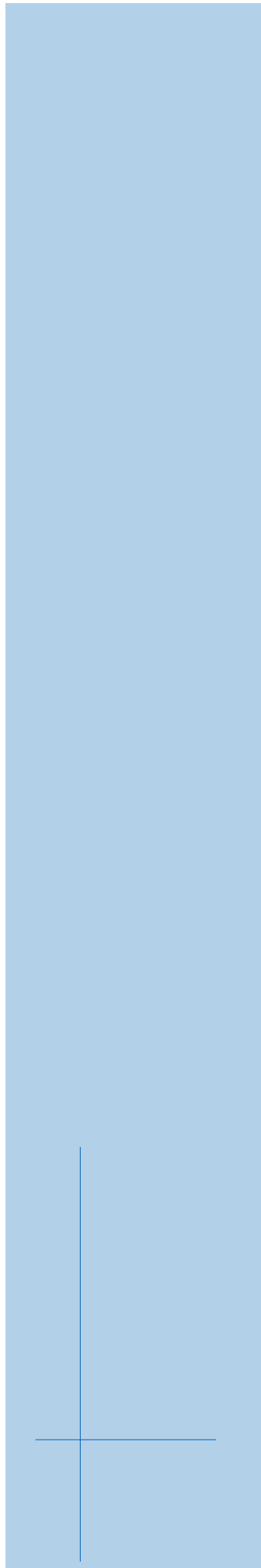


# Alaska Municipal Land Management Handbook

Model Ordinances and Procedures for the  
Acquisition, Management, and Disposal of  
Municipal Land





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# *Alaska Municipal Land Management Handbook*

## *Model Ordinances and Procedures for the Acquisition, Management, and Disposal of Municipal Land*



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## INTRODUCTION

**“Rarely do local governments have the opportunity to acquire at no cost large undeveloped tracts of land. In Alaska, municipalities have been the beneficiaries of several important pieces of legislation, which provide for transfers of property to municipal ownership .... The possession of this undeveloped land creates a conveyance problem for local governments. If municipalities retain these conveyances for public use, local community development could be severely inhibited. It will be incumbent upon municipalities in the future to convey portions of municipal land holdings into private ownership.”**

**T**he acquisition, management, and disposal of municipal land is a normal part of local government operations. In Alaska, however, municipalities must address special considerations in the management and transfer of public land.

Of particular significance to Alaskan municipalities are three important pieces of legislation that provide for the transfer of property to municipal land ownership: the General Grant Land law (AS 29.65), the Alaska Native Townsite Act (ANTA), and Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). The provisions of these laws, in combination with State constitutional, statutory, and other mandates, create unique challenges to public land conveyance in the state, particularly with respect to the development of ordinances for the management and transfer of municipal land.

The purpose of this handbook is to provide guidance in the drafting of ordinances for municipal land acquisition, management, and disposal in Alaska. The first half of the handbook covers the considerations, policies and procedures for the management and transfer of municipal land, and provides sample ordinance documents for training purposes, including:

- the major considerations involved with municipal land acquisition, management, and disposal;
- a model code ordinance for the acquisition, management, and disposal of land;

- explanatory notes regarding provisions of the model code ordinance;
- a sample resolution and non-code ordinance for acquisition of municipal land; and
- sample documents and procedures for temporary and casual uses of municipal lands.

The second half of this handbook contains a set of appendices providing State Attorney General opinions, information of relevance from two community legal assistance grants, and other legal information regarding municipal land management and transfer.

Most of the information in this handbook has been based on materials compiled by the Department of Community & Regional Affairs during the 1980s; however, this information is relevant to current municipal land transfer and management issues. Wherever possible, the original sample documents have been reprinted for purposes of clarity in reading. In cases where a signed document is presented as an example, a copy of the original document is provided.

This handbook was designed to be used by Division of Community & Regional Affairs (DCRA) staff for training and technical assistance purposes. The handbook may also be used directly by municipal local governments. In the creation of any ordinance, it is always recommended that the expertise of the municipal legal staff be sought to ensure the development of an ordinance that is legitimate and defensible within the legal framework of the community.





# MAJOR CONSIDERATIONS INVOLVED WITH THE ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS

**This chapter addresses the constitutional, statutory and other considerations of municipalities in the management of public land.**

**L**ocal governments should be aware of the legal considerations that must be addressed in the acquisition, management, and disposal of municipal land. Municipalities generally do not have the same freedom in the real estate market as private individuals. The Alaska Statutes and the constitutions of the United States and the State of Alaska contain provisions that apply to municipal land acquisition and disposal, and affect the manner in which these activities take place. This chapter briefly addresses the constitutional, statutory and other considerations of municipalities in the management of public land. For a more detailed discussion of these issues, your attention is directed to Appendix 2B, page 141, *Municipal Land Acquisition and Disposal in Alaska* prepared by attorney, Timothy E. Troll, in 1987 for DCCED (then DCRA) as part of a legal assistance grant to the City of Aleknagik.

## Constitutional Requirements

The constitutions of the United States and the State of Alaska contain the following provisions that apply to municipal land acquisition and disposal:

**The Equal Protection Standards:** Both the United States Constitution and the Alaska Constitution have equal protection standards that provide for equal treatment of people who are similarly situated. Article VIII, Section 17 of the Alaska Constitution specifically addresses the equal application of laws and regulations governing the use or disposal of natural resources.

### Article VIII, § 17 of the Alaska Constitution:

"Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation."

Perhaps the simplest legally acceptable method for disposing of land is to convey it to the individual offering the highest price. However, this method may not meet some of the community's objectives such as encouraging young families to stay in the community and construct homes. City officials are generally in favor of designing land disposal ordinances and procedures to best meet the special needs of their community.

In accomplishing this, special provisions may be proposed in order to:

- make land available for residents at prices they can afford;
- minimize speculative buying of land in the community by outsiders; and
- convey land to people who have a valid claim of equitable interest in the land.

### The Public Purpose Clause of the Alaska Constitution (Article IX, Section 6):

#### Article IX, § 6 of the Alaska Constitution:

"No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose."

The public purpose clause of the Alaska Constitution is significant to the acquisition and disposal of municipal land because it states that public property cannot be transferred except for a public purpose. Local governments should be aware of the following public purpose considerations when disposing of municipal lands:

- municipal lands designated for disposal must no longer be necessary for public purposes.
- if municipal lands are to be disposed for less than fair market value or if preference provisions are involved in the disposal, a

## Major Considerations ...

strong public purpose must be met to justify such disposals.

### Statutory Requirements

As political subdivisions of the State, Alaska municipalities receive only those powers granted by the State government. In Alaska, this authority is granted by Alaska Statute Title 29, the law enacted by the Alaska State Legislature that governs the organization, powers, and activities of local government. Title 29 contains the following provisions that apply to municipal land acquisition and disposal:

- **AS 29.35.010 (8):** Municipalities have the power to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries.
- **AS 29.35.090:** The governing body shall by ordinance establish a formal procedure for acquisition and disposal of land and interests in land by the municipality.
- **AS 29.25.010 (4):** The governing body of a municipality shall use an ordinance to make appropriations. (Disposal of municipal land is considered an appropriation).



### Codified and Non-Codified Ordinances

In order for a municipality to comply with Title 29, the municipality must first pass a codified ordinance that provides the authority and general procedures the municipality must follow in acquiring and disposing of municipal lands. Codified or code ordinances are permanent ordinances that are included in the municipality's code of ordinances. Code ordinances are general

in nature and establish procedures. A model code ordinance is included in Chapter Two of this handbook.

Once the codified ordinance is passed, actual acquisition and disposal of lands (and management of lands, if these provisions are included in the ordinance) are handled with more specific actions (such as non-code ordinances or resolutions).

For specific land disposals and for certain types of land acquisitions, we recommend that a non-code ordinance(s) be passed. Most acquisitions can be effectively handled by resolution.

A non-code ordinance provides detailed information about specific land actions. For example, a non-code land disposal ordinance specifies the conditions, schedule, preference provisions, financial terms, price, location of the land, and other details about the procedures for each land disposal. Non-code ordinances are not included within the municipal code of ordinances.

### Special Provisions in Municipal Land Disposals

There are several types of special provisions that municipalities may consider in developing ordinances and procedures for land acquisition and disposal. These provisions are introduced in the following section. More detailed discussion of these provisions is found in Chapter Five and Appendix 2 of this handbook.

**1) Less than Fair Market Value:** This provision is usually desired by municipalities when there is a fairly low income level in the community and a disposal of lands at fair market value would be too expensive for most residents to afford. A state attorney general's opinion (refer to Op. Atty. Gen of November 21, 1983, Appendix 5b, pages 253 -269) states that conveyances for less than fair market value are legal as long as there is some consideration, and consideration is not so insignificant that the conveyance amounts to a gift. An exception to this statement would be the donation of municipal lands to another government or charitable institution and used for public purposes (refer to letter from Timothy Troll, attorney to John Gliva dated March 6, 1987, Appendix 2a, pages 129-140).

"Municipalities generally do not have the same freedom in the real estate market as private individuals."

A conveyance of municipal land for less than fair market value should not be made unless there are findings that some larger and more important public purpose justifies the conveyance (refer to letter from Timothy Troll, attorney, to John Gliva dated March, 1987 Appendix 2a, pages 129-140).

**2) Preference Provisions:** The usual goal of preference provisions is to make land accessible to local residents and minimize speculation by non-residents. It is extremely important that Constitutional provisions (equal treatment and public purpose) are carefully considered in preferential types of disposals.

**a) Residency Requirements:** One way that preference provisions are usually proposed is by the use of residency requirements. In determining what is meant by "resident", there are two considerations: 1) physical presence in a locale for a described duration ("durational qualifications"), and 2) a more subjective "domicile" test. (For additional reading on this topic, refer to: "Municipal Land Acquisition and Disposal in Alaska", Timothy Troll, 1987, Appendix 2b pp. 141-162; and memo to Jim Reeves from Doug Parker, January 24, 1984, Appendix 4, pp. 235-246).

**1. Durational qualifications:** This means the specified period of time a person must live in the community before qualifying to apply for land that is being disposed of. In this type of preference provision, the burden is on the governmental unit to demonstrate that the durational classification is related to a legitimate governmental objective. In other words, just benefiting residents is not enough. The municipality must show a strong relationship between the local problem and how the eligibility requirement will be effective in addressing the problem. For example: a city desires to make land available to residents to relieve overcrowding in existing homes.

