

**KENAI PENINSULA BOROUGH ROAD SERVICE AREA**

**RESOLUTION 2011-19**

**A RESOLUTION RECOMENDING AN AMENDMENT TO KPB 14.40.040  
RIGHT-OF-WAY USE PERMITS AND KPB 14.40.060 PERMIT APPLICATION  
AND CONDITIONS, DELETING SEASONAL PERMITS, TO THE KENAI  
PENINSULA BOROUGH ASSEMBLY**

**WHEREAS**, KPB 14.40.040, Right-of-way use permits, provides for the various types of right-of-way use permits issued by the RSA; and

**WHEREAS**, subsection A(2) provides for the issuance of seasonal permits; and

**WHEREAS**, seasonal permits are no longer issued by the RSA, instead project specific permits are issued which allow for better oversight and control.

**NOW THEREFORE, BE IT RESOLVED BY THE KENAI PENINSULA  
BOROUGH ROAD SERVICE AREA BOARD:**

**SECTION 1.** That the RSA recommends amending KPB 14.40.040 and .060 as set forth below:

14.40.040. - Right-of-way use permits.

The Borough shall issue the following types of right-of-way use permits for borough rights-of-way:

A.

Right-of-way construction permits. Right-of-way construction permits are issued for construction of roads, driveways, trails and any blockading which impedes traffic flow or lawful use of rights-of-way related to construction, which include the following types of permits:

1.

Driveway permits for intersections within Borough rights-of-way between private drives and Borough rights-of-way.

2.

Project-specific construction permits for all construction within a Borough right-of-way that is not covered by a a driveway permit. Project-specific permits require improvement of a right-of-way, and may require improvement to Borough standards set forth in KPB 14.06, Road Construction Standards.

**SECTION 2.** 14.40.060. - Permit application and conditions.

The following application procedures and conditions must be met for right-of-way construction permits:

A.

Application form. A right-of-way construction permit may be obtained by filing an application on a form provided by the borough, which contains the information required by KPB 14.40.050(C). The construction activity shall be conducted only in accordance with the issued permit conditions.

B.

Mandatory conditions. All permits shall be subject to the following conditions:

1.

The permittee has responsibility to properly locate the proposed facility within the named right-of-way and to coordinate its construction activity with utilities in the same right-of-way.

2.

Driveways or roads crossing utility installations shall cross as nearly perpendicular as possible to the utility line. The line locator phone number shall be included on the permit form by the borough.

3.

The Kenai Peninsula Borough disclaims any warranty or liability regarding location or coordination with utility companies.

4.

Materials or trees shall not be used or removed except to the extent necessary to construct the road or driveway and provide adequate snow storage areas. Gravel may not be mined from any borough right-of-way unless the permittee has specific prior written approval by RSA staff.

5.

The permittee must agree to comply with the terms, conditions and requirements of KPB Chapter 14.40, and any regulations adopted pursuant to this chapter.

6.

All permits shall contain an expiration date determined by the roads director.

7.

Upon completion, permittee shall agree not to restrict the flow of traffic, place traffic signs, or prevent use by the public unless prior approval has been received from the borough.

8.

The permittee shall indemnify, defend, and hold and save the borough, its elected and appointed officers, agents and employees harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorneys fees. The permittee shall be responsible under this clause for any and all legal actions or claims of any character arising from applicant or applicant's agents' performance or failure to perform this permit in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions of the borough or its agents, which are said to have contributed to the losses, failure, violations, or damages.

9.

Permittee is responsible for determining the need for any other local, state, or federal permits and acquiring the same. Permittee must abide by all applicable local, state, and federal laws.

10.

Violation of the permit's terms may result in its termination and/or an assessment of penalties against the permittee. The borough reserves the right to revoke the permit at any time for its convenience.

11.

Construction projects are subject to either a driveway or a project-specific permit, and may be required to meet road construction standards pursuant to road service area board policies approved by the mayor. Construction shall not damage the right-of-way, adjacent properties, or adjacent water bodies.

**SECTION 3.** The RSA request the Mayor sponsor an Ordinance for Assembly consideration of the RSA's recommended changes to KPB 14.140.040 and .060 described above.

**RESOLVED BY THE KENAI PENINSULA BOROUGH ROAD SERVICE AREA BOARD THIS 29th DAY OF NOVEMBER 2011.**



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Cam Shafer, Road Service Area Board  
Vice-Chairman

ATTEST:



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Doug Schoessler, Road Service Area Director