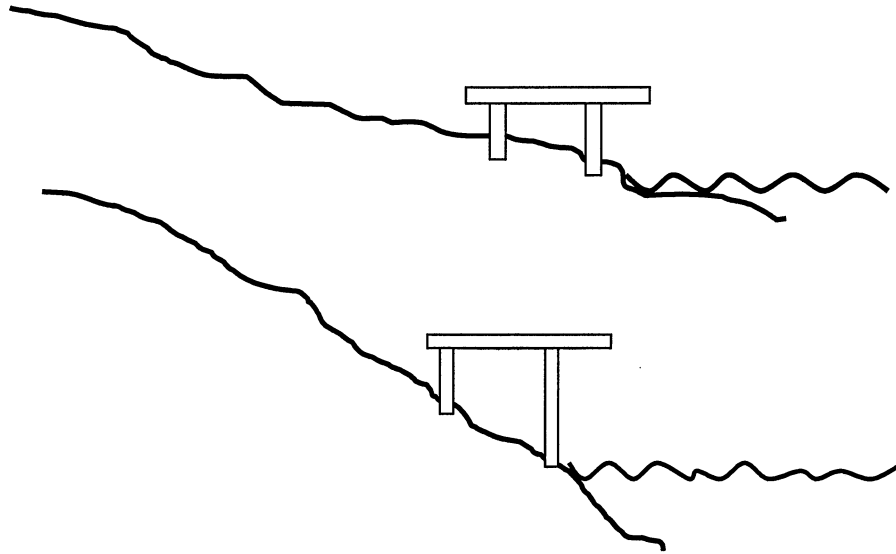
Staff Observations:

- Through the installation of ELPs (used to maintain vegetation and banks), we often cut down vegetation and damage or remove habitat. Often the vegetation that is removed is overhanging vegetation that provides great habitat for fish but that is a nuisance for fishermen.
- In some cases, property owners are better served by steps/stairs to the riverbed rather than long, edge-of-bank boardwalks.
- Boardwalks supported by legs that rest on the ground do less damage to the bank than driven posts.
- The code should make it clear that there may not be more than a single, bank-parallel ELP in the habitat protection area (regardless of its distance from OHW).

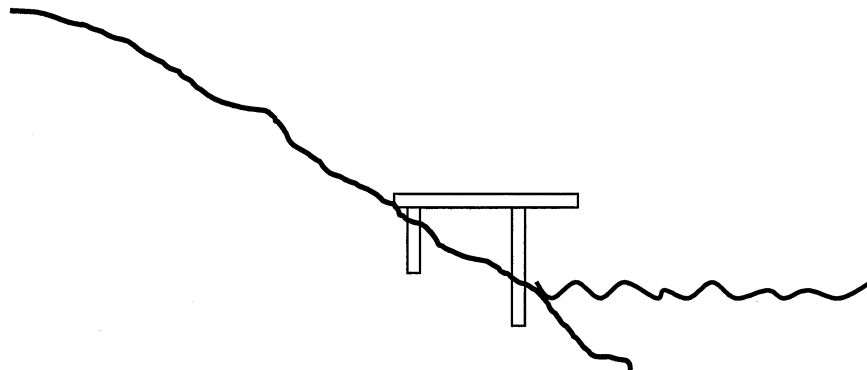
Staff Observations:

- We rarely see an 8-foot wide walkway, and the amount of disturbance they create is large.
- Should we be requiring/encouraging access ELPs across wet areas or steep slopes when we receive an application for a riverfront ELP? (To prevent erosion and to address water quality issues)
- There is no provision in the code for the first step or the edge of a walkway on a slope to be close to ground level. Leads to unsafe structures, especially for those who may have physical limitations.
- IBC Section 1009.3 Stair Treads and Risers: Stair riser heights shall be 7 inches maximum and 4 inches minimum.

Scenarios under current ordinance



Scenario under proposed ordinance



Common Walkway Surfaces & Light Penetration

- Aluminum I-bar grating – 80%
- Fiberglass I-6000 bar grating – 60%
- Fiberglass T-bar grating – 50%
- Fiberglass I-4000 bar grating (ADA compliant) – 40%
- Metal serrated bar grating – 83%
- Metal bar grating – 77%
- Grip Strut plank grating – 52%
- Rough cut 2x4 boardwalk with 1.33” spacing – 25%
- Rough cut 2x2 boardwalk with 2” spacing – 50%

(Open area or light penetration varies slightly by manufacturer)

Proposed Code Change:

- Create incentives to encourage walkways with higher light penetration.
- Allow for one edge of walkways to be at or near ground level
- Allow ADA walkways as a conditional use

21.18.070(B)(4)
Recommended Language

2. *Elevated light penetrating structures. These structures include structures that are not ancillary to another use but are constructed solely for the purposes of accessing the river and may include but are not limited to boardwalks, gratewalks, stairs, ramps, platforms and gangplanks. Elevated light penetrating structures must be constructed of wood, plastic, fiberglass, aluminum, steel, or other non-toxic material. If the wood is treated, it must be certified as non-toxic to plants and animals by an independent laboratory or other appropriate agency. The topography of the bank and habitat protection district may not be altered to provide for the installation of these structures.*

