

Introduced by:	Mayor
Date:	08/19/25
Hearing:	09/16/25
Action:	
Vote:	

**KENAI PENINSULA BOROUGH
ORDINANCE 2025-18**

**AN ORDINANCE AMENDING BOROUGH CODE, KP.B 14.06.240 AND
KP.B 14.06.250 REGARDING DECERTIFICATION**

WHEREAS, there are roads throughout the Kenai Peninsula Borough that are maintained by KP.B that do not meet the current KP.B road maintenance standards in KP.B Chapter 14.06; and

WHEREAS, many of those roads are excessively expensive for KP.B to maintain, some are outside of dedicated rights of way or for which KP.B does not have valid right-of-way; and

WHEREAS, the Road Service Area and Assembly recognize the importance of safety and valid right-of-way for KP.B-maintained roads; and

WHEREAS, loosening the requirements for decertification and allowing the RSA board to make the final determination on all proposed decertifications will save KP.B time and potentially avoid excessive cost; and

WHEREAS, at its regularly-scheduled meeting held on August 12, 2025, the Kenai Peninsula Borough Road Service Area Board recommended _____;

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

SECTION 1. That this ordinance amends KP.B Code and will be codified.

SECTION 2. That KP.B 14.06.240 is hereby amended as follows:

14.06.240. - Road decertification.

- A. *Authority.* Roads may be decertified for maintenance by the Borough as provided in this section.
- B. *Procedure.* Any road decertification must comply with the following procedures:
 - 1. *Staff recommendation.* The RSA director or designee [SHALL] must make a written recommendation to the RSA board with findings based on the standards set forth in KP.B 14.06.240(C), (D), and (E). In support of the

recommendation, the RSA director or designee must submit a report including:

- a. Description of efforts to bring the road to RSA standards under KPB 14.06 and explanation of why it is not feasible or in the best interests of the borough to do so.
 - b. Narrative of considerations given to alternatives to decertification including but not limited to:
 - i. Description of necessary construction upgrades needed to avoid decertification, and any other feasible alternatives evaluated by the RSA director or designee including estimated costs.
 - ii. Feasibility of forming a special assessment district pursuant to KPB Chapter 14.31, if applicable.
 - iii. Cooperative efforts between the Borough and property owners to upgrade roads to the extent allowed by law where property owners contribute material, equipment, professional services, and right-of-way for the project.
 - c. Information regarding any relevant communication with affected property owners, including but not limited to in-person, telephone, electronic and written contact. If the road proposed for decertification provides the sole vehicular access to more than five parcels, which each contains a residential dwelling, the borough must send notice of proposed decertification by certified mail to the affected property owner(s). If the road is eligible for the RIAD process and the property owner(s) agree and so request, the borough will provide the property owner(s) information to begin the RIAD process. If the RIAD process is not initiated within six months from the date of certified receipt of the notice, then the borough may initiate the decertification process as set forth in this chapter. Any written comments from residents regarding the proposed decertification submitted before the RSA packet deadline must be included with the report.
 - d. Any other relevant information that the RSA director or designee has obtained and which may assist the RSA board's consideration of the proposed decertification.
2. *Notice and hearing.* A public hearing will be held before the RSA board regarding decertification. Notice of the hearing will be published in accordance with KPB 1.08.180. A notice of the decertification hearing [SHALL] may also be posted for a four-week period prior to the date of the first hearing at the beginning and ending points of the road proposed for decertification if, at the determination of the RSA director or designee, the beginning and ending points of the road proposed for decertification are both accessible and safe.
- a. Both posted and written notices shall invite public comment, state the name and phone number of a contact person regarding decertification information, state the date, place, and time of the public hearing, and a deadline for the submittal of written comments.

