

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 2000-36**

**AN ORDINANCE ESTABLISHING AN ABATEMENT PROCEDURE
FOR THE REMOVAL OF ABANDONED VEHICLES FROM BOROUGH
ROADS AND FROM PUBLIC PROPERTY**

WHEREAS, there is a problem within the Kenai Peninsula Borough of persons abandoning vehicles in borough roads and on public property causing health and safety concerns; and

WHEREAS, AS 28.11 authorizes the borough to remove abandoned vehicles from roads and public property; and

WHEREAS, pursuant to AS 28.11 title to abandoned vehicles vests in the State of Alaska unless the borough adopts an abandoned vehicle abatement procedure; and

WHEREAS, the State of Alaska currently requires the borough to defend and indemnify the State of Alaska for actions arising from the removal of abandoned vehicles because the borough has not adopted an abatement procedure; and

WHEREAS, the State of Alaska has recommended the borough adopt an abandoned vehicle abatement ordinance; and

WHEREAS, the borough may still use the abatement procedure set forth in Alaska Statutes upon adopting an ordinance.

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

SECTION 1. KPB Chapter 12.06 is hereby enacted as follows:

CHAPTER 12.06. ABANDONED VEHICLE ABATEMENT PROCEDURE

12.06.010. Authority—Administration.

The borough may cause to be removed from public property and borough roads abandoned, wrecked, dismantled, or inoperative vehicles following the procedures set forth in AS

28.11.010-110. The roads director or designee shall administer this chapter and be the hearing officer for borough-maintained roads. The planning director or designee shall administer this chapter and be the hearing officer for borough property and roads not certified for maintenance by the road service area. Specific procedures consistent with AS 28.11 and this chapter may be adopted by road service area board or planning commission resolution as appropriate.

12.06.020. Notice and Hearing.

A. Notice of removal and storage of an abandoned vehicle to owners and lienholders shall be given in compliance with the provisions of AS 28.11.040. Notice of a right to a hearing regarding forfeiture of title, payment of costs, and other issues associated with the abandonment and abatement of the abandoned vehicle shall be included in the notice to the owner and lienholders.

B. Notice of removal and storage of an abandoned vehicle shall be given in the manner set forth in AS 28.05.121.

C. Hearings shall be conducted consistent with due process and in accordance with a resolution adopted by the road service area board or planning commission as appropriate. The following hearing procedures shall apply:

1. Hearings are informal and the rules of evidence do not apply.
2. Hearings may be telephonic unless the hearing officer determines this would prejudice the rights of a party.
3. The hearing may be delayed for good cause.
4. If a person fails to attend or appear for the hearing at the time and place stated by the hearing officer, the person's failure to attend or appear shall be considered a waiver of the hearing.
5. The hearing officer shall state the reasons for the decision in writing and indicate the evidence relied upon. The decision shall be issued to parties participating in the hearing process.
6. A party aggrieved by the hearing officer's decision may request reconsideration within ten days of distribution of the written decision. Reconsideration shall be heard by the road service area board or planning commission as appropriate.
7. A party aggrieved by the reconsideration decision may, within 30 days after distribution of the decision, file an appeal in superior court for the third judicial district, State of Alaska, at Kenai in compliance with the Alaska Rules of Appellate Procedure, Part Six. A party must timely request reconsideration under KPB 12.06.020(C)(6) in order to be entitled to an appeal to superior court.

12.06.030. Title and disposal.

Disposal of abandoned vehicles shall comply with the provisions of AS 28.11.070. Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession of the vehicle within 15 days from the notice given under AS 28.11.040 vests with the borough. Upon satisfaction of the notice and reporting requirements of this chapter and AS 28.11 a vehicle may be disposed of by the borough through an auto wrecking process. The borough may dispose of a vehicle at auction if the borough determines that the vehicle would have value at auction. A person who presents satisfactory proof of ownership or right to possession may redeem a vehicle determined to have value removed under this chapter at any time before an auction under AS 28.11.070.

12.06.040. Definition.

“Road” means a road certified for borough road service area maintenance and also includes travel surface, ditches, or roads associated with a borough-maintained road.

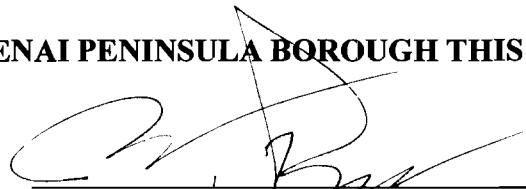
SECTION 2. KPB Chapter 12.04 is hereby amended as follows:

12.04.070. Parking regulation - Blockage.

Notwithstanding the signage provisions of this regulation where a vehicle or other blockage is impeding the safe flow of traffic or borough road maintenance, the director or designee may tag the vehicle or blockage with a 48-hour warning to remove the vehicle or blockage from the [RIGHT-OF-WAY] road. If the vehicle or blockage is not removed with 48 hours, the borough may proceed to remove it at the owner’s expense.

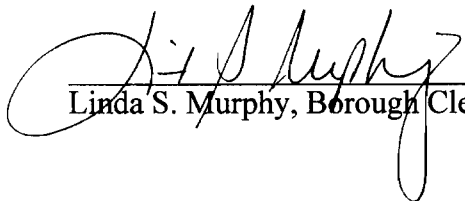
SECTION 3. That this ordinance takes effect immediately upon its adoption.

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

