

THE SMALL PRINT or What is DOT&PF's Authority?

Alaska Statutes, Title 19, Articles 2 and 3 authorize DOT&PF to manage and maintain the right-of-way and to keep it clear of encroachments and illegal outdoor advertising.

Article 2. Outdoor Advertising.

Sec. 19.25.075. Findings and intent of the people of the State of Alaska. (a) The people of the State of Alaska find that the presence of billboards visible from Alaska's highways endanger Alaska's uniqueness and its scenic beauty. (b) It is the intent of the people of the State of Alaska that Alaska shall forever remain free of billboards.

Sec. 19.25.080. Purpose. The purposes of AS 19.25.080 through AS 19.25.180 are (1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays, and devices along the highways controlled; (2) to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs, or signals or other interference with the effectiveness of traffic regulations, and to promote the safety, convenience, and enjoyment of travel on, and protection of the public investment in, highways in this state; to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas; and to attract tourists; (3) to regulate outdoor advertising signs, displays, and devices in areas adjacent to the rights-of-way of the interstate, primary, and secondary systems within this state in accordance with this chapter and the regulations adopted under this chapter; (4) to provide that outdoor advertising signs, displays, and devices that are not in conformity with the requirements of this chapter are a public nuisance; (5) to provide a statutory basis for regulation of outdoor advertising signs, displays, and devices consistent with the public policy declared by the Congress relating to areas within and adjacent to the right-of-way of a highway of the interstate, primary, or secondary systems.

Sec. 19.25.090. Outdoor advertising prohibited. Except as provided in AS 19.25.105, all outdoor advertising is prohibited.

Sec. 19.25.130. Penalty for violation. A person who violates AS 19.25.080-19.25.180, or a regulation

adopted under AS 19.25.080-19.25.180, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$5000.

Sec. 19.25.150. Unlawful advertising. An advertising sign, display, or device that violates the provisions of AS 19.25.080 - 19.25.180 is a public nuisance. The department shall give 30 days' notice, by certified mail, to the owner of the land on which the advertising sign, display, or device is located, ordering its removal if it is prohibited by AS 19.25.080-19.25.180 or ordering the owner to cause it to conform to regulations if it is authorized by AS 19.25.080 - 19.25.180. If the owner of the property fails to comply within 30 days as required in the notice, the department shall remove the outdoor advertising sign, display, or device at the expense of the owner of the land or the person who erected it.

"Outdoor advertising" includes any outdoor sign, display, or device used to advertise, attract attention or inform and which is visible to a person on the main-traveled way of a highway of the interstate, primary, or secondary systems in this state, whether by printing, writing, painting, picture, light, drawing, or whether by the use of figures or objects, or a combination of these, or any other thing designed, intended, or used to advertise, inform, or attract attention.

Article 3. Encroachments in Highways.

Sec. 19.25.200. Encroachment Permits. (a) An encroachment may be constructed, placed, changed, or maintained across or along a highway, but only in accordance with regulations adopted by the department. An encroachment may not be constructed, placed, maintained, or changed until it is authorized by a written permit issued by the department, unless the department provides otherwise by regulation. The department may charge a fee for a permit issued under this section. (b) The provisions under (a) of this section do not apply to a mailbox or a newspaper box attached to a mailbox.

Sec. 19.25.220. Unauthorized encroachments. If an unauthorized encroachment exists in, on, under, or over a state highway, the department may require the removal of the encroachment in the manner provided in AS 19.25.230 - 19.25.250.

Sec. 19.25.230. Notice of removal. Except as otherwise provided in AS 19.25.200, 19.25.210, and 19.25.240, notice shall be given the owner, occupant,

or person in possession of the encroachment, or to any other person causing or permitting the encroachment to exist, by serving upon any of them a notice demanding the removal of the encroachment. The notice must describe the encroachment complained of with reasonable certainty as to its character and location. Service of the notice may be made by certified mail.

Sec. 19.25.240. Summary removal. The department may at any time remove from a state highway or road an encroachment that obstructs or prevents the use of the highway or road by the public.