- b. The deadline for submission written objections shall be 4 PM on the Monday of the week immediately preceding the week of the RSA meeting.
3. *Board action.*
 - [A.]If the RSA board finds that the proposed road meets the decertification standards set forth in KPB 14.06.240(C)[,] or (D), it must by resolution decertify the road. [AND (E), AND THERE HAS BEEN NO WRITTEN OBJECTION TO THE DECERTIFICATION,]If the RSA board finds that the proposed road meets the decertification standards set forth in KPB 14.06.240(E), it may by resolution decertify the road.
 - [B. IF TIMELY WRITTEN OBJECTIONS ARE RECEIVED BY THE RSA BOARD, DECERTIFICATION REQUIRES ASSEMBLY ACTION. IF THE RSA BOARD FINDS THAT THERE IS NO VIABLE OPTION PRESENTED TO BRING THE ROAD TO BOROUGH STANDARDS OR OTHERWISE FINDS THAT THERE IS NO SAFE ALTERNATIVE TO DECERTIFICATION, THE RSA BOARD, BY RESOLUTION, SHALL RECOMMEND TO THE ASSEMBLY DECERTIFICATION OF THE ROAD.]
4. *Decertification withdrawal.* If the road has been brought to borough standards or the RSA director identifies a viable plan for bringing the road to borough standards or to an appropriate level of safety prior to the RSA board [OR ASSEMBLY] hearing regarding decertification, the RSA director may withdraw the proposed decertification recommendation from RSA board [OR ASSEMBLY] consideration. Notice of a withdrawal under these circumstances must be reported to the RSA board at the subsequent RSA meeting.
- [5. *ASSEMBLY—HEARING REQUIRED.* A PUBLIC HEARING WILL BE HELD BEFORE THE ASSEMBLY REGARDING A DECERTIFICATION RECOMMENDED BY THE RSA BOARD THAT IS SUBJECT TO OBJECTIONS AS SET FORTH IN KPB 14.06.240(B)(3)(B), IN CONJUNCTION WITH CONSIDERATION OF A DECERTIFICATION RESOLUTION. NOTICE OF THE PUBLIC HEARING WILL BE PUBLISHED IN ACCORDANCE WITH KPB 1.12.040.]
- [6. *ASSEMBLY ACTION.* IF THE ASSEMBLY FINDS THAT THE ROAD IS ELIGIBLE FOR DECERTIFICATION BASED ON CONSIDERATION OF THE STANDARDS ESTABLISHED BY KPB 14.06.240(C), (D) AND (E), THE ASSEMBLY SHALL DECERTIFY THE ROAD. IF THE DECERTIFICATION RESOLUTION IS ADOPTED BY THE ASSEMBLY BETWEEN SEPTEMBER 15 AND MAY 15, THE DECERTIFICATION SHALL NOT BE EFFECTIVE BEFORE MAY 16, UNLESS THE ROAD HAS NOT RECEIVED MAINTENANCE WITHIN FIVE YEARS PRIOR TO ASSEMBLY DECERTIFICATION.]
- [7]5. *Signage.* Decertification shall not be effective until signage has been placed regarding discontinued maintenance, if the road has received maintenance within five years prior to the assembly resolution.
- C. *Safety standards.* Safety [SHALL BE A] is a primary consideration regarding a proposed decertification. The RSA board will review whether maintenance can provide adequate grade, width for travel, room for snow removal, adequate sight distances and clear zone, and prevent accumulation of water and snow in the traveled right-of-way. If the RSA board determines the road cannot be maintained [THE POTENTIAL FOR ACCIDENTS BECAUSE OF INABILITY TO

MAINTAIN THE ROAD] to a safe standard on a regular basis, then the RSA board must decertify the road. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]

