



Kodiak Island Borough

OFFICE of the MANAGER

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To: Kodiak Island Borough
Michael Powers, Manager

Through: KIB Community Development Department
Bob Pederson, Director
Tom Quass, Enforcement Officer

From: Duane Dvorak, Resource Management Officer 

Date: June 14, 2016

Re: Documenting a need to post borough land for trespass purposes to prohibit motorized access to borough lands zoned NU-Natural Use Land. (Lot 2 Remainder, Kodiak Island Borough Landfill Subdivision)

This memorandum is intended to document the need for posting borough land that is restricted from access by motorized off-road vehicles. Lot 2 Remainder, Kodiak Island Borough Landfill Subdivision was zoned to NU-Natural Use Land by KIB Ordinance No. FY2014-14 on August 1, 2013. The NU-Natural Use Land zoning district prohibits motorized access to land zoned NU because it is not an enumerated use under KIBC 17.45.020 Principal Uses and Structures, which only permits "Pedestrian Trails and Trail Systems". Under the general provisions of borough code, KIBC 17.15.080 prohibits land uses not permitted in a zone as follows:

...17.15.080 - Uses Prohibited Unless Authorized
Land uses not listed as a permitted use in a district are prohibited.

Because Lot 2 Remainder, Kodiak Island Borough Landfill Subdivision is borough land, it is incumbent on the borough, as land owner, to control the uses occurring on the land

just as it would be expected of any private land owner. Ultimately, the responsibility for a land use zoning violation falls to the landowner and every landowner is obliged to make reasonable efforts to ensure the use of land under their control is compliant with the applicable zoning standards.

Chapter 18.35 - Trespass, provides for the posting of borough land under the authority of the borough manager in KIBC 18.35.030 – Posting:

...18.35.030 - Posting

The manager or designee is authorized to cause the posting of signs on or around borough property, buildings, or other areas advising that such property, building or area is restricted as to public use or access.

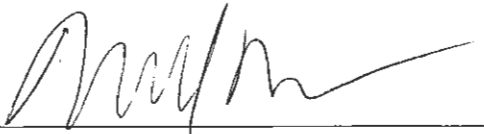
Once borough land is posted, the undertaking of any restricted activity subject to the notice posted will constitute a trespass violation in accordance with one or more of the provisions of KIBC 18.35.020 – Trespass Defined:

...18.35.020 – Trespass Defined

Any of the following acts, by any person, firm or corporation, are among those that constitute trespass and are a violation of the provision of this chapter:

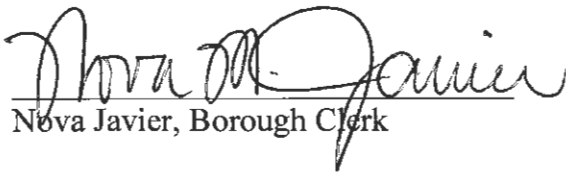
- A. An unauthorized entry or remaining upon borough property in violation of a notice posted or exhibited at the main entrance to the premises;
- B. The pursuit of any course of conduct or action in violation of a notice posted or exhibited at the main entrance to borough property or at any point of approach or entry, or given orally or in writing by an authorized agent of the borough;
- C. A failure or refusal to depart from borough property upon request to do so orally or in writing by an authorized agent of the borough;
- D. The cutting down, injury or removal of trees or timber from borough property without written permission from an authorized agent of the borough;
- E. The digging, taking, quarrying or removal of minerals, earth, or stone from borough property without written permission from an authorized agent of the borough; or
- F. Littering in or on borough property.

Due to the evidence of motorized access occurring on Lot 2 Remainder, Kodiak Island Borough Landfill Subdivision, as documented by the Enforcement Officer in the Community Development Department, staff has prepared this memorandum to document the approval of the borough manager to post borough land in accordance with KIBC 18.35.030. This memorandum authorizes staff to post said land in order to restrict it from motorized access and to perform whatever other posting and enforcement activities are necessary to ensure that the use of borough land is in full compliance with the applicable zoning provisions of borough code.



Michael Powers, Manager

ATTEST:



Nova Javier, Borough Clerk



No Motorized Off-Road Vehicle Use



Natural Use/Recreation Area
Please Respect Public Property

Violation of this code section may result in trespass prosecution under the applicable provisions of Kodiak Island Borough Code 18.35 - Trespass.