In determining a durational requirement, keep in mind that a 30-day requirement will probably not be questioned. This period is also the minimum residency requirement in order to vote in



Alaska. As another example, there is a one year residency requirement in order to receive an Alaska permanent fund dividend.

**2. "Domicile test":** This test involves determining that an individual's intent is to not merely live in a place but to make a home there. For example, applicants for Alaska permanent fund dividends must sign a statement of intent to remain a resident of Alaska. If, during the filing period, the applicant took steps to set up residency in another state (e.g., accepts a permanent job in another state), that person would not be eligible for a permanent fund dividend even though the applicant met the physical presence requirements of the program by living in Alaska for a one year period.

A city council could determine "subjective intent to remain" from such objective criteria as it may deem appropriate. The council could set the criteria and obtain the information from an application for lot purchases (refer to letter from Timothy Troll to John Gliva dated March 6, 1987, Appendix 2a, pages 129-140).

**b) Post-Conveyance Restrictions:** A municipality may also achieve the same objectives of a residency requirement by having "postconveyance restrictions" incorporated into the deed or lease conveying lands through the disposal





program. These restrictions do not preclude anyone from participating in the disposal but when a deed is drawn up for the land, there are certain restrictions or performance standards that must be met by the recipient of the land. For example, the deed could require construction of a habitable dwelling within a prescribed period (refer to Troll report, Appendix 2b, page 31).

A common tool for enforcing a post-conveyance restriction is the reverter clause. A reverter clause is specific language that is included in a land transfer document such as a deed or easement which calls for the reversion or transfer of the ownership of the land back to the grantor (previous owner) upon the occurrence or non-occurrence of a specific event or events. In the example above, including a reverter clause could be a way to cause the ownership of the land to revert back to the city if the habitable dwelling is not constructed. If a reverter clause is used a “fee simple with a condition subsequent” reverter clause may be the most logical type for the city. With a fee simple condition subsequent the city can choose whether or not to take action to re-acquire the property by giving notice and executing a deed of reconveyance. The city’s action would be formal and would create a record that provides notice that the land has reverted thus eliminating any doubt of ownership. It also has the advantage of allowing the city to choose whether or not to re-acquire the land, an important option if the land is no longer desirable for city ownership.

A more preferable tool to carry out the intent of a residential housing disposal program may be to enter into a contract and issue a right of entry to the successful applicant. The contract could require the applicant construct the habitable dwelling before the city would be required to transfer the land. In this manner, the city could with less expense offer the land to another applicant if the first applicant was not able to construct the habitable dwelling within a required time period. Developing an actual

written housing disposal program that made periodical offerings of land could address some of these issues and also fulfill some of the legal requirements the city must meet.

The municipality could also minimize speculation by limiting the number of lots a person could receive through the municipal land disposal program (e.g., one lot per lifetime). This could be done by incorporating the language in the non-code ordinance itself and posted with the other information regarding a specific disposal.

### **c) Valid Claims of Equitable Interest:**

One special type of preference provision involves the disposal of lands by a municipality to individuals who have valid claims of equitable interest in the land. Equitable interest is defined as a claim in property, which should be recognized in the interest of fairness or equity.

An example of equitable interest would be if someone believed they had received authority from the previous landowner (e.g., the federal townsite trustee) to move onto a piece of vacant property to build a house. Without a transfer of title taking place this person went ahead and built a house on the lot and began to live there. Subsequently, if the federal townsite lands were conveyed to the city, including the lot in question, the city would then obtain title to this lot and the improvements on it. In this case, the person living on the lot probably has a valid claim of equitable interest. If the city is to dispose of lands having valid claims of equitable interest, any ordinance conveying the property should clearly state what the council believes the equitable interest to be.

A trespasser would not have a valid claim of equitable interest; therefore, this provision of the land disposal ordinance should not be used to convey land to trespassers. Furthermore, a trespasser cannot make a claim of adverse possession on the land because adverse possession does not apply to state, federal or municipal property.

# MODEL CODE ORDINANCE FOR THE ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS



**This chapter provides a model code ordinance for the acquisition, management, and disposal of land in accordance with AS 29.35.090.**

**A**s discussed in Chapter One, a code ordinance is a permanent ordinance that establishes procedures, is general in nature, and is part of a municipality’s code of ordinances. The model code ordinance presented in this chapter was designed to be used as a tool to assist Alaska municipalities in the ordinance-writing process. The intent of any model ordinance is to provide some standard language that communities can reword and tailor to their specific needs.

In the creation of any ordinance, it is extremely important for municipalities to consult with their local attorneys. The expertise of the municipal legal staff can assist communities in creating an ordinance that is both legitimate and defensible within the legal framework of the community.

(DRAFT MODEL ORDINANCE, April 2008)

CITY OF \_\_\_\_\_, ALASKA

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PERTAINING TO  
THE ACQUISITION, MANAGEMENT, AND DISPOSAL  
OF MUNICIPAL LAND

BE IT ENACTED BY THE CITY COUNCIL AS FOLLOWS:

**Sections**

- |                                 |                         |
|---------------------------------|-------------------------|
| 1. Rights and powers of city.   | 7. Methods of disposal. |
| 2. Acquisition of land.         | 8. Leases.              |
| 3. Economic development sites.  | 9. Easements.           |
| 4. Temporary use of city lands. | 10. Notice of disposal. |
| 5. Casual use of city lands.    | 11. Definitions.        |
| 6. Disposal of real property.   |                         |



## **Section 1. Rights and powers of city.**

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law.

## **Section 2. Acquisition of land.**

A. The city may acquire, own, and hold real property or any interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as provided in subsections B and C of this section, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council. Real property shall be held in the name of "City of \_\_\_\_\_".

B. Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). When the conveyance is for full and complete satisfaction of the requirements of ANCSA Section 14(c)(3), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding.

C. The city may exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the city in accordance with AS 09.55.240 - 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

D. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease.

Prior to approval of the purchase of property under subsection D of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials.

## **Section 3. Economic development site. (OPTIONAL PROVISION)**

The city may acquire, own, and hold real property, either inside or outside the city boundaries, as sites available for new industries which will benefit the city.

## **Section 4. Temporary use of city lands. (OPTIONAL PROVISION)**

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term exceeding one year. Special land use permits are not transferable nor renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council.





## **Section 5. Casual use of city land. (OPTIONAL PROVISION)**

- A. No permit or lease is required for casual uses of city land.
- B. Any use under this section is at the risk of the user. The city assumes no responsibility for such use.
- C. The city shall notify the public of the location of city lands that are not open to casual use.

## **Section 6. Disposal of real property.**

A. The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by a non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals other than by sealed bid or public outcry or lottery shall be \_\_\_\_\_ longer than required for other non-code ordinances. The ordinance shall include:

1. A finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
2. A legal description of the property;
3. Type of interest in property to be disposed of as defined in section 11;
4. The purpose of the disposal;
5. The method of disposal as identified in section 7;
6. The value of the property or the value of the interest in property as determined under subsection B of this section;
7. The procedure for conducting the disposal and the time, place and manner in which the proposed disposal shall occur.

B. The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate.

## **Section 7. Methods of disposal.**

A. All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal.

B. Competitive disposal. The city may conduct the following types of competitive disposal:

1. Sealed bid auction. The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under section 6B.
2. Public outcry auction. The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under section 6B.
3. Lottery. In the case of a lottery, the price of the property or interest in property may be established by the city council.

C. Disposal for public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a nonprofit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this subsection, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based;
2. A requirement that the conveyance of the property or property interest disposed include a



condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal; and

3. In the event that the entity receiving the property or interest in real property is a Native Tribal council, a requirement that the Native Tribal council waive any immunity from suit for the purpose of enforcing the reversion provision.

#### D. Disposal for economic development.

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under section 6B. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry; and

2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the property is no longer used for the local trade or industry justifying the disposal.

#### E. Miscellaneous disposals.

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property.

#### F. Disposal to settle claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest in the property or in a substantial improvement located upon the property. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

#### G. Disposal for residential purposes.

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. When real property or interest in real property is disposed of pursuant to this subsection, the deed or lease must contain a condition subsequent which ensures that if the land is used for any use other than residential use for a period of \_\_\_ years after the disposal, title will revert to the city. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within \_\_\_ years after the disposal or title will revert to the city.

#### Section 8. Leases.

A disposal of interest in real property by lease shall follow the requirements of sections 6 and 7. The terms and conditions of leases shall be established by the city council for each such disposal.

#### Section 9. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of sections 7 and 8. The terms and conditions of easements shall be established by the city council for each such disposal.

#### Section 10. Notice of disposal.

A. A notice of the disposal shall be posted in three conspicuous public places within the city not less than \_\_\_\_\_ before:

1. The date of the bid opening; or
2. The date of the lottery; or
3. The date of the auction; or
4. The date of the disposal.

B. The notice shall include:

1. A legal description of the property and the type of interest to be disposed;
2. The method of disposal as identified in section 7;
3. The assessed or estimated value of the property or interest in property;
4. The date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur.

## Section 11. Definitions.

As used in this Chapter:

**Abstract of title:** A condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.

**Appraisal:** An estimation of value of property by a qualified appraiser.

**Casual use:** The temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as: hiking, hunting, fishing, short-term camping, picnicking, skiing, snowmachining or berry picking.

**City boundaries:** The city limits, established when the city is incorporated, inside which all city ordinances are enforceable.

**Competitive disposal:** A disposal of property wherein no preference is shown to any prospective bidder or group of bidders.

**Condition subsequent:** An event that occurs after transfer of title which will act to restore title to the maker of the condition.

**Contract of sale:** A contract between a willing seller and a willing buyer to transfer title to property.

**Deed of trust:** An instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other conditions.

**Disposal:** The act of giving away or selling; the transfer of interest in property.

**Disputed claims:** Claim for property that is protested by another, or for property which is also claimed by another.

**Domiciled resident:** One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the City his/her permanent residence.

**Easement:** A right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.

**Economic development:** The growth of the local economy; the increased income of residents.

**Eminent domain:** The power of a municipality to convert private property to a public use.

**Equitable interest:** A claim (in property or other) which should be recognized in the interest of fairness or equity.

**Evaluate:** To judge the quality of.

**Federal entity:** The Federal government or an agency thereof.

**Hazardous use:** A use involving danger; risky to human health and well-being.





**Interest:** In property: A right, claim, title, or legal share in that property. Refers to the "bundle of rights", which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.