- D. *[DWELLING STANDARDS.* NO BOROUGH ROAD SHALL BE DECERTIFIED WHICH PROVIDES THE ONLY VEHICULAR ACCESS TO DWELLINGS. DWELLINGS ARE STRUCTURES CURRENTLY HABITABLE BY HUMAN BEINGS, EITHER FOR RESIDENTIAL OR RECREATIONAL PURPOSES.] Right-of-way. If the borough does not have valid right-of-way or a road is outside of a dedicated right-of-way, and the abutting property owners are unwilling to freely grant valid right-of-way to the borough within ninety (90) days from the notice of decertification, the RSA board must decertify the road. Any portion of a road that has been maintained outside of dedicated right-of-way must be decertified for maintenance by resolution of the RSA board where the travel surface has been moved into the right-of-way and the new travel surface is certified for maintenance by the Borough.
- E. *Additional standards.* The following standards support, but each alone does not require, decertification:
1. *Road condition.* Whether the types of road material, soils, terrain, road surface, and width of right-of-way do not meet borough road standards. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]
 2. *Drainage problems.* Whether a road has inadequate ditching, culverts, and drainage causing water to accumulate on the road surface or which undermines the road bed. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]
 3. *Access.* [WHETHER ROADS ARE OUTSIDE A DEDICATED RIGHT-OF-WAY AND] W[w]hether substandard roads on the maintenance system are accessed by a state- or borough-maintained road. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]
 4. *Snow storage.* Whether snow easements or places to store snow are inadequate to maintain sufficient travel width and vision. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]
 5. *Funding.* Excessive cost of maintaining a particular substandard road. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.] For the purposes of this subsection, “excessive cost” means the per-foot maintenance cost is more than twice the per-foot maintenance cost for a similar road build in accordance with borough standards.
 6. *Prior maintenance.* Whether the borough road has ever received either summer or winter maintenance. [SHALL BE CONSIDERED IN A DECERTIFICATION DETERMINATION.]
 7. *Residential dwellings.* Whether the road considered for decertification provides the sole vehicular access to more than five parcels, which each contains a residential dwelling.
- F. *Vacations.* [NOTWITHSTANDING KPB 14.06.240(B),] [A]A right of way that is vacated through the process set forth in KPB 20.[70]65 [SHALL] must be decertified for maintenance by resolution of the RSA board.
- [G. *ALTERNATE ROUTE.* NOTWITHSTANDING KPB 14.06.240(B), ANY PORTION OF A ROAD THAT HAS BEEN MAINTAINED OUTSIDE OF DEDICATED RIGHT-OF-WAY MAY

BE DECERTIFIED FOR MAINTENANCE BY RESOLUTION OF THE RSA BOARD WHERE THE TRAVEL SURFACE HAS BEEN MOVED INTO THE RIGHT-OF-WAY AND THE NEW TRAVEL SURFACE IS CERTIFIED FOR MAINTENANCE BY THE BOROUGH.]

[H.] G. Decertification of private land subject to maintenance. NOTWITHSTANDING KPB 14.06.240(B), [A] Any portion of a private drive or road that has been maintained by the borough may be decertified upon reasonable notice to the property owner.

1. The RSA board may, by resolution, decertify a private drive or road from further maintenance.
2. The RSA director or designee shall inform the property owner, in writing, of the intent to cease maintenance of the private drive or road via decertification at least 30 days before the date of the RSA meeting at which the matter of decertification will be considered.

SECTION 3. That KPB 14.06.250 is hereby amended as follows:

14.06.250. - Road construction standards—Definitions.

For purposes of this chapter, the following definitions apply:

....

[“HABITABLE” MEANS ADEQUATE PERMANENT SHELTER FROM THE ELEMENTS SUCH AS RAIN, WIND, SNOW, AND SUN, THE CONDITION OF WHICH MUST BE FREE OF SERIOUS DEFECTS THAT MIGHT HARM HEALTH AND SAFETY.]

....

“Residential dwelling” means a building or part of a structure used as a primary residence.

“Road” means road development within a dedicated borough right-of-way outside of the cities.

“Road construction standards” or “road standards” means the minimal standards set forth in this chapter for the purposes of certification for RSA road maintenance.

“Subcollector road” means a local road which also provides through traffic service between local roads and collector, arterial, or major highway roads.

“Type IV material” is material[s] that is compactable and consists[ING] of earth, sand, rock, or combinations thereof containing no muck, peat, frozen material, roots, sod, or other deleterious matter [AND IS COMPACTABLE].

SECTION 4. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances will not be affected.

SECTION 5. That this ordinance takes effect immediately.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS * DAY
OF *, 2025**

Peter Ribbens, Assembly President

ATTEST:

Michele Turner, CMC, Borough Clerk

Yes:

No:

Absent: