

Kenai Peninsula Borough
Office of the Borough Clerk

MEMORANDUM

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

THRU: Johni Blankenship, Borough Clerk (JB)

FROM: Michele Turner, Deputy Borough Clerk (MT)

DATE: August 4, 2020

RE: Ordinance 2020-32: Amending KPB 1.24, General Penalty, KPB 12.04, Parking Regulations, and KPB 14.40 Right of Way Permits, to Replace Civil Fines with Citations to Improve Enforcement and be Consistent with Other Recent Code Updates (Mayor)

The Road Service Area (RSA) Board has addressed the referenced matter. Please amend the final Whereas clauses to read:

"WHEREAS, at its meeting held on [JULY 14] May 12, 2020, the RSA Board recommended approval by the passage of RSA Resolution 2020-004:"

Thank you.

KENAI PENINSULA BOROUGH ROAD SERVICE AREA

RESOLUTION 2020-004

**A RESOLUTION RECOMMENDING AMENDMENTS TO KPB CODE
SECTIONS 12.04 AND 1.24**

- WHEREAS,** the Road Service Area has the authority to regulate parking within Borough rights-of-way pursuant to KPB Chapter 12.04 Parking Regulations; and
- WHEREAS,** the Road Service Area, along with the Roads Department, is currently working on several updates and amendments to the KPB Codes pertaining to Roads; and
- WHEREAS,** as the KPB is updated, civil fines are being replaced with citations which are more enforceable; and
- WHEREAS,** as matters come up for review, chapters and sections pertaining to roads are reviewed and updated as necessary; and
- WHEREAS,** having recently reviewed a matter pertaining to Chapter 12.04, it is apparent that the section on civil fines needs to be updated to parallel the remainder of the Code updates; and
- WHEREAS,** removing the civil fines and substituting them with a citation format not only allows for more realistic enforcement, it also allows for significant cost savings to individuals and better opportunities to contest matters which they may feel are in error; and
- WHEREAS,** the Road Service Area Board recommends the Assembly adopt the recommended code sections.

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

- SECTION 1.** That the Road Service Area Board recommends the Assembly adopt the following amendments: (new language underlined, stricken language capitalized and in brackets)

12.04.080. - Parking regulation — [~~VIOLATIONS — CIVIL PENALTIES~~] — Towing Vehicles or equipment parked on a road in violation of this regulation shall be towed at the owner's expense. [IN ADDITION TO A FINE OF UP TO \$250.00 FOR EACH DAY THE PARKING REGULATION IS VIOLATED AS MORE SPECIFICALLY SET FORTH IN KPB 12.04.100.]

12.04.090 Violation & Penalties

Any violation of this chapter is an infraction. The fine for offenses in this title is the fine provided in the minor offense fine schedule found in KPB 1.24.090. If no fine is listed in the fine schedule for an offense, then the defendant must appear in court and is subject to the fine provided in KPB 1.24.070.

[12.04.090. - PARKING REGULATION—CIVIL PENALTY—NOTICE.

NOTICE OF ASSESSMENT OF CIVIL PENALTIES FOR PARKING VIOLATIONS MAY BE ISSUED TO THE VEHICLE OWNER FOR PARKING VIOLATIONS, BY THE ROAD SERVICE AREA. THE PERSONS DESIGNATED TO ISSUE CITATIONS NEED NOT BE EMPLOYEES OF THE KENAI PENINSULA BOROUGH; HOWEVER, ANY SUCH DESIGNATION SHALL BE WRITTEN. ISSUANCE MAY BE ACCOMPLISHED BY SENDING THE NOTICE TO THE OWNER OF THE VEHICLE OR BY PLACING A COPY OF THE NOTICE ON THE VEHICLE FOR PARKING VIOLATIONS. IT IS NOT A DEFENSE THAT THE OWNER OF THE AUTOMOBILE WAS NOT THE OPERATOR AT THE TIME OF THE VIOLATION.]

[12.04.100. - CIVIL PENALTIES—SCHEDULE.

IN ADDITION TO OTHER REMEDIES AFFORDED BY LAW, THE BOROUGH ESTABLISHES THE FOLLOWING SCHEDULE OF CIVIL FINES FOR VIOLATION OF KPB 12.04.

KPB 12.04.020	PARKING VIOLATION, FIRST OFFENSE	\$25.00
KPB 12.04.020	PARKING VIOLATION, SECOND OFFENSE—SAME OWNER/SAME VEHICLE	50.00
KPB 12.04.020	PARKING VIOLATION, SECOND OFFENSE—SAME OWNER/DIFFERENT VEHICLE	50.00
KPB 12.04.070	PARKING VIOLATION—IMPEDING TRAFFIC/MAINTENANCE	100.00
KPB 12.04.110(B)	FAILURE TO RESPOND TO CITATION/COMPLAINT	75.00

EACH DAY A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION.]

[12.04.110. - CIVIL PENALTIES—CITATION—ANSWER—HEARING—APPEAL.

A. CITATION. A COMPLAINT OR CITATION MAY BE USED AS THE CHARGING DOCUMENT FOR VIOLATIONS SET FORTH IN THE CIVIL PENALTY SCHEDULE. THE CHARGING DOCUMENT SHALL STATE THE FINE, THE ORDINANCE OR REGULATION SECTION VIOLATED, THAT THE RECIPIENT IS ENTITLED TO A HEARING TO CONTEST THE CITATION, AND THAT THE RECIPIENT IS ALLOWED TO TESTIFY AND PRESENT EVIDENCE AND WITNESSES. THE CITATION SHALL SET FORTH THE PROCEDURES THE RECIPIENT NEED FOLLOW IN RESPONDING TO THE CITATION, AND CONSEQUENCES OF FAILURE TO RESPOND.

B. ANSWER; PAYMENT. THE RECIPIENT MAY RESPOND TO THE CHARGING DOCUMENT BY PAYING THE FINE WITHIN TEN DAYS OF ISSUANCE OF THE CITATION OR COMPLAINT OR REQUESTING A HEARING ON THE CITATION FORM WITHIN TEN DAYS OF CITATION ISSUANCE.

FAILURE TO RESPOND TO A CITATION OR COMPLAINT SHALL RESULT IN A FINE OF UP TO \$250, MORE SPECIFICALLY SET FORTH IN KPB 12.04.100.

C. HEARING. THE DIRECTOR SHALL SET THE HEARING GIVING AT LEAST 15 DAYS NOTICE OF THE DATE, TIME AND PLACE OF THE HEARING. FOR GOOD CAUSE THE DIRECTOR MAY DELAY THE DATE OF HEARING. THE DIRECTOR SHALL SET THE AGENDA FOR THE HEARING AND MAY CALL WITNESSES AND REQUEST ADDITIONAL EVIDENCE. THE DIRECTOR MAY ALLOW FOR TELEPHONIC PARTICIPATION IN THE HEARING. IF NECESSARY THE DIRECTOR MAY CONTINUE THE HEARING TO GATHER ADDITIONAL EVIDENCE OR TAKE THE SUBJECT MATTER OF THE HEARING UNDER ADVISEMENT. UPON THE PRESENTATION OF THE TESTIMONY, EVIDENCE, AND WITNESSES THE DIRECTOR SHALL ISSUE A WRITTEN DECISION WITH SUPPORTING FINDINGS AND CONCLUSIONS WITHIN FIVE DAYS OF THE HEARING. THE DIRECTOR MAY UPHOLD THE CHARGE AND FINE, MODIFY THE CHARGE, DISMISS, OR REDUCE THE FINE AND ISSUE WHATEVER RELATED COMPLIANCE ORDERS ARE NECESSARY.

D. RECONSIDERATION. THE RECIPIENT MAY REQUEST RECONSIDERATION BY THE ROAD SERVICE AREA BOARD WITHIN TEN DAYS OF DISTRIBUTION OF THE DIRECTOR'S DECISION. THE ROAD SERVICE AREA BOARD SHALL ADOPT HEARING PROCEDURES BY BOARD RESOLUTION CONSISTENT WITH DUE PROCESS.

E. APPEAL. THE RECIPIENT MAY APPEAL THE RECONSIDERATION DECISION PURSUANT TO PART 6 OF THE ALASKA RULES OF APPELLATE PROCEDURE TO THE SUPERIOR COURT IN KENAI, ALASKA. THE RECIPIENT MUST REQUEST RECONSIDERATION IN ORDER TO PRESERVE THE RIGHT TO APPEAL TO SUPERIOR COURT.


F. COLLECTION. UNPAID FINES ARE COLLECTIBLE THROUGH FILING ACTIONS IN THE TRIAL COURTS OF THE STATE OF ALASKA AND MAY INCLUDE JUDGMENTS FOR THE FINE, COSTS, AND ATTORNEYS FEES. FINES FOR CHARGES APPEALED TO SUPERIOR COURT ARE SUBJECT TO COLLECTION UNLESS THE APPELLANT RECEIVES A STAY PENDING APPEAL FROM THE COURT. ARRANGEMENTS FOR PAYMENT PLANS MAY BE MADE BY THE DIRECTOR IF THE DIRECTOR DETERMINES IT IS IN THE BOROUGH'S BEST INTEREST.]

1.24.090 Minor-Offense Penalty Schedule
Is amended to add the following:

Section	Offense Title	Fine Amount
KPB 12.04.020	Parking in a designated No Parking Area	\$100
KPB 12.04.070	Parking in manner that impedes traffic or maintenance	\$100

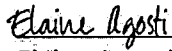
SECTION 2. That this resolution shall become effective only upon adoption by the Assembly.

**ADOPTED BY THE KENAI PENINSULA BOROUGH ROAD SERVICE AREA BOARD ON THIS
12th DAY OF MAY, 2020.**



Robert Ruffner, Chairman
Road Service Area Board

ATTEST:



Elaine Agosti
Administrative Assistant
Road Service Area