**Inventory:** A list of property, containing a description of each article of property.

**Lease:** Leases are used to dispose of specific interests in real property without transferring ownership of that property; a contract for exclusive possession of lands or tenements for a determinate period.

**Legal description:** That part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.

**Litigation:** Contest in a court of justice for the purpose of establishing a right.

**Lottery:** A plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.

**Municipality:** A unit of local government organized under the laws of the State of Alaska.

**Non-code ordinance:** An ordinance that is not part of the permanent city code.

**Nonprofit corporation:** An organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

**Obnoxious use:** A use which people may find objectionable; disagreeable; offensive; displeasing.

**Public interest:** Something in which the public, the community at large, has some pecuniary interest (having to do with money), or some interest by which public interest legal rights or liabilities are affected.

**Public outcry auction:** Sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

**Public service:** Activities and enterprises which specially serve the needs of the general public.

**Referendum:** A method of submitting an important measure to the direct vote of the whole people.

**Revert:** With respect to property, title to go back to and lodge with former owner.

**Sealed bid:** A written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

**State:** The State of Alaska or an agency thereof.

**Substantial Improvement:** A major change or addition to land or real property that makes it more valuable.

**Temporary use:** An exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$\_\_\_\_\_.

**Valid Claim:** A legally enforceable claim by a third party.

INTRODUCTION: \_\_\_\_\_

PUBLIC HEARING: \_\_\_\_\_

PASSED and APPROVED by the \_\_\_\_\_ CITY COUNCIL THIS \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_

# EXPLANATORY NOTES ON PROVISIONS OF THE MODEL CODE ORDINANCE FOR THE ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS



**This chapter addresses the purpose, content and possible optional language of specific provisions of the model code ordinance presented in Chapter Two.**

**I**n the following pages, key provisions of the model code ordinance have been pulled out and examined. Excerpts of the key provisions are provided in shaded text

boxes. Each excerpt is followed by explanatory notes that analyze and clarify the intent of each provision.

## Section 1. Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law.

### Notes:

This provision is the general authority upon which this ordinance is based.

## Section 2. Acquisition of land.

A. The city may acquire, own, and hold real property or an interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as provided in subsections B and C of this section, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council. Real property shall be held in the name of "City of \_\_\_\_\_".

### Notes:

This subsection generally lists the ways in which the city can acquire land. The list is not all-inclusive. The provision states that the mayor can negotiate acquisitions, but the acquisition is not approved until a resolution is passed by a majority vote of the city council. All acquisitions shall be by resolution except for lands received under

subsections B and C of this section. A resolution is recommended as the primary way in which the city acquires land since most acquisitions will be of a routine nature. Keep in mind that when the city purchases land, any appropriation of funds for that purpose will need to be approved through an ordinance process [AS 29.25.010(a)(4)].



## Section 2. Acquisition of land. (continued)

B. Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). When the conveyance is for full and complete satisfaction of the requirements of ANCSA Section 14(c)(3), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding.

### Notes:

This provision allows partial reconveyances of ANCSA 14(c)(3) lands to be approved by resolution, but the final agreement [when the city and village corporation agree on the amount and location of the acreage that represents a full and complete satisfaction of the requirements of ANCSA 14(c)(3)] must be accomplished through passage of a non-code ordinance. The reasons for approving the final ANCSA 14(c)(3) agreement by non-code ordinance are:

- 1) An ordinance process is a lengthier process, requiring several readings of the ordinance, posting of the ordinance, and a public hearing. Approval by resolution does not necessarily involve public review or a public hearing; and
- 2) If the ANCSA 14(c)(3) agreement is for less than 1,280 acres, the city is essentially disposing of an interest in the difference between what acreage they will be receiving and a potential entitlement of 1,280 acres. Therefore, it is the

Department's interpretation that if the city is disposing of an interest in land, such a disposal must go through a non-code ordinance process.

For the Final ANCSA 14(c)(3) agreement, approval by resolution would probably be acceptable if the city and Native village corporation agree to reconvey a total of 1,280 acres or more to the city under ANCSA 14(c)(3). However, for the purposes of simplifying this model ordinance language and providing the required public hearing and posting requirements, we recommend that all final 14(c)(3) agreements be approved through a non-code ordinance process.

Also in section 2(b), it is specified that the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property. The city may wish to word this so that the city council can select someone other than the mayor (e.g., city manager, or other city official) to act on behalf of the city for acquisition of real property.



**Section 2. Acquisition of land. (continued)**

C. The city may exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the city in accordance with AS 09.55.240 - 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

**Notes:**

This provision requires that receipt of land through the city's powers of eminent domain be in accordance with Title 29. In second class cities, this type of acquisition of land requires the ordinance to be approved by a majority of votes by qualified voters. For home rule and first class cities, such a vote is not mandatory. Therefore, for home rule and first class cities, the second and third sentences of subsection 2(c) could be deleted and replaced with the following: "The exercise of the power of eminent domain or declaration of taking shall be by ordinance."

**Section 2. Acquisition of land. (continued)**

D. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease.

**Notes:**

This provision outlines the methods of payment that the city can use in the acquisition of land. Contract of sale is used when the purchase will be for cash, and deed of trust is used when the payments will be spread out over a period of time (terms). Purchase of interests in land would also be for cash or terms.

**Section 2. Acquisition of land. (continued)**

B. Prior to approval of the purchase of property under subsection D of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials.

**Notes:**

The intent of this provision is to ensure that property bought by the city has clear title, is purchased for a fair value, and the city council has been made aware of any problems that may have arisen throughout the negotiation process. If the city council purchases property without those materials, that will not be cause for a third party (anyone who was not involved in the transaction) to invalidate the sale. This provision prevents the mayor from blocking an acquisition of property by refusing to follow city council direction. It might also be wise to include a provision that requires an environmental assessment before approval.



### Section 3. Economic development sites. (optional provision)

The city may acquire, own, and hold real property, either inside or outside the city.

#### Notes:

Although it was already established in section 2(A) of this model ordinance that a city can acquire and hold property outside

city boundaries, this section emphasizes that the city can own such properties for future economic development.

### Section 4. Temporary use of city lands. (optional provision)

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term, exceeding one year. Special land use permits are neither transferable nor renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council.

#### Notes:

This optional section is one of the ways in which the city can make land available for use without conveying an interest in the land. Temporary use of land allows an exclusive use of the land by an applicant for a period of one year or less. This gives the city a formal process for managing use of city lands.

As an example: A private operator needs a place to store equipment during the construction phase of a project within the community. The city has some vacant land near the construction site that would be ideal for this purpose. The private operator applies for a temporary use permit to use the site and is granted a permit from the city. Once the permit is in effect, the operator has exclusive use of the site for up to one year. No one else will be able to park his or her vehicles on the site or otherwise use the site until the temporary use permit has expired.

The intent in having a temporary land use permitting system is to allow the city to handle short-term uses (for example, events) on city land by a relatively simple permit instead of having to go through a leasing process. If a lease were used, it would need to be approved through the non-code ordinance process because a lease is a disposal of an interest in land. According to this model ordinance, if an applicant wishes to have exclusive use of city land for one year or less, it is handled through the temporary use permit system. An exclusive use proposed for more than a year would be handled with a lease or deed to the land through the land disposal process.

A sample temporary land use permit application is included in Chapter Five of this handbook. Additional procedures may need to be developed depending on the needs of the city involved.





## Section 5. Casual use of city land. (optional provision)

- A. No permit or lease is required for casual uses of city land.
- B. Any use under this section is at the risk of the user. The city assumes no responsibility for such use.
- C. The city shall notify the public of the location of city lands that are not open to casual use.

### Notes:

This optional provision is another way the city can make land available for use without conveying an interest in the land. In this instance, however, use of the site is not exclusive to one applicant but available to the general public. This provision basically clarifies the type of uses that are allowed on city lands without a permit. A definition of "casual use" and a short sample list of uses fitting this category are included in section 11 of the model code ordinance.

Subsection B of Section 5 does not

serve to relieve the city of all liability involved in the casual use of city lands. However, it does put users of the site on notice so as to require a higher standard of care on their part.

Subsection C requires the city to notify the public regarding the location of city lands that are not open to casual use. The city may also want to include in the ordinance the minimum posting requirements for the information required under parts B and C of this section.



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## Section 4. Disposal of real property.

A. The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals other than by sealed bid or public outcry or lottery shall be \_\_\_\_\_ longer than required for other non-code ordinances. The ordinance shall include:

1. A finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
2. A legal description of the property;
3. Type of interest in property to be disposed of as defined in section 11;
4. The purpose of the disposal;
5. The method of disposal as identified in section 7;
6. The value of the property or the value of the interest in property as determined under subsection B of this section;
7. The procedure for conducting the disposal and the time, place and manner in which the proposed disposal shall occur.

### Notes:

This subsection states that the city can only dispose of real property (or interests in real property) that is no longer necessary for municipal purposes. Such disposals can only be done through a non-code ordinance process.

In the third sentence of subsection A, a city is given an option to add the amount of time between introduction and adoption of a non-code ordinance for non-competitive types of land disposals. The reason for this is to allow adequate public review time prior to passage of the ordinance allowing the

disposal. The city's usual non-code ordinance timetable (from introduction to passage) may be too short (e.g., 5 days) to allow adequate public review.

For example, if a city has adopted only the minimum time requirements for passing an ordinance as set out in AS 29.25.020, the city only needs 5 days between the introduction of the ordinance and the public hearing regarding the proposed ordinance. Adoption of the ordinance could also take place on the same day as the public hearing. This timetable is shown below:

Day 1	Day 2	Day 7
Introduction of ordinance.	Public hearing notice + summary of proposed ordinance.	Public hearing held on proposed ordinance. The city council could also hold a meeting on the same day to pass the ordinance.

For competitive types of disposals (e.g., sealed bid, public outcry auction, or lottery), this model code ordinance allows passage in accordance with the usual city non-code ordinance timetable, but adds public review time after the non-code ordinance is passed (refer to section 10 of the model code ordinance). The reason is this: since the disposals are to be competitive, it may not be necessary to have extensive public review before the disposal is authorized. However, the public should have adequate time to look over the lands to be disposed of (by competitive means) in case they are interested in bidding on a particular lot.

A city may wish to standardize the time between introduction and passage of non-code ordinances for both non-competitive and competitive types of disposals. If this is the case, the third sentence of section 6, part A could read: "The minimum time between introduction and adoption of ordinances for all disposals shall be \_\_\_\_ days longer than required for other non-code ordinances."

