AO 2020-83: Dereliction of the MOA’s Duty to Protect the Public’s Right-of-Way

By Robert Doehl, Development Service Director
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Anchorage Municipal Code 24.30.010, Definitions:

"Public place" means and includes streets, avenues, ways, boulevards, drives, circles, courts, places, alleys, sidewalks, and planting strips, bicycle paths, squares, triangles, easements and rights-of-way reserved, granted or dedicated for the use of the public, and the space above or beneath the surface of such places, except parks. For purposes of this title, "public place" shall not include telecommunications, electrical, gas, telephone or other easements granting rights only to utilities.

- The importance of the responsibility to regulate the Rights of Way of Anchorage by defining permitted uses, and requiring permits prior to any use, was first documented by the City Council of Anchorage, May 8, 1973 by City of Anchorage, Alaska Ordinance 45-72. The Ordinance was signed by then Mayor George Sullivan.

- The critical nature of that responsibility, and the language from the original Ordinance, continues in Anchorage Municipal Code today, virtually unchanged.

Value: $1.78 Billion
Crucial MOA Interests in ROW Not Acknowledged

• Pedestrian facilities, aka sidewalks
• Light poles and support equipment
• Drainage
• Snow storage
• Spacing for parking
• Clear Zone slope
• Clear Zone fixed objects
• Clear Zone sight lines
• Premises & Pollution Liability
Long Recognized Duty to Regulate ROW Use

- *Sauer v. City of New York*, US Supreme Court (1907)
- Peer jurisdictions:
  - 17 Alaska Administrative Code 10.020
  - Matanuska Susitna Borough Code 11.10.020 and new driveway ordinance
2669 Timberline Drive

- Equipment in the right of way.
- Track-out of mud and debris into travelled way.
- MOA stormwater violation.
- No traffic control.
8930 Mast Circle

Builder eliminated sidewalk from public place. Builder required to cut back driveway’s & replace sidewalk.
Sidewalk does not meet ADA compliance. Cross slope on installed sidewalk is 10%. Maximum allowable cross slope is 2%. 

1557 G Street
6101 Greece Dr.

Driveway Blocking
Drainage.
3616 Peterkin.
New Sidewalk Damaged During Home Construction.
3523 Stanford Dr.

Driveway Width Exceeds Driveway Standards Necessary for Snow Removal
Business Park @ W48th Ave.

Substandard Contractor Prep for Paving = Durability Deficit
Out of The Road Prism Surface Work

Road Closed at 1221 E 70th. No Permit, No Traffic Control

Lane of Traffic Closed On Gambell @ 641 E 4th, No Permit, No Traffic Control
514 Irwin. Foundation for New Home on Property

Concrete Truck and Pump Truck Blocking Sidewalk and Traffic

New Concrete Sidewalk Damaged by Pump Truck Outrigger.
600 W 11th Avenue

No safe pedestrian passage; choice is either in traffic or under vertical construction work.
7964 Gate Creek

Rocks in the ROW.
Old Seward Highway & Dimond Avenue.

Signal box destruction.
Conclusion

• **If it ain’t broke, don’t fix it**
• Same ordinance has protected Anchorage citizens’ interests > 40 yrs
• Ordinance increases safety risk to the public
• Ordinance increases longterm road maintenance costs for the MOA
• Ordinance increases liability exposure and costs for the MOA