Sec. 19.25.250. Removal after noncompliance; removal expense. After a failure of the owner of an encroachment to comply with a notice or demand of the department under the provisions of AS 19.25.200, 19.25.210 and 19.25.230, the department may remove, or cause to be removed, the encroachment, and the owner of the encroachment shall pay to the department (1) the expenses of the removal of the encroachment; (2) all costs and expenses paid by the state as a result of a claim or claims filed against the state by third parties for damages due to delays because the encroachment was not changed, removed, or relocated according to the order of the department; and (3) costs and expenses of suit.

Also reference State Regulations in the Alaska Administrative Code, Title 17, Chapter 010, Article 01.

The above State statutes were enacted based upon the **Code of Federal Regulations, Title 23, Part 750 - Highway Beautification**, and the **U.S. Department of Transportation's Intermodal Surface Transportation Efficiency Act (ISTEA Act) of 1991 - Scenic Byways Program**. Failure on the part of DOT&PF to strictly enforce these laws may jeopardize the Federal Aid Program in the State of Alaska.

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Right-of-Way



Photo by Paula Brault

Mt. McKinley from the Parks

Keeping Alaska's Highways Safe and Preserving Our Scenic Beauty

INTRODUCTION

Dear Alaskans:

Alaska's highways are important resources that serve many purposes. They meet the basic transportation needs of many citizens and are critical to their health and safety. They serve as commercial corridors bringing goods and services to our communities. They play a vital role in supporting our economy by serving the oil, gas, timber, commercial fishing, tourist and other industries. Our highways provide access to some of the most beautiful scenery and fantastic recreational opportunities in the world. Alaska's highways need to be developed, maintained, managed and preserved to ensure that they continue to meet these multiple purposes in a safe and efficient manner for the benefit of Alaskans and our visitors.

The management of our highway corridors is the responsibility of the Alaska Department of Transportation and Public Facilities' Right-of-Way Section. The Department's Right-of-Way staff manages our corridors to ensure that activities within them are safe and meet the overwhelming mandate of Alaskan voters to keep our highways scenic. They work to keep the highway corridors free of non-essential signage, encroachments, abandoned vehicles and other items that adversely impact the safety of the traveling public.

This brochure provides information concerning the management of Alaska's highway right-of-ways. It provides the reader with a description of allowable activities and the process to acquire the appropriate and necessary permits. But more importantly, it explains why it is important to manage Alaska's right-of-ways for the safety and enjoyment of the traveling public.

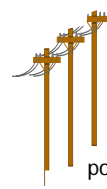
Thank you and drive safely.



What is a Right-of-Way (ROW)?

Simply stated, a *highway right-of-way* is an identified strip of land reserved for transportation improvements. The right-of-way includes not only the road surface, but can extend well beyond the edge of pavement, sometimes as far as 200 feet and more.

What is an Easement?



Generally speaking, an *easement* is the right to use all or part of the property of another person for some specific purpose. Easements can be permanent or temporary (i.e., limited to a stated period of time). Easements are created for a variety of purposes, including public access, utilities, drainage, pipelines, or pole lines.

Interstate and Primary highway easements were granted to the State of Alaska by the Federal Government through **Public Land Orders (PLO)**. Other easements were acquired through Notices of Utilization filed by **Department of Transportation and Public Facilities (DOT&PF)**, and some were purchased from adjoining land owners for a specific purpose.

How Are They Different?

A common statement by property owners with a highway easement is "I (the property owner) own the land to the center of the road." Although technically correct, when **DOT&PF** has an easement on your property, it is usually for 90% interest in the land. However, you (the property owner) do retain the right to include the square footage in your property inventory and to plant grass (all other landscaping, or removal of landscaping would require a permit).



Why Does DOT&PF Manage Alaska's ROWs?

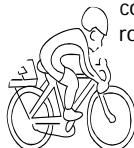
1. Safety
2. Alaskan's voted to keep their highways free of illegal billboards and signs
3. State and Federal laws
4. Funding

How Does DOT&PF Manage Alaska's ROWs?

1. Plat review.
2. Permits.
3. Inspections.
4. Enforcement and removal.

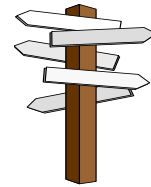
What Uses are Allowed in the Right-of-Way?