In addition to timeframe considerations, a city may not want the public hearing regarding a non-code ordinance on the same night the ordinance can be passed. If this is the case, a city could insert another sentence under section 6, part A that reads: "The ordinance approving the disposition may not be considered for passage at the same meeting at which the public hearing is held." Or, the city could further specify a minimum period of days between the public hearing and the meeting that will be held to consider adoption of the ordinance.

Also within subsection A are requirements for what information must be

contained in the city's land disposal non-code ordinances. Following is more information regarding items 1, 3, and 4 of subsection 6A. Disposal of real property (items #2 and #7 are fairly self-explanatory, and items #5 and #6 are explained below under the discussions for section 7 and section 6B, respectively):

**Subsection 6A.1:** This item requires a finding of fact by the city that the property (or interest in property) to be disposed of is no longer necessary for municipal purposes. This is necessary because the disposition of city property is a matter affecting the public interest. If this item were not required, the city council could be in a position of taking a risk by disposing of lands that should have been kept in city ownership for possible public use either now or in the foreseeable future.

**Subsection 6A.2:** The most common methods of disposal of interest in real property that the city will be considering include: deed, lease, or easement.

**Subsection 6A.5:** On the surface, this item appears straightforward. However, when the city is disposing of lands at less than fair market value or if preference provisions are being used, it is important for the city to state: 1) how a public purpose is being met by the disposal; and 2) how these "special" provisions of the disposal will meet a legitimate governmental objective. For example, if lands are being disposed in a non-competitive manner (e.g., less than fair market value and having residency requirements), it must be evident what public purpose is being achieved by not making these lands available to the general public (including non-residents of the community) at fair market value.



"... the disposition of city property is a matter affecting the public interest."



## Section 6. Disposal of real property. (continued)

B. The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate.

### Notes:

This subsection gives the city council considerable flexibility in how they may determine fair market value of the property to be disposed. Following is a brief list of alternatives the city may want to consider in determining fair market value:

- 1) The city can hire a professional appraiser to determine the value of the property.
- 2) The city, if within a borough, can

determine the value of a particular property by obtaining that information from the borough assessor.

3) The city can estimate the value of the land based on sales of similar lands in nearby communities.

4) In lieu of the above possibilities, the city council can reach a consensus on a fair price for lands within their community.

## Section 7. Methods of disposal.

A. All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal.

### Notes:

Section 7 outlines general requirements for the different types of land disposals that the city may elect to conduct. Subsection B lists competitive disposal

methods while subsections C-G include non-competitive disposal methods.

Subsection A is self-explanatory.



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### Section 7. Methods of disposal. (continued)

**B. Competitive disposal.** The city may conduct the following types of competitive disposal:

**1. Sealed bid auction.** The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under section 6B.

**2. Public outcry auction.** The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under section 6B.

**3. Lottery.** In the case of a lottery, the price of the property or interest in property may be established by the city council.

#### Notes:

This subsection basically indicates the types of competitive disposals that may be conducted by the city and the minimum bid or price (with respect to the fair market value) that will be allowed for these disposals. For disposals by lottery, the code ordinance is worded so that the city council is not necessarily locked into setting a fair market value on the property to be disposed. In this model ordinance, a lottery is the method to determine who will get a parcel of land if more than one party applies for the parcel through a non-competitive disposal. Therefore, because some types of non-competitive disposals will be for less than fair market value, the model code allows "tie-breaker" types of lotteries to dispose of land for less than fair market value. In totally competitive land disposal programs, the city would probably want to set the minimum at a

fair market value as established by the city council.

In addition to the three types of competitive disposal methods listed in this model ordinance, a city may also wish to include, as another competitive disposal method, disposal of land through a proposal process. For example, this type of disposal method is useful if the city has a tract of land it wants to dispose of for industrial development. Although the proposal process can be fairly involved, it would allow the city to determine which proposals would most benefit the community in terms of economic development, local hire, etc. Additional information on disposal by proposals can be found in "The Municipal Advisor" newsletter (a copy is located in the appendix to this handbook).



“... reverter clauses can only be enforced by a positive action.”

## Section 7. Methods of disposal. (continued)

### C. Disposal for public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a non-profit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this subsection, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based;
2. A requirement that the conveyance of the property or property interest disposed include a condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal; and
3. In the event that the entity receiving the property or interest in real property is a Native tribal council, a requirement that the Native tribal council waive any immunity from suit for the purpose of enforcing the reversion provision.

#### Notes:

This provision allows the city to dispose of land or interest in land to specified types of entities if the entity is providing a necessary public service to residents of the municipality. The land or interest in land under this provision can also be disposed of at less than fair market value; however, this is up to the city council. The other key stipulations on this type of disposal are: property must be used for the purpose for which it was conveyed or title will revert back to the municipality; and Native tribal councils must waive any immunity from suit for the purpose of enforcing the reversion provision.

It should be noted that the language in many reverter clauses (fee simple determinable) does not require an action by the city for the reversion to take place. The disadvantage of this form of reverter is that with the automatic reversion the parties may

not be aware that the title has transferred and no record of a transfer exists in the chain of title to warn others of the problem. Since the transfer ownership in land in rural Alaska occurs infrequently the problem may go unnoticed for years. To eliminate any doubt that a parcel has reverted to the city, the city will likely need to document that the condition was not met and that the reversion has occurred through a quiet title action. Arguably this is a greater burden for the city than the use of a “fee simple with a condition subsequent” reverter in which the city serves notice to the grantee and a deed of reconveyance is issued. The documentation can be recorded thus eliminating the uncertainty in the title. This also has the advantage of allowing the city to choose whether or not to take action and acquire the property in the event that it is not in its best interest to do so.



**Section 7. Methods of disposal. (continued)**

**D. Disposal for economic development.**

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under section 6E. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6E:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry; and
2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the

**Notes:**

This provision allows disposal of property or interest in property to any entity in furtherance of local trade or industry. The city council can dispose of property under this provision for less than fair market value if the city so chooses. As with lands disposed

for public services, title to property disposed for economic development can revert back to the city if the property is no longer being used for the purpose for which it was conveyed.

**Section 7. Methods of disposal. (continued)**

**E. Miscellaneous disposals.**

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property.

**Notes:**

This provision is included to allow a city to essentially dispose of an interest in

property where that interest may be legitimately disputed or the subject of a law suit.



## Section 7. Methods of disposal. (continued)

### F. Disposal to settle claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest in the property or in a substantial improvement located upon the property. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

#### Notes:

This provision allows the city to dispose of real property or interest in real property in order to settle valid claims of equitable interest. The city council can, if they so choose, dispose of this property for less than fair market value. The intent of this provision is to allow the city to clear up title problems.

As an example, city officials gave verbal approval to an individual to build his house on a vacant federal townsite lot. Since the house was built after the federal townsite survey was approved, the individual was not eligible for a deed to the lot from the federal townsite trustee. Subsequently, the federal townsite trustee deeded to the city all the lots

that had not been deeded to eligible individuals in the community. As a result, the city now owns the lot that the individual has built his house on. Through this provision in the land disposal ordinance, the city can dispose this lot to the individual who has been living on it. The city can also dispose of the lot for less than fair market value.

This provision also allows the city to dispose of real property or interests in real property to individuals who have substantial improvements on the property. Examples of substantial improvements include a house, cabin, or other habitable dwelling. This provision would normally apply to one lot per person or family.



**Section 7. Methods of disposal. (continued)****G. Disposal for residential purposes.**

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. When real property or interest in real property is disposed of pursuant to this subsection, the deed or lease must contain a condition subsequent which ensures that if the land is used for any purpose other than residential use for a period of \_\_\_ years after the disposal, title will revert to the city. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within \_\_\_ years after the disposal or title will revert to the city.

**Notes:**

This subsection allows the city to convey real property or interest in real property for less than fair market value to a domiciled city resident that seeks the parcel for development and use as a personal place of residence. The intent of this provision is to make land available to residents for housing at a cost they can afford. A major stipulation in this type of disposal is that the property must be used for residential purposes for a certain number of years. If this condition is not met, the title reverts back to the city. This condition assures the city control over use of the land. The period of years is not specified in the model ordinance since this will vary depending on the needs of each community.

Another condition specifies that a habitable dwelling must be constructed and the applicant must reside in the dwelling for a specified period. If either of these conditions is not met, title will revert back to the city. Again, a specific period of time is not given in this model ordinance since the period used will be based on a specific community's needs. The major purpose of this condition is to minimize speculation practices.

In section 11 of the model code ordinance, "domiciled resident" is defined as:

"One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the city his/her permanent residence."

This definition basically means that a person had to have lived in the community 30 days immediately prior to passage of the ordinance, still maintains an address in the community, and will sign a statement that says he/she intends to make a permanent home in the community. The latter intent requirement can be difficult to disprove. However, the "prove-up requirements" built into the ordinance (i.e., must build a residence within \_\_\_ years and the land must be used for residential purposes) essentially accomplishes the same purpose. If the city has a zoning ordinance, these prove-up requirements may not be necessary to keep the land for residential purposes.

It may be argued that the city can make lands available for housing and at less than fair market value under other provisions of this ordinance. This provision specifies, however, that the use of the land must be for housing only. Other types of competitive disposals have not restricted the types of use to which the land may be put. Competitive disposals must also dispose of property for the "fair market value" as determined under section 6B. This provision is similar, therefore, to the other special types of non-competitive disposals (for example, public services, economic development, or settling of equitable interests).



"The intent of this provision is to make land available to residents for housing at a housing cost they can afford."



## Section 8. Leases.

A disposal of interest in real property by lease shall follow the requirements of sections 6 and 7. The terms and conditions of leases shall be established by the city council for each such disposal.

### Notes:

This section states that leases are subject to disposal provisions of sections 6 and 7. This section also states that

additional terms and conditions for leases shall be established by the city council.

## Section 9. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of sections 7 and 8. The terms and conditions of easements shall be established by the city council for each such disposal.

### Notes:

This section states that easements are subject to disposal provisions of sections 7 and 8. The most likely disposals

of easements will be for utility line easements (fuel or electricity) for privately operated utility companies.

## Section 10. Notice of disposal.

A. A notice of the disposal shall be posted in three conspicuous public places within the city not less than \_\_\_\_\_ days before:

1. The date of the bid opening; or
2. The date of the lottery; or
3. The date of the auction; or
4. The date of the disposal.