21.18.070(B)(4)
Recommended Language

- a. *Elevated light penetrating structures with less than 60 percent but a minimum of 25 percent light penetration must not exceed 6 feet in width and must be constructed so that no part, other than the supporting posts, are less than 18 inches from the ground.*

21.18.070(B)(4)

Recommended Language

- b. *Elevated light penetrating structures with at least 60 percent light penetration must not exceed 8 feet in width and must be constructed so that no part, other than the supporting posts, is closer than 4 inches from the ground. To ensure safety or to aid access, one side or edge of the elevated light penetrating structure may be lowered, provided that no part, other than the supporting posts on the riverward edge of the structure is less than 4 inches from the ground. Lowering of the surface may not result in erosion or damage to the bank or vegetation, and the remainder of the structure must still meet the requirements of this chapter.*

21.18.070(B)(4)

Recommended Language

- c. *For elevated light penetrating structures under KPB 21.18.071 (a) and (b), the total length of all elevated light penetrating structures that run along or parallel to the banks of the streams shall be limited in length to no more than one-third of the total lineal river frontage of the parcel on which it is constructed.*
- d. *For all elevated light penetrating structures under KPB 21.18.071 (a) and (b), the open space must be uniformly distributed throughout the structure surface.*

21.18.070(B)(6)

Fish Cleaning Stations

KPB 21.18.070(B)(6)

Fish Cleaning Stations

Current Ordinance Language:

Fish cleaning stations. (Covered and/or walled in fish cleaning stations shall require a conditional use permit.)

Purpose of Proposed Code Change:

- The purpose of this code change is to provide guidance to property owners that would like to construct a fish cleaning station along the river. Fish cleaning stations are currently allowed, but there are no height, light, location or size requirements or standards.

21.18.070(B)(6) Recommended Language

- *A single fish-cleaning station may be constructed provided it has no enclosed sides or roof and that any shelf below the fish-cleaning surface must be at least 60 percent light penetrating and be elevated at least 8 inches from the ground. Fish-cleaning stations shall not exceed 25 square feet in size, excluding the chute and drain pipes, if any.*

KPB 21.18.070
Recommended Language for Entire
Revised Section

21.18.071. Staff permits

- A. *A permit shall be obtained before commencement of certain activities, uses and structures set forth in this section if they do not result in erosion, damage to the district, or an increase in ground or water pollution. An application for a permit shall be made to the Kenai Peninsula Borough at the River Center. Upon determination that the submitted information of record supporting the permit application meets the terms of this chapter, staff shall issue a permit for the following activities, uses and structures in the habitat protection district:*

KPB 21.18.070
Recommended Language for Entire
Revised Section (cont)

1. *Minor vegetation management (trimming, pruning, or removal of hazardous trees)*
2. *Elevated light penetrating structures. These structures include structures that are not ancillary to another use but are constructed solely for the purposes of accessing the river and may include but are not limited to boardwalks, gratewalks, stairs, ramps, platforms and gangplanks. Elevated light penetrating structures must be constructed of wood, plastic, fiberglass, aluminum, steel, or other non-toxic material. If the wood is treated, it must be certified as non-toxic to plants and animals by an independent laboratory or other appropriate agency. The topography of the bank and habitat protection district may not be altered to provide for the installation of these structures.*

KPB 21.18.070

**Recommended Language for Entire
Revised Section (cont)**

- a. *Elevated light penetrating structures with less than 60 percent but a minimum of 25 percent light penetration must not exceed 6 feet in width and must be constructed so that no part, other than the supporting posts, are less than 18 inches from the ground.*

KPB 21.18.070

**Recommended Language for Entire
Revised Section (cont)**

- b. *Elevated light penetrating structures with at least 60 percent light penetration must not exceed 8 feet in width and must be constructed so that no part, other than the supporting posts, is closer than 4 inches from the ground. To ensure safety or to aid access, one side or edge of the elevated light penetrating structure may be lowered, provided that no part, other than the supporting posts on the riverward edge of the structure is less than 4 inches from the ground. Lowering of the surface may not result in erosion or damage to the bank or vegetation, and the remainder of the structure must still meet the requirements of this chapter.*

KPB 21.18.070

Recommended Language for Entire Revised Section (cont)

- c. *For elevated light penetrating structures under KPB 21.18.071 (a) and (b), the total length of all elevated light penetrating structures that run along or parallel to the banks of the streams shall be limited in length to no more than one-third of the total lineal river frontage of the parcel on which it is constructed.*
- d. *For all elevated light penetrating structures under KPB 21.18.071 (a) and (b), the open space must be uniformly distributed throughout the structure surface.*

KPB 21.18.070

Recommended Language for Entire Revised Section (cont)

- 3. *A single fish cleaning station may be constructed provided it has no enclosed sides or roof and that any shelf below the fish-cleaning surface must be at least 60 percent light penetrating and be elevated at least 8 inches from the ground. Fish-cleaning stations shall not exceed 25 square feet in size, excluding the chute and drain pipes, if any.*
- 4. *Bank restoration and protection projects.*

KPB 21.18.070

**Recommended Language for Entire
Revised Section (cont)**

B. Applicants for a river center permit are responsible for abiding by all other federal, state and local laws, regulations and permitting requirements applicable to the project.

Pray to God,
but keep rowing to shore.

Russian Proverb