

	<b>STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES</b>		POLICY AND PROCEDURE NUMBER <b>05.01.010</b>	PAGE 1 of 2
	<b>Policy and Procedure</b>			EFFECTIVE DATE March 1, 2002
SUBJECT <b>Highway Right of Way Management Policy</b>			SUPERSEDES New	DATED
TITLE <b>Design and Construction</b>	CHAPTER <b>ROW Acquisition, Management and Relocation</b>	APPROVED BY		

## PURPOSE

To state the policy of the Department regarding management of highway rights of way, including bike paths, scenic pullouts, and highway waysides.

## POLICY

Consistent with the acquisition and ownership of easements, Public Land Order properties, and other interests in rights of way owned by the Department is the intent that these interests are held for public transportation purposes. Any other uses of rights of way allowed by the Department are subsidiary and shall not limit the use of the rights of way for transportation purposes. The Department shall, when evaluating a request to use, to encroach upon, to lease, to vacate or dispose of an interest in land that is, owned or managed by the Department, use the following principles to guide the decision making process:

- The Department will not vacate a right of way if the vacation will deprive the public of existing physical access to natural resources in public or private ownership, for the harvesting of fish and game and other subsistence resources, or deprive the public of the opportunity to expeditiously develop appropriate physical access for those pursuits in the future.
- The Department's responsibility is to manage its highway rights of way for the benefit of the traveling public. When a request for private use of a highway right of way conflicts with that responsibility, the request must be denied.
- The regulations controlling the Department's consideration of private use of the highway rights of way do not establish an entitlement to use highway rights of way, nor do they create an obligation on the part of the Department to grant such uses or to continue such uses.
- The term "best interests of the state" requires that a proposed use does not endanger the traveling public, detract from the safety of a facility, violate accepted engineering principles, and does not interfere with or impede project development and maintenance, and is consistent with municipal ordinances or state law enacted to protect the public health, safety, or welfare.

- The Department will evaluate any proposed auxiliary use of the rights of way and will not allow use of the rights of way if the functionality of the adjoining property is dependent upon the rights of way.
- The Department shall not grant a request for private use of a highway right of way for the installation of an improvement or a facility that is necessary for a land use on the physically contiguous land that is impossible without the use of the highway right of way.
- The Department shall not grant a request for private use of a highway right of way that is necessary for physically contiguous land to comply with municipal ordinances or state law enacted to protect the public health, safety, or welfare.
- Except for permits, whose cumulative impact with other permits that have been issued or are pending will endanger the traveling public or be contrary to accepted engineering practice, all applications for private use of highway rights of way shall be considered individually, based upon the facts and circumstances that surround a particular application, without regard to applications for similar purposes that may have been granted or are pending,
- Whether the Department grants a permit lies within the exercise of its discretion, using good judgment. With regard to applications for private use of highway rights of way, the exercise of the Department's discretion must fully consider the adverse impacts on the traveling public. A decision to grant an appropriate permit shall only be made if there are no adverse impacts upon the traveling public.

## **AUTHORITY**

AS 19.05.010, AS 19.05.040, AS 19.05.070, AS 19.25.080 through 19.25.250, 17 AAC 10, and 17 AAC 60

## **IMPLEMENTATION RESPONSIBILITY**

Regional Directors, Director of Design and Engineering Services, and Director of Statewide Planning.

## **DISTRIBUTION**

All holders of the Policy and Procedures Manual, Regional Directors, Director of Design and Engineering Services and Director of Statewide Planning.