### Notes:

This subsection specifies the minimum posting requirements for competitive disposals. As discussed under section 6, the intent of this provision is to allow time between the passage of the non-code ordinance for competitive disposals and the actual disposal itself. This additional time period can be used by the public to look over any lots or parcels they may be interested in bidding on. As stated earlier in

these notes (section 6), the city may wish to standardize public notice requirements to be used for both competitive and non-competitive types of disposals.

Although not specified in this model ordinance, the city must publish a summary of the proposed ordinance authorizing any disposal in accordance with AS 29.25.020(b)(3)



**Section 10. Notice of disposal. (continued)**

B. The notice shall include:

1. A legal description of the property and the type of interest to be disposed;
2. The method of disposal as identified in section 7;
3. The assessed or estimated value of the property or interest in property;
4. The date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur.

**Notes:**

This subsection specifies what needs to be included on the notice for a proposed land (or interest in land) disposal.

**Section 11. Definitions.**

As used in this Chapter:

**Abstract of title:** A condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.

**Appraisal:** An estimation of value of property by a qualified appraiser.

**Casual use:** The temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as: hiking, hunting, fishing, short-term camping, picnicking, skiing, snowmachining or berry picking.

**City boundaries:** The city limits, established when the city is incorporated, inside which all city ordinances are enforceable.

**Competitive disposal:** A disposal of property wherein no preference is shown to any prospective bidder or group of bidders.

**Condition subsequent:** An event that occurs after transfer of title which will act to restore title to the maker of the condition.

**Contract of sale:** A contract between a willing seller and a willing buyer to transfer title to property.

**Deed of trust:** An instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other conditions.

**Disposal:** The act of giving away or selling; the transfer of interest in property.

**Disputed claims:** Claim for property that is protested by another, or for property which is also claimed by another.

**Domiciled resident:** One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the City his/her permanent residence.

**Easement:** A right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.

**Economic development:** To promote the growth of the local economy; increase income of residents.

**Eminent domain:** The power of a municipality to convert private property to a public use.

**Equitable interest:** A claim (in property or other) which should be recognized in the interest of fairness or equity.

**Evaluate:** To judge the quality of.

**Federal entity:** The federal government or an agency thereof.

**Hazardous use:** A use involving danger; perilous; risky to human health and well-being.

**Interest:** In property: A right, claim, title, or legal share in that property. Refers to the "bundle of rights" which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.

**Inventory:** A list of property containing a description of each article of property.

**Lease:** Leases are used to dispose of specific interests in real property without transferring ownership of that property; A contract for exclusive possession of lands or tenements for a determinate period.



**Legal description:** That part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.

**Litigation:** Contest in a court of justice for the purpose of establishing a right.

**Lottery:** A plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.

**Municipality:** A unit of local government organized under the laws of the State of Alaska.

**Non-code ordinance:** An ordinance that is not part of the permanent city code.

**Nonprofit corporation:** An organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

**Obnoxious use:** A use which people may find objectionable; disagreeable; offensive; displeasing.

**Public interest:** Something in which the public, the community at large, has some pecuniary interest (having to do with money), or some interest by which their legal rights or liabilities are affected.

**Public outcry auction:** Sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

**Public service:** Activities and enterprises which specially serve the needs of the general public.

**Referendum:** A method of submitting an important measure to the direct vote of the whole people.

**Revert:** With respect to property, title to go back to and lodge in former owner.

**Sealed bid:** A written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

**State:** The State of Alaska or an agency thereof.

**Substantial Improvement:** A major change or addition to land or real property that makes it more valuable.

**Temporary use:** An exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$\_\_\_\_\_.

**Valid Claim:** A legally enforceable claim by a third party.

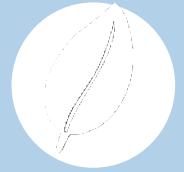
## Notes:

This section contains definitions of terms used throughout the ordinance. A city may wish to reduce the number of terms defined within this section to only terms having legal effect or most necessary to the ordinance provisions. These terms would likely include: casual use, disputed claim, domiciled resident, equitable interest, hazardous use, interest (in property), obnoxious use, public interest, substantial

improvement, and temporary use. All other terms that are defined in section 11 could be kept separate from the ordinance itself.

One term defined within this section, "temporary uses", contains a blank for the maximum value of improvements that will be allowed on the land that is subject to a temporary use permit. This value stipulation is an option the city may or may not want to include.

# SAMPLE RESOLUTION AND NON-CODE ORDINANCE FOR ACQUISITION OF MUNICIPAL LANDS



**This chapter provides samples of the legal means through which a local government can accept land.**

**P**rior to the passage of the Alaska Native Claims Settlement Act (ANCSA), many municipalities acquired title to undeveloped property through the state land grant program, which allowed municipalities to select up to 10% of the vacant unappropriated state-selected land within the municipal boundary. The objective of this program was to provide for public and private settlement and for the development of local land. Most of the land located within municipal boundaries has been selected by local village corporations under ANCSA and is no longer available for state selection under the Statehood Act for potential municipal reconveyance; thus most municipalities incorporated shortly before or after the passage of ANCSA cannot benefit from land acquisition through the land grant program. The acquisition of undeveloped land for many municipalities has come directly from the federal government pursuant to the Alaska Native Townsite Act (ANTA), or as a result of the federal obligation imposed by ANCSA on village corporations to reconvey certain land to municipal corporations. Although the ANTA was repealed in 1976, it still serves as a

source of undeveloped land for municipalities. Municipal jurisdictions that include land selected by an ANCSA village corporation are authorized under Section 14(c)(3) of the act to select land for community expansion, public rights-of-way and for "other foreseeable community needs." Some municipalities have received land grants from other sources, such as the Railroad Townsite Act and the Presidential Townsite Act. The provisions of these acts are similar to ANTA. For more information on municipal land acquisition in Alaska, refer to Appendix 2B of this handbook, "Municipal Land Acquisition and Disposal in Alaska" by Timothy E. Troll.

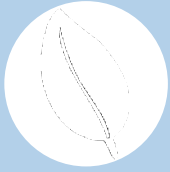
Two examples are provided in this chapter for municipalities to use in the acquisition of land:

- 1) A sample resolution that a municipality can use to accept lands. This method of accepting lands can be used in most situations.
- 2) A sample non-code ordinance that a municipality can use to accept the final settlement of ANCSA 14(c)(3) lands.



Mekoryuk Boat Harbor, Commerce/DCRA

**SAMPLE RESOLUTION FOR THE ACCEPTANCE OF  
MUNICIPAL LAND**



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION authorizing the City of \_\_\_\_\_ to acquire certain lands as provided for in Title \_\_\_\_\_ of the Municipal Code.

WHEREAS: The City has the authority, in accordance with Title \_\_\_\_, Chapter \_\_\_\_, Section \_\_\_\_, of the \_\_\_\_\_ Municipal Code, to acquire, manage and dispose of real property or interest in real property, and;

WHEREAS: The city has identified those lands described as (legal description) \_\_\_\_\_  
\_\_\_\_\_ as suitable for acquisition by the City, and;

WHEREAS: The City and \_\_\_\_\_ (the land owner) \_\_\_\_\_ have agreed on the conveyance of the land to the City, and;

WHEREAS: The City has budgeted for the acquisition costs in Ordinance # \_\_\_\_.

NOW THEREFORE LET IT BE RESOLVED THAT: The Mayor of \_\_\_\_\_ is hereby directed to negotiate and execute any and all documents required to obtain that land as identified in paragraph 2 of this resolution. Title shall be held in the name of "City of \_\_\_\_\_, Alaska."

PASSED AND APPROVED BY THE \_\_\_\_\_ City Council  
on \_\_\_\_\_, 20\_\_\_\_ .

IN WITNESS THERETO:

By: \_\_\_\_\_ (Chief Administrative Officer)  
Signature and Title

Attest: \_\_\_\_\_ (City Clerk)  
Signature and title



**CHECKLIST FOR REQUIREMENTS OF 14(c)(3) AGREEMENTS**

ANCSA Corporations, incorporated cities and unincorporated communities must follow proper procedures when they enter into 14(c)(3) agreements. The checklist below allows ANCSA village corporations to perform a quick check to determine whether proper procedures have been followed. This checklist addresses major procedural formalities that must be followed for a 14(c)(3) agreement to be valid and binding on both parties. Any agreement that meets these requirements is likely to be valid. Failure to meet these requirements does not necessarily mean that the agreement is invalid, but does indicate that a potential problem may exist. In such an event,

corporations are recommended to contact their attorney for a more detailed review of the procedure used to approve the agreement.

*NOTE:* A 14(c)(3) agreement that meets the requirements of the checklist will probably not be invalid because of a failure to meet procedural requirements. However, because this checklist is not designed to address all potential problems or issues that may arise, the checklist should not be solely relied upon to determine legal validity of a 14(c)(3) agreement. Any formal opinion as to the validity of a 14(c)(3) agreement can only be made by the attorney for the corporation, after a review of the individual facts of the situation.

**SAMPLE CHECKLIST FOR 14(c)(3) AGREEMENTS**

**ALL MUNICIPALITIES:**

- \_\_\_\_\_ Was the agreement approved by either ordinance or resolution?
- \_\_\_\_\_ Did the municipality follow all requirements established in the city’s charter and ordinances?
- \_\_\_\_\_ If the ordinance or resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the ordinance or resolution?
- \_\_\_\_\_ Did the municipality follow the municipal code’s conflict of interest requirement as written in AS 29.20.10?

**GENERAL LAW MUNICIPALITIES, AGREEMENT APPROVED AFTER JANUARY 1, 1987 (ADDITIONAL REQUIREMENTS)**

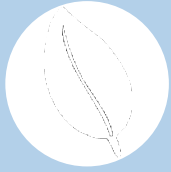
- \_\_\_\_\_ Did the municipality by ordinance establish a procedure for the 14(c)(3) agreement process?
- \_\_\_\_\_ Was the established procedure followed?
- \_\_\_\_\_ Did the municipality follow the steps outlined above?

**VILLAGE CORPORATIONS**

- \_\_\_\_\_ Was the 14(c)(3) agreement validly approved by the corporation’s board of directors by resolution at a proper meeting?
- \_\_\_\_\_ If the resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the resolution?
- \_\_\_\_\_ Did the corporation follow all procedures and requirements established by its Articles of Incorporation and Bylaws?

**UNINCORPORATED COMMUNITIES**

- \_\_\_\_\_ Did the corporation board approve the offer by resolution?
- \_\_\_\_\_ Did the Municipal Land Trustee (MLT) review and decide whether the offer will be accepted?
- \_\_\_\_\_ Was the offer supported by resolution by the Appropriate Village Entity (AVE)?
- \_\_\_\_\_ Was the written decision published in a newspaper of general distribution in the region?
- \_\_\_\_\_ Did the AVE follow all MLT procedures outlined in their regulations?



