

# Kenai Peninsula Borough Planning Department

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## MEMORANDUM

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

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

**FROM:** Sean Kelley, Deputy Borough Attorney *SK*  
Scott Huff, Platting Manager *SA*

**DATE:** March 5, 2020

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

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The below amendment replaces the amendment offered in a memo from Scott Huff dated February 25, 2020. This replacement amendment to Substitute Ordinance 2019-24 will exempt all lands within the incorporated cities. The basis for exempting the cities from KPB 20.80 is that cities have jurisdiction over streets and utilities within the cities.

If this amendment is approved, it will change the substitute ordinance as follows: (1) add a new opening application section at KPB 20.80.005 which will exclude the areas within the incorporated cities; (2) amend proposed KPB 20.80.020(G) (2) to remove reference to the cities; (3) amend proposed KPB 20.80.040 for clarity; and, (4) fine-tune the definition of "private street".

The following show the amendments with the changes shown. *(Please note the changes are in bold with additions underlined and deletions crossed out.)*

➤ Amend Section 1 to read as follows:

**SECTION 1.** That KPB Chapter 20.80, entitled "Private Streets and Gated Communities" is enacted as follows:

**20.80.005. – Application.**

**This chapter applies to all subdivisions within the Kenai Peninsula Borough boundaries except for those within an incorporated city within the borough.**

....

**20.80.020. – Requirements**

Private streets in subdivisions shall meet the following requirements:

....

G. Gated subdivisions and private streets may be approved, ~~[provided they meet the following criteria:] so long as [1. E] emergency services [shall be] are provided access within the private subdivision. Written approval by the fire and emergency services provider, with jurisdiction in the area of the gated subdivision, is required. The fire and emergency services provider must be satisfied that fire and emergency services providers will have safe access into and within the gated subdivision.~~

~~[2. When located within a city, a final plat of a subdivision with a private street must comply with KPB 20.60.080 – Improvements – Installation agreement required.]~~

**20.80.040. – Converting to gated subdivision.**

A. To convert a publicly dedicated street to a private street, the dedicated street must be vacated. A ~~[platted right of way may not be vacated, except] dedicated public right-of-way may only be vacated~~ upon petition by resolution of the governing body from a municipality in which the property is located or upon petition by the owner(s) of the majority of land fronting or abutting the right of way to be vacated. The request shall comply with the applicable replat and vacation requirements and procedures in this title, except as provided otherwise in this chapter.

...

**SECTION 2.** That KPB Chapter 20.90. –Definitions is hereby amended as follows:

**20.90.010. – Definitions generally.**

In this title, unless otherwise provided, or the context otherwise requires, the following definitions shall apply:

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...

"Gated subdivision" means a residential subdivision consisting of multiple parcels of land where vehicular and/or pedestrian access by the general public from a public street and street(s) within the gated community and/or public right-of-way(s) is restricted as a result of a barrier that may include, but is not limited to gates, security personnel, fences or walls.

...

"Private street" ~~[is defined as]~~ means a vehicular access way ~~[shared by and]~~ serving two or more lots, ~~which is not publically maintained by the private tract owner(s)] that was not dedicated or conveyed to the public. [The term "private street" [shall be inclusive of] includes alleys. The term "street" also includes the term "street" as used in KPB title 14.]~~