

Kenai Peninsula Borough Planning Department

MEMORANDUM

TO: Kelly Cooper, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor CP
Max Best, Planning Director MB

FROM: Scott Huff, Platting Manager SA

DATE: November 21, 2019

RE: Substitute Ordinance 2019-24, Adopting KPB 20.80, Subdivision Private Streets and Gated Subdivisions (Mayor)

Ordinance 2019-24 was introduced to the borough assembly on September 3, 2019. On October 8, 2019, the assembly moved to postpone action on the ordinance until the December 3, 2019 assembly meeting.

With the additional time, staff met with representatives of the cities of Homer, Seward, Kenai and Soldotna to discuss this ordinance. During the discussions with the cities, and staff work sessions, further edits and changes were made to the ordinance. As a result, a substitute ordinance has been prepared. The following summarizes the changes that the substitute ordinance incorporates:

SECTION 1

KPB 20.80.010. – Purpose.

- Re-worded for clarity regarding how a subdivision with private streets and gated access may be created.

KPB 20.80.020. – Requirements.

- The provisions were changed to follow KPB Chapter 20 - Subdivisions, excluding KPB 20.30.210 fronting on a dedicated right of way and KPB 20.50 - Exceptions.
- Reference to the construction of roadways within a private street tract was removed. The borough will not inspect, or regulate, the construction of roads within a private tract.
- Private streets must follow KPB street naming and street addressing standards.

Page 2

November 21, 2019

Re: Substitute Ordinance 2019-24

- Language was added regarding minimum requirements for turnarounds where borough maintenance is requested.
- All reference to home owners associations (HOA) has been removed from the ordinance.
- Plat notes were identified that must be added to the subdivision plat.
- Reference was added that any final plat located within a city must comply with KPB 20.60.080 – Installation Agreement.

KPB 20.80.030. – Gates.

- All reference to the HOA owning the private tract was removed.
- Language was clarified that the fire and emergency service provider that serves the proposed gated subdivision must approve the access plan prior to installation.
- The fire and emergency service provider will also approve the emergency access systems after installation.

KPB 20.80.040. – Converting to gated subdivision.

- Language was added to follow KPB 20.70.040(A) – Application for vacating the public right of way. This complies with Alaska Statute 29.40.120.
- At the request of utility providers, a line was removed which read, 'Utilities proposed for vacation must not provide service to customers outside the proposed gates subdivision boundary.' Staff was agreeable to this as all plats are sent to utility providers for review and comments.
- All reference to the HOA owning the private tract was removed.
- The requirement for all land owners to submit fully executed deeds conveying their interest in the vacated street to the HOA was eliminated.
- Language was added that a public road cannot be converted if a RIAD or CIP has been performed on the road within the last 10 years.

KPB 20.80.050. – Converting private streets to public right of way in gates subdivision.

- A section was added to clarify that the private street to be dedicated to a right-of-way must comply with borough design criteria.
- All reference to the HOA owning the private tract was removed.

KPB 20.80.060. – Enforcement.

- The KPB code reference has been corrected.

Page 3

November 21, 2019

Re: Substitute Ordinance 2019-24

SECTION 2

KPB 20.90.010. – Definitions.

- The definition of "gated subdivision" has been edited by
 - Removing the number of lots required (5) so that any number of lots will comply.
 - Revising the language to not limit gates, security personnel, fences or walls.
 - Remove the portion that addressed gates or other barriers on private parcels.
- The definition of "private street" has been edited by removing reference to the homeowner's association.

SECTION 3

- Revised the effective date to be 180 days after the ordinance is enacted. This will allow cities additional time to review their code and make changes to address private streets within cities. This extra time will also allow staff to prepare application forms for reviewing the projects and completing staff reports.

At its meeting on November 12, 2019, the planning commission recommended approval of this substitute ordinance by majority vote.

At its meeting on November 19, 2019, the road service area board recommended approval of this substitute ordinance.