**SAMPLE ORDINANCE FOR THE ACCEPTANCE OF MUNICIPAL LAND**

CITY OF \_\_\_\_\_, ALASKA  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE CITY TO ACQUIRE CERTAIN LANDS AS PROVIDED FOR IN SECTION 14(c)(3) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF \_\_\_\_\_, ALASKA:

- Section 1: Classification
- Section 2: Authority to acquire lands
- Section 3: Amount to be reconveyed
- Section 4: Survey of land
- Section 5: Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3)
- Section 6: Acquisition for the City by the Mayor
- Section 7: ANSCA 14(c) Map of Boundaries

Section 1. Classification.

This is a non-code ordinance.

Section 2. Authority to acquire lands.

The City is authorized to acquire lands in accordance with Title \_\_\_\_\_, Chapter \_\_\_\_\_, Section \_\_\_\_\_, of the \_\_\_\_\_ Municipal Code. Under the provisions of Section 14(c)(3) of ANCSA the City is entitled to receive 1,280 acres of surface estate from the \_\_\_\_\_ Native Corporation, unless a lesser amount is agreed to in writing by the City and the \_\_\_\_\_ Native Corporation.

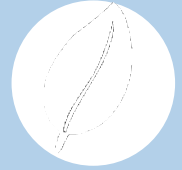
Section 3. Amount to be reconveyed.

The City and the \_\_\_\_\_ Native Corporation mutually agree that approximately \_\_\_\_\_ acres of \_\_\_\_\_ Native Corporation land as identified in the ANCSA 14(c) Map of Boundaries of this ordinance is to be reconveyed to the City. The City finds that this amount is sufficient for the existing and foreseeable community needs of the City of \_\_\_\_\_ and by this ordinance relinquishes the right to an additional \_\_\_\_\_ acres of \_\_\_\_\_ Native Corporation land. (The real property to be reconveyed by the \_\_\_\_\_ Native Corporation is compatible with accepted land uses as described in the City of \_\_\_\_\_ Comprehensive Development Plan.)

Section 4. Survey of land.

The City and Native Corporation acknowledge that the ANCSA 14(c)(3) lands as shown on the ANCSA 14(c) map of boundaries can not be conveyed to the City until surveyed in accordance with 43 CFR and the policies of the Bureau of Land Management Cadstral Survey. The City is authorized to participate in the staking, survey instruction review, plat review and the accompanying of the Native Corporation designees and the BLM surveyors during the field surveying of the ANCSA 14(c)(3) lands.





Section 5. Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3).

The \_\_\_\_\_ Native Corporation, by this reconveyance, meets its legal obligation to reconvey land to the City under Section 14(c)(3) of ANCSA. The reconveyance of this land is in consideration of the requirements of ANCSA Section 14(c)(3) and is without further consideration. The City of \_\_\_\_\_ acknowledges that this reconveyance is in full and complete satisfaction of the \_\_\_\_\_ Native Corporation's obligation under Section 14(c)(3) of ANCSA.

Section 6. Acquisition for the City by the Mayor.

Under the authority of Title \_\_\_\_\_, Chapter \_\_\_\_\_, Section \_\_\_\_\_ of the \_\_\_\_\_ Municipal Code, the Mayor is directed to act on behalf of the City in signing the ANCSA 14(c) Map of Boundaries 14(c) agreement and real property documents related to acquisition of that real property described in the ANCSA 14(c) Map of Boundaries attached to and made part of this ordinance. Such acquisition shall constitute full satisfaction of the requirements of ANCSA Section 14(c)(3).

Section 7. ANCSA 14(c) Map of Boundaries (attached).

Introduction \_\_\_\_\_  
First Reading \_\_\_\_\_  
Public hearing/second reading \_\_\_\_\_

ADOPTED by a duly constituted quorum of the Council of the City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

## Sample Resolution ...



## SAMPLE DOCUMENTS AND PROCEDURES FOR TEMPORARY AND CASUAL USES OF MUNICIPAL LANDS

**This chapter addresses two optional provisions to make municipal lands available for use without disposing of land or disposing of interests in the land.**

code ordinance for temporary and casual



**W**ithin the DCCED model code ordinance are two optional provisions which deal with making municipal lands available for use without disposing of the land or interests in the land. These provisions were largely based on several provisions of the Fairbanks North Star Borough code ordinance #86-056 and on the borough's special land use permitting system.

Following are excerpts from the borough's

use of borough lands. Also included is a "special land use application and permit" form and further general requirements involved with the special land use permit. The excerpt from the borough's code which deals with casual uses of land is included primarily because it specifies what is considered a "casual use" of the land. This list may be helpful to reference if a city wishes to develop a similar provision in their ordinance.



False Pass, Alaska. Photo by Lotta Hines



**Excerpt from Ordinance No. 86-056;  
"An Ordinance Relating to the Acquisition,  
Management, and Sale of Land by the Borough";  
Fairbanks North Star Borough**

**15.10.060 Temporary use of borough land.** A. "Temporary use" means a use of borough land that is exclusive, but the use is not pursuant to an authorized lease, easement, extraction license, or commercial sale of borough sand, gravel, or greenwood timber resources. Nonexclusive examples of a temporary use are the use of borough land for access to a firewood cutting area or a temporary construction easement.

B. A person who wishes to use borough land for a temporary use shall apply to the mayor for a temporary use license. The mayor may grant to the applicant a temporary use license. A temporary use license is nontransferable and is valid for a time period no greater than one year from the date of issue. If the mayor determines that the proposed use may substantially affect the surrounding area, then the mayor shall publish notice of the proposed use. The notice shall include a description of the proposed use, and notice of a two-week period during which public comment on the proposed use will be accepted by the mayor. If the mayor receives substantial public comment adverse to the proposed use, then before issuing the license the mayor shall hold a public hearing on the proposed use.

C. The applicant shall pay to the borough the temporary use license fee required by the fee schedule established by the mayor. The mayor may waive the license fee for a public agency.

D. If the mayor determines a temporary use may cause damage to the borough land, then the mayor shall require that the applicant post a bond with the borough to insure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The mayor shall not release the bond until the licensee has complied with all conditions of the license.

E. The mayor may inspect the borough land at any time to insure compliance with conditions of the license. The mayor may, for cause and without prior notice to the licensee, immediately revoke a temporary use license. A licensee whose temporary use license has been revoked shall, within the time specified in the license and if no time is specified, within seven days of the revocation of the license, remove from the borough land all improvements placed on the borough land pursuant to the temporary use.

F. The mayor shall not renew a temporary use license, but the mayor may reissue another license if the applicant has complied with the provisions of this section and the terms of the prior license.



FAIRBANKS NORTH STAR BOROUGH  
DEPARTMENT OF LANDS  
SPECIAL LAND USE APPLICATION AND PERMIT

Reference No. \_\_\_\_\_

1. APPLICANT

\_\_\_\_\_  
Name (Last) (First) (MI)

\_\_\_\_\_  
Street/P.O. Box      City                              State              Zip      Phone

2. LAND LOCATION (Attach USGS map or sketch map at scale no smaller than 1"=1 mile showing area desired):

Township \_\_\_\_\_, Range \_\_\_\_\_, \_\_\_\_\_ Meridian, Section \_\_\_\_\_

Portion \_\_\_\_\_

Other Description \_\_\_\_\_

\_\_\_\_\_

3. PROPOSED ACTIVITY (Attach additional sheets if necessary):

\_\_\_\_\_

\_\_\_\_\_

4. SPECIAL STIPULATIONS: (In addition to conditions on reverse side)  
(General Requirements)

\_\_\_\_\_

\_\_\_\_\_

5. DATE OF INTENDED USE (Not to exceed one year): From \_\_\_\_\_  
to \_\_\_\_\_.

6. DATE OF APPLICATION: \_\_\_\_\_, 20\_\_.

7. CONTACT PERSON, if other than applicant: Name \_\_\_\_\_

\_\_\_\_\_  
Address                              Telephone No.              Position/Title

8. \_\_\_\_\_  
SIGNATURE OF APPLICANT OR AUTHORIZED REPRESENTATIVE:

\_\_\_\_\_  
Title                              Date

9. APPLICATION IS    Granted    Denied    Granted as Modified

By \_\_\_\_\_  
Title                              Date

10. BOND IS REQUIRED \_\_\_\_\_ Yes (See attached bond) \_\_\_\_\_ No

11. SUPPLEMENTAL INFORMATION \_\_\_\_\_  
\_\_\_\_\_



### General Requirements

1. This permit conveys no interest in borough land. This permit is nonrenewable, but may be reissued upon application by the permittee at the borough's discretion. The permit reissuance period may not exceed one year. This permit is revocable immediately, with cause. Revocation without cause is effective upon 30 days notice. Permittee shall be afforded 30 days within which to remove his possessions. This permit is not transferable. It is issued to authorize specific activities requested by the applicant and which are not included in the category of "generally permitted uses."
2. Existing valid uses shall not be prevented or restricted by permittee's use of borough land.
3. This land use permit is subject to the following provisions:
  - a. Existing roads and trails shall be used wherever possible. If off-road travel is allowed, activities employing wheeled or tracked vehicles shall be conducted so as to minimize surface disturbance;
  - b. All activities shall be conducted so as to minimize disturbance of drainage systems, changing course or character of waterbodies, seeps or marshes;
  - c. Users shall not harass or disturb fish or wildlife resources;
  - d. Trails and campsites shall be kept clean. All garbage and foreign debris shall be removed, buried or safely burned before leaving the area;
  - e. All due care shall be taken to prevent or suppress any fire in the permitted area. Uncontrolled fires shall be reported immediately;
  - f. All survey monuments, and accessories such as witness corners, reference monuments and bearing trees shall be protected. Any damaged or destroyed markers shall be re-established in accordance with accepted survey practices; and
  - g. Permittee agrees to indemnify, save and hold the Fairbanks North Star Borough, its agents and employees, harmless and defend each (at permittee's sole cost and expense) from and against any claim or liability for any injury to any person or damage to any property or any other claim or liability whatsoever arising or resulting from any activity conducted by permittee, permittee's agents, contractors, or employees, whether such activity is expressly authorized by this permit or not.

