

Introduced by: Mayor at request of road service area board  
Date: 08/01/00  
Hearing: 09/12/00  
Action: Enacted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2000-35**

**AN ORDINANCE AMENDING KPB CHAPTER 14.40 REGARDING OVERSIZE AND  
OVERWEIGHT RESTRICTIONS FOR BOROUGH-MAINTAINED ROADS**

**WHEREAS,** in 1996 the assembly established parking and oversize and overweight restrictions within the road service area; and

**WHEREAS,** the road service area has been enforcing the restrictions for approximately four years; and

**WHEREAS,** revisions are necessary to the notice and signage requirements for those provisions because the current provisions are impractical; and

**WHEREAS,** adequate notice and signage are provided in the proposed amendments;

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

**SECTION 1.** That KPB 14.40.070 shall be amended to read as follows:

**14.40.070. Oversize and overweight permits—Size and weight restrictions.**

A. Regulation establishment. If it is determined by the road service area director that oversize and overweight regulations are needed within the road service area, the road service area director shall decide to which rights-of-way the restrictions will apply. The rights-of-way proposed for regulation shall be published in a newspaper of general circulation within the borough at least [TWICE] once before imposition, with the first date of published notice being at least [14] seven days prior to imposition. [SIGNAGE INDICATING SIZE AND WEIGHT RESTRICTIONS THAT ARE APPLICABLE TO A PARTICULAR ROAD SHALL BE POSTED ON THE LENGTH OF ROAD SUBJECT TO THE RESTRICTION. THE ROADS DIRECTOR SHALL PREPARE A REPORT ON THE RIGHTS-OF-WAY PROPOSED FOR REGULATION FOR THE ROAD SERVICE AREA BOARD'S REVIEW.] The notice shall be published two additional times in a newspaper or newspapers of general circulation within the road service area while the restrictions are in place. [ANY REGULATION SHALL CONTINUE UNTIL THE ROAD SERVICE AREA BOARD PASSES A RESOLUTION LIFTING THE REGULATION.] The roads director shall provide a report of the restrictions to the service area board prior to or at the next meeting of the road service area board. The road service area board may modify the restrictions. Restrictions for particular rights-of-way remain in place unless modified or discontinued by the road service area [BOARD] director through publication of a notice in a newspaper of general circulation within the road service area.

B. Permit required. An oversize and overweight permit is required for those vehicles and equipment exceeding the gross weight, width and height set forth in 17 AAC 25 [FOR RIGHTS-OF-WAY DESIGNATED BY THE ROAD SERVICE AREA BOARD]. The permit may be obtained from the road service area administrative office by filing an application on a form provided by the borough.

[C. DAMAGE TO RIGHT-OF-WAY. PERSONS OR ENTITIES USING THE RIGHT-OF-WAY IN A MANNER CAUSING DAMAGE ARE LIABLE TO THE BOROUGH FOR THE COST OF REPAIR AND SUBJECT TO A FINE SET FORTH IN KPB 14.40.260. PURSUANT TO AS 29.25.070, ON APPLICATION FOR INJUNCTIVE RELIEF AND A FINDING OF A VIOLATION OR THREATENED VIOLATION, THE SUPERIOR COURT SHALL GRANT AN INJUNCTION TO STOP OR PREVENT DAMAGE TO A RIGHT-OF-WAY. THE PLANNING DIRECTOR SHALL ISSUE FINES UNDER THIS SECTION IN ACCORDANCE WITH KPB 14.40.260-270.]

**SECTION 2.** That KPB 14.40.110 is hereby amended as follows:

**14.40.110. Oversize and overweight permits—Signage.**

[UPON ESTABLISHMENT OF ANY SIZE OR WEIGHT RESTRICTIONS, THE ROAD OR ROADS SHALL BE POSTED BY THE ROADS DIRECTOR AND THE RESTRICTION SHALL NOT BE EFFECTIVE UNTIL 24 HOURS AFTER THE POSTING. THE POSTING OF THE ROAD SHALL INCLUDE THE SIZE OR WEIGHT RESTRICTION AND TIME OF POSTING.] The roads director may post individual roads with load limits based on the condition of the road and traffic. Posting does not negate the requirement for published notice set forth in KPB 14.40.070(A).

**SECTION 3.** That KPB 14.40.120(A) is hereby amended as follows:

**14.40.120. Permit appeal—Permit review.**

A. Initial permit review. [CONSTRUCTION PERMIT APPLICATIONS SHALL BE REVIEWED BY THE PLANNING DIRECTOR AND SIZE AND WEIGHT PERMIT APPLICATIONS SHALL BE REVIEWED BY THE ROADS DIRECTOR BEFORE THE PERMITS ARE ISSUED.] The director shall have seven (7) days from the date the permit application is received to issue a written denial or approval of the permits requested, unless for good cause stated, the director extends the time frame for permit determinations. The director shall, by first-class mail, facsimile, or hand-delivery transmit written notice of approval or denial to the applicant at the most recent address provided to the borough in writing by the applicant.

**SECTION 4.** That KPB 14.40.175 is hereby enacted to read as follows:

**14.40.175. Damage to right-of-way.**

Persons or entities using or working in the right-of-way in a manner causing damage are liable to the borough for the cost of repair and subject to a fine set forth in KPB 14.40.260. Pursuant to AS 29.25.070, on application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant an injunction to stop or prevent damage to a right-of-way. The director shall issue fines under this section in accordance with KPB 14.40.260-270.

**SECTION 5.** That KPB 14.40.260 is hereby amended as follows:

**14.40.260. Civil penalties—Schedule.**

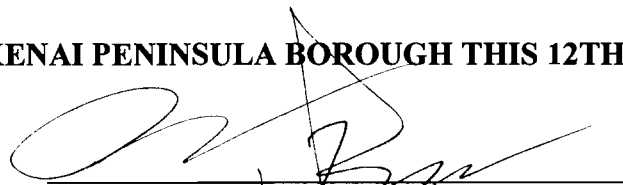
In addition to other remedies afforded by laws, the borough establishes the following schedule of civil fines for violation of KPB 14.14 and 14.40.

KPB 14.40.050	Unlawful Regulation of Traffic Flow; Barricading Right-of-Way	\$125.00
KPB 14.40.060	Violation of Permit Conditions (each condition)	\$150.00
KPB 14.40.065	Failure to Obtain Maintenance Permit; Violation of Permit Conditions	\$25.00
KPB 14.40.070(B)	Failure to [ATTAIN] <u>Obtain</u> Right-of way Construction or Size and Weight Permit	\$250.00
KPB 14.40.[070(C)]175	Damage to Right-of-way	\$100.00

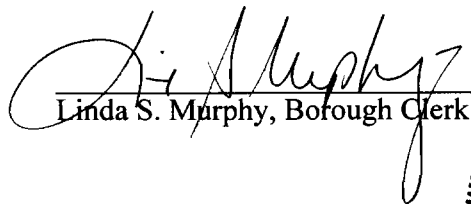
Each day a violation occurs constitutes a separate violation.

**SECTION 6.** That this ordinance takes effect immediately upon its adoption.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 12TH DAY OF SEPTEMBER, 2000.**

  
William Popp, Assembly President

ATTEST:

  
Linda S. Murphy, Borough Clerk