Uses of the right-of-way include, but are not limited to, construction and maintenance of the traveled roadway, foot paths, bike paths, frontage roads, pullouts, parking areas, placement of utilities, and other public uses as **DOT&PF** deems necessary for the welfare of the public.



What Improvements are Permitted in the Right-of-Way?

Improvements within a right-of-way such as beautification, awnings, customer parking, and driveways require a *Right-of-Way Encroachment Permit* (see exceptions in 17 AAC 10.011©). When requested, a permit may be issued to a landowner with property along a highway for any lawful use. *Right-of-Way Encroachment Permits* are also required for a municipality, state agency, or federal agency.



Tourist Oriented Directional Signs (TODS) and other Motorist Information Signing can be installed for businesses. The requirements for this type of signing were enacted into regulation in the Spring of 1997 and address the type of directional signs that may be placed in the highway right-of-way.

There are fees and costs associated with right-of-way permits but each program varies. For more information about *Permits* and *TODS*, please call Right-of-Way office at the numbers on the back of this brochure.

What is an Encroachment?

An *Unpermitted Encroachment* is an unauthorized use of a right-of-way or easement by improvements, objects, items, or obstructions. This can include, but is not limited to, driveways which have not been permitted by **DOT&PF**, signs, cars, fences, and buildings. Other unauthorized encroachments in the right-of-way include personal items and vehicles parked "for sale". It also includes stand-alone businesses such as hot dog stands, firewood sales, sandbag sales, souvenir sales, and espresso wagons. Most encroachments will be cited and given a time limit to be removed or corrected. Some encroachments, such as signs, ropes, cables or blockages of any kind in or across the right-of-way may create a safety hazard and need to be removed immediately by DOT&PF at owner expense. For example, ropes and cables placed across driveways have maimed or killed travelers.



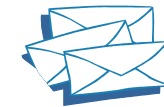
What is Outdoor Advertising?

Outdoor Advertising is advertising which is visible from the road. This includes political advertising. Even when the sign is located outside the right-of-way, on private property, if it advertises for a business or some activity located somewhere else, it is illegal. Illegal outdoor advertising may include, but is not limited to, business signs, real estate signs advertising property for sale at another location, political signs, vehicles with advertising painted or posted on the side when parked and left, etc.



Inspection and Removal Process

In response to public demand to preserve the unique and scenic beauty along Alaska's highways, **DOT&PF** regularly inspects for and identifies *encroachments* and illegal *outdoor advertising* along State roads and highways. This is done for (1) the continued safety of the traveling public; (2) as mandated by Federal and State law; and (3) to ensure uninterrupted Federal funding for our highway projects. **DOT&PF** continuously inspects over 50 State roads within the Anchorage area, 70+ State roads within the Mat-Su Borough, and 100+ State roads within the Kenai Peninsula Borough.



When an unpermitted encroachment in the right-of-way or illegal outdoor advertising on private property is identified, **DOT&PF** notifies the business and/or property owner by sending a certified letter requesting removal within 30 days. At the end of 30 days, if the item(s) identified in the letter have not been removed, **DOT&PF** may choose to remove and impound the item(s), or to initiate legal action. This is done at owner expense. If an encroachment or outdoor advertising in the right-of-way is determined to be a danger to the traveling public, such items may be removed immediately without notice.

Items impounded by **DOT&PF** are held in storage for a period of 30 days. Owners may claim their property by paying all fees associated with removal. **DOT&PF** is not responsible for damage during removal or storage. Items in storage are destroyed after 30 days.



To the best of our ability, **DOT&PF** makes every effort to treat all property and business owners with fairness and respect. In recent years, **DOT&PF** has contacted thousands of business and property owners to request removal of encroachments and/or illegal outdoor advertising. In most instances, owners voluntarily remove the items identified.

Some Final Thoughts

We appreciate you taking the time to learn about the Department's responsibility to manage and protect Alaska's highway right-of-ways. The back of this brochure contains the specific Alaska Statutes that guide our management of Alaska's highway right-of-ways. We encourage you to work with our Right-of-Way staff to ensure that your proposed activity is appropriate and properly permitted. Together we can ensure that Alaska's highway right-of-ways are managed in a manner that is fair to all and provides for the safety and pleasure of the traveling public.