**Excerpt from Ordinance No. 86-056; "An Ordinance Relating to the Acquisition, Management, and Sale of Land by the Borough"; Fairbanks North Star Borough**

**25.10.070 Casual use of borough land.** "Casual" use means a use of borough land that is nonexclusive and involves only minimal disturbance to the land. Noninclusive examples of a casual use are hiking, backpacking, hunting, fishing, camping for less than fourteen days, picnicking, crosscountry skiing, snow machining, berry picking, brushing survey lines or trails where roots are not disturbed, livestock drives, and the use of all-terrain vehicles off an established road or right-of-way but on an existing trail.

- A. The casual use of borough land does not require a license.
- B. The casual use of borough land does not create an interest in borough land.
- C. The mayor may close any and all borough land to casual use by issuing a written order that contains a finding that an emergency exists and a statement of the facts on which the finding is based.
- D. The mayor shall publish notice of the location of borough land that the mayor has closed to casual use.





Pelican Boat Harbor, Commerce/DCRA



## SAMPLE NON-CODE ORDINANCES FOR SPECIFIC LAND DISPOSALS

**This chapter addresses some of the different situations in which a municipality might dispose of municipal lands to meet a public need.**

In the following pages, examples are provided for ways in which a municipality might settle land issues through the use of non-code land disposal ordinances. After each land situation described, a sample non-code ordinance is provided for the disposal of municipal land.

### *Example 1: Settling Claims of Equitable Interest on Municipal Lands*

In 1986, a city received from the federal townsite trustee, deeds to lots in the federal townsite with a total area of 10 acres. A number of these lots (8) contained occupied houses on them on the date the city received the deeds. Legally, the city owns not only the lots but the improvements (houses) located on the lots as well.

In 1985, or before the city received deeds to these lots, the residents living on the lots had applied to the federal townsite trustee (the previous owner of the lots) for deeds. The residents were denied deeds to the lots since the federal townsite trustee could only issue deeds to individuals having improvements on the lots prior to the approved townsite survey date (in this example, a date in 1980). Since there was a need for land available for housing, the village council in 1981 had authorized these individuals to build on the lots even though the village council, not being the landowner, was not in a position to approve this action.

Now the city has received deeds to lots in the federal townsite including the eight lots that have houses on them. The residents living on these lots may be considered in trespass. However, since these individuals had previously received the village council's permission to build, it would appear that these individuals have some claim in the property which should be recognized in the interest of fairness or equity.

To settle this situation, the city council may elect to dispose of these eight lots to these individuals. In doing so, the council needs to first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had

adopted an ordinance similar to the DCRA model code ordinance that is in this handbook.

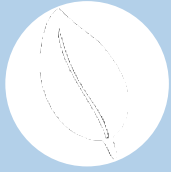
With a code ordinance in place, if the city council wishes to dispose of the lots to the individuals in question, the council needs to prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

- a finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
- a finding that it is in the public interest to dispose of municipal property to settle these claims of equitable interest;
- the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value;
- other items including a legal description of the property, the method of disposal, and other procedures.

With the passage of the non-code ordinance, follow-up actions will depend on what is authorized by the ordinance. In this example (and as shown on the sample non-code ordinance), the city council decided to dispose of the lots at less than fair market value to settle claims of equitable interest. Also note that the sample non-code ordinance contains a provision that a reverter clause be included on the deed that is issued by the city. A city may not want to include such a reverter clause in the deeds.

Note that when the city is determining the price of lots to be disposed of in this ordinance, the cost of recording the deed should be added to this cost. Also note that the ordinance requires that if lots are disposed of by metes and bounds descriptions, the lot owner will pay the survey costs of the lot.





*(Valid Claim of Equitable Interest)*

CITY OF \_\_\_\_\_, ALASKA

ORDINANCE # \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE DISPOSAL  
OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF \_\_\_\_\_ that pursuant to Chapter \_\_\_\_\_ of the Municipal Code the City of \_\_\_\_\_ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

**Section 1. Classification.**

**Section 2. Statement of ownership.**

**Section 3. Statement of finding of public purpose.**

**Section 4. Purpose of disposal.**

**Section 5. Determination of price.**

**Section 6. Qualification of applicants.**

**Section 7. Type of deed and restrictions on use.**

**Section 1. Classification.** This is a non-code ordinance.

**Section 2. Statement of ownership.** The City of \_\_\_\_\_ has acquired by deed the following real property:

*(Legal description of property).*

**Section 3. Statement of finding of public purpose.** The City Council finds that it is in the best public interest to convey title to land to a person who, due to ownership of residential improvements thereon, has a valid claim of equitable interest in land as of the date the City of \_\_\_\_\_ received that land. The Council further finds that the lands to be disposed of to settle these claims are not required for public purposes.

**Section 4. Purpose of disposal.** The lands to be disposed of in this ordinance were received by the City of \_\_\_\_\_ after residential improvements had already been placed on the property, and are to be disposed of to settle valid claims of equitable interest.

**Section 5. Determination of price.** As the City of \_\_\_\_\_ obtained these lands at no cost, the Council has determined that the price of each parcel of land to be disposed of under this ordinance shall be \_\_\_\_\_. Surveyed lots shall be conveyed by lot and block number. Unsurveyed lots will be sold by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

**Section 6. Qualification of applicants.** Only those persons that own the residential improvements on the lots to be disposed of or have a current contract of sale with the \_\_\_\_\_ Housing Authority for the residential improvements on the lots to be disposed of are qualified to apply for those lots in this disposal. Any lot not applied for by the qualified person(s) shall become the property of the City of \_\_\_\_\_ along with the improvements thereon.

**Section 7. Type of deed and restrictions on use.** Title shall be conveyed by quitclaim deed, and will contain the condition subsequent that the lots shall be used only for residential purposes during \_\_\_\_\_ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of \_\_\_\_\_ at the City's option.

Introduction. \_\_\_\_\_

First reading. \_\_\_\_\_

Public hearing/second reading. \_\_\_\_\_



ADOPTED by a duly constituted quorum of the Council of the City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

## Example 2: Making Municipal Lands Available for Residential Development

In this example, a city wishes to make some of its land available to residents for housing. Since the city is not scheduled to receive a public housing project through the regional housing authority for some time, the city would like to make lots available to residents to enable them to build their own houses. The city also wants to price the lots at less than fair market value so that residents can afford to purchase the lots. The city may be exposed to a claim of “arbitrariness” if it simply states people can’t afford to pay fair market value. Census Bureau information on poverty level in the community e.g. low median household income would be good supporting documentation.

The city received, at no cost, deeds to the majority of its lands from the federal townsite trustee, including approximately 20 acres of unsubdivided tracts. It is on these unsubdivided tracts that the city would like to make land available for housing.

Before the city council can consider a land disposal program, the council must first have a code ordinance in place which gives the City the authority to dispose of municipal property. In this case, the city adopted an ordinance similar to the DCRA model code ordinance provided in this handbook. With a code ordinance in place, the city council now must prepare and introduce a non-code ordinance which will authorize this specific disposal. In developing the ordinance, the council must make a number of determinations. These include (also refer to the sample non-code ordinance that follows this discussion):

- 1) a finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
- 2) a finding that it is in the public interest to dispose of municipal property to residents

at less than fair market value for housing purposes. The ordinance must explain in the statement of findings why residents should be given preference, and why the land is being offered for less than fair market value.

In the sample non-code ordinance that follows, it is stated that there is a severe shortage of land in the community available to residents for housing purposes. The ordinance further states that the city wishes to make the land available at prices residents can afford.

The ordinance also indicates that the lands are being disposed of at less than fair market value. This has a direct relationship to the statement that the city is making lands available at prices residents can afford. This relationship could be further strengthened by discussion within the public record of what the average income level might be of community residents and/or how the city council determined the value of the lots to be disposed. Also, in the ordinance there is a residency qualification for applicants.

Also note the "prove up" requirements in the ordinance (e.g., applicants must build a house on the property within \_\_\_\_ years). Refer to Appendix \_\_ of the handbook for further discussion of the residency requirement topic.

There is an additional requirement that applicants cannot own other land in the community. This ties back to the purpose of the ordinance to dispose of lands to residents for housing purposes. Because there is a severe shortage of lands available for housing purposes, the city does not want to dispose of lands to those who already own land upon which they could build a house. This type of provision wouldn't necessarily work in some communities. For example, if a city had a zoning ordinance which restricted a person from using any of his landholdings

## Sample Non-Code Ordinances ...

within the city for housing purposes, this person could claim the city is discriminating against him in this ordinance for not allowing him to apply for a city disposal lot for housing purposes.

There may be other unforeseen circumstances which would serve to discriminate against someone. The city may, for their own protection, want to include some language in the ordinance that allows exceptions to a requirement in certain cases.

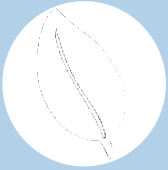
The previous considerations point out that each city should carefully review the language of any model ordinance and revise the wording to fit its unique circumstances. It is also important that a city consider obtaining legal review of its ordinances before adopting them.

- 3) the value of the property and a determination whether the property should be disposed of at market value or less than fair market value. In this example, the city decided to make the lots available at less than fair market value. Because the city council could not afford to hire a qualified appraiser, the council determined the fair market value of the lots by comparing prices of similar lots in a nearby community;
- 4) a legal description (metes and bounds, pending survey) of the property. Because the tracts the city wants to dispose of are unsubdivided, the city will need to plan the layout of the subdivision, clearly stake out the lots, and describe each lot by metes and bounds. In this instance, the

applicants will pay the surveying costs (on a pro-rated basis). The city may also want to add into the cost of each lot the cost to record the deed.

*Additional notes:* As discussed earlier, Section 6 of the non-code ordinance establishes who is qualified to apply for the lots. Although a number of days was not placed in the blank on the sample ordinance, a 30-day residency requirement (State of Alaska voting residency requirements) could be considered. This section also restricts applicants to those who do not already own land in the community (see discussion above) and includes a requirement that applicants build and reside in a dwelling of \_\_\_\_\_ square feet within \_\_\_\_ years of this disposal. If these latter two conditions are not met, the title of the property reverts back to the city. Although the sample ordinance leaves these two performance periods as blanks, a city may want to consider a 3 to 5 year period for the building of a dwelling. The size requirement of a dwelling could vary widely depending on the community.

Section 7 of the non-code ordinance contains another performance requirement, i.e., the lot must be used for "residential purposes" during \_\_\_\_ years following the date on the deed. This period could vary widely per city. Note that the non-code ordinance states that the city retains the option to enforce or not enforce the reverter clause. In other words, an individual could appeal and possibly be granted waiver from the reverter clause by the city council.



“There may be other unforeseen circumstances which would serve to discriminate against someone.”



*(To individuals for new housing)*

CITY OF \_\_\_\_\_, ALASKA  
ORDINANCE # \_\_\_\_\_  
AN ORDINANCE AUTHORIZING  
THE DISPOSAL OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF \_\_\_\_\_ that pursuant to Chapter \_\_\_\_\_ of the Municipal Code the City of \_\_\_\_\_ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

- Section 1. Classification.
- Section 2. Statement of ownership.
- Section 3. Statement of finding of public purpose.
- Section 4. Purpose of disposal.
- Section 5. Determination of price.
- Section 6. Qualification of applicants.
- Section 7. Type of deed and restrictions on use.

**Section 1. Classification.** This is a non-code ordinance.

**Section 2. Statement of ownership.** The City of \_\_\_\_\_ has acquired by deed the following real property:

*(Legal description of property).*

**Section 3. Statement of finding of public purpose.** The Council finds that there is a severe shortage of land available for new housing for residents of the City of \_\_\_\_\_. The Council further finds that it is in the best public interest to make land available for new housing for City residents, at a price that the residents can afford. The Council further finds that the lands to be disposed of to residents for new residential housing are not required for other public purposes.

**Section 4. Purpose of disposal.** The lands to be disposed of are to meet the demand for land for by the residents of \_\_\_\_\_.

**Section 5. Determination of price.** As the City of \_\_\_\_\_ obtained these lands at no cost, the Council has determined that the price of each lot to be disposed of under this ordinance shall be \_\_\_\_\_. Surveyed lots shall be conveyed by lot and block number. Unsurveyed lots will be sold by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

**Section 6. Qualification of applicants.** Only those persons that were eligible to vote as residents of \_\_\_\_\_ as of [a date prior to this disposal. The date the ordinance is proposed would be okay] are qualified to apply for land under this ordinance. This disposal is further restricted to those \_\_\_\_\_ residents that do not presently own land in the City. If any lot shall have more than one applicant the recipient shall be selected by lottery. Successful applicants shall build and reside in a dwelling of at least \_\_\_\_\_ square feet within \_\_\_\_\_ years of this disposal, or title shall revert to the City of \_\_\_\_\_.

**Section 7. Type of deed and restrictions on use.** Title shall be conveyed by quitclaim deed, and will contain the condition subsequent that the lots shall be used only for residential purposes during \_\_\_\_\_ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of \_\_\_\_\_ at the City's option.

Introduction. \_\_\_\_\_  
First reading. \_\_\_\_\_  
Public hearing/second reading. \_\_\_\_\_

## Sample Non-Code Ordinances ...

ADOPTED by a duly constituted quorum of the Council of the City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR  
ATTEST:

\_\_\_\_\_  
CITY CLERK



Pilot Point, Commerce/DCRA

### **Example 3: Making municipal lands available to a regional housing authority for public housing purposes**

In this case, the municipality would like to dispose of certain municipal lands to the regional housing authority so that a public housing project can be constructed. The city has title to approximately 15 acres of unsubdivided land that was deeded to them from the federal townsite trustee. Because this public housing project will meet the current housing needs of the community, the city council is eager to dispose of the land to the housing authority so that construction can begin.

Before the city council can deed city lands to the housing authority, the council needs to first have a code ordinance in place which gives the city the ability to dispose of municipal property. In this case, the city adopted an ordinance similar to the DCRA model code ordinance that is in this handbook. With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include:

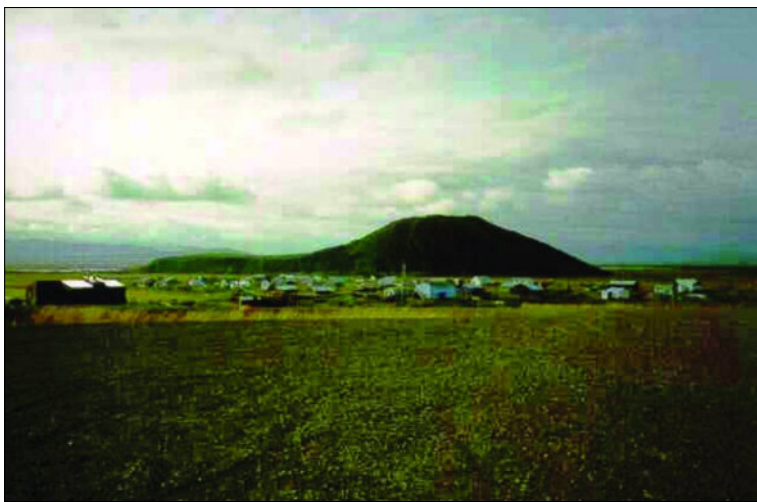
- a finding that the real property or interest in real property is no longer necessary for

other public purposes and a statement of facts upon which such a finding is based;

- a finding that it is in the public interest to dispose of municipal property to the housing authority for the purpose of building a public housing project;
- the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to make the land available at less than fair market value. The price per lot as shown in the sample non-code ordinance is the cost of recording the deed (the owners of the lots or the housing authority will also pay the surveying costs);
- other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures.

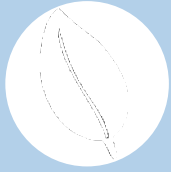
(also refer to the sample non-code ordinance that follows this discussion)

Once the non-code ordinance is passed, follow-up actions will be based on what the ordinance has authorized. One provision of the sample ordinance requires the housing authority to construct a public housing project only, or else the title of the land will revert back to the city.



Twin Hills, Commerce/DCRA





*(To the Housing Authority for public housing projects)*

CITY OF \_\_\_\_\_, ALASKA  
ORDINANCE # \_\_\_\_\_  
AN ORDINANCE AUTHORIZING THE DISPOSAL  
OF CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF \_\_\_\_\_ that pursuant to Chapter \_\_\_\_\_ of the Municipal Code the City of \_\_\_\_\_ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

**Section 1. Classification.**

**Section 2. Statement of ownership.**

**Section 3. Statement of finding of public purpose.**

**Section 4. Purpose of disposal.**

**Section 5. Determination of price.**

**Section 6. Qualification of applicant.**

**Section 7. Type of deed and restrictions on use.**

**Section 1. Classification.** This is a non-code ordinance.

**Section 2. Statement of ownership.** The City of \_\_\_\_\_ has acquired by deed the following real property:

(Legal description of property).

**Section 3. Statement of finding of public purpose.** The Council finds that it is in the best public interest to convey land to the \_\_\_\_\_ Housing Authority for public housing projects. The Council further finds that the lands to be disposed of to the Housing Authority are not required for other public purposes.

**Section 4. Purpose of disposal.** The lands to be disposed of in this ordinance are to be used by the Housing Authority for the purpose of building public housing for qualified residents of the City of \_\_\_\_\_.

**Section 5. Determination of price.** As the City of \_\_\_\_\_ obtained these lots from the Townsite Trustee at no cost, the Council has determined that the land necessary for this project shall be conveyed for [\_\_\_\_\_ + the cost of recording the deed]. Surveyed lots will be conveyed by lot and block number. Unsurveyed lots will be conveyed by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the lot owner.

**Section 6. Qualification of applicant.** Only the \_\_\_\_\_ Housing Authority is qualified to receive the lots that are lots to be disposed of in this disposal. All lots conveyed to the Housing Authority by this ordinance shall be used for existing or planned housing for the residents of the City of \_\_\_\_\_.

**Section 7. Type of deed and restrictions on use.** Title shall be conveyed by quitclaim deed, and will contain the condition subsequent that the lots shall be used only for the construction of public housing during \_\_\_\_\_ years following the date on the deed. Breach of this condition subsequent shall cause title to revert to the City of \_\_\_\_\_ at the City's option.

Introduction. \_\_\_\_\_

First reading. \_\_\_\_\_

Public hearing/second reading. \_\_\_\_\_



# Sample-Non Code Ordinances ...

ADOPTED by a duly constituted quorum of the Council of the City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
CITY CLERK



Minto, Commerce/DCRA

### ***Example 4: Leasing a city-owned lot to a public agency for the construction of a public building***

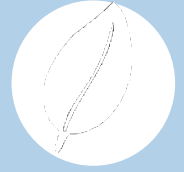
In this instance, the city has been approached by a public agency (e.g., U.S. Public Health Service, regional health corporation, etc.) that needs land to build a public building. The city has some vacant lots (that were deeded to the city from the federal townsite trustee) that would be suitable for such a building. Although the public agency wants to obtain a deed to the land, the city council prefers to dispose of an interest in the land by long term lease. As with disposing of title to land, before the city council can dispose of an interest in the land, the council must first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city adopted an ordinance similar to the DCRA model code ordinance that is in this handbook.

With a code ordinance in place, the city council now must prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include:

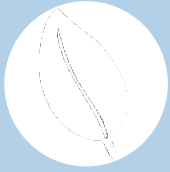
- a finding that the real property or interest in real property is no longer necessary for other public purposes and a statement of facts upon which such a finding is based;
- a finding that it is in the public interest to dispose of this interest in property (a lease) to a public agency for construction of a public building;
- the value of the property and a determination of whether or not the property should be disposed of at its value or less than fair market value. In this example, the city decided to lease the land, therefore the lessee is not purchasing full title to the land, only a right to use the land for an extended period of time. In this case, the city decided to charge the lessee the cost to record the lease contract document and also charge the lessee a minimal cost per year for rent of the land;
- other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures.

(also refer to the sample non-code ordinance that follows this discussion)

With the passage of the non-code ordinance authorizing the lease of the lot, the city can proceed with the negotiation of a lease with the public agency for the land. A sample lease is located in Chapter Seven of this handbook.



Brevig Mission, Commerce/DCRA



(Authorizing a leasing of a city-owned lot to a public agency)

CITY OF \_\_\_\_\_, ALASKA

ORDINANCE # \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE DISPOSAL OF AN INTEREST IN CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF \_\_\_\_\_ that pursuant to Chapter \_\_\_\_\_ of the Municipal Code the City of \_\_\_\_\_ shall dispose of certain City owned lands under the terms and conditions as set forth in this ordinance.

Section 1. Classification.

Section 2. Statement of ownership.

Section 3. Statement of finding of public purpose.

Section 4. Purpose of disposal.

Section 5. Determination of price.

Section 6. Qualification of applicants.

Section 7. Type of deed and restrictions on use.

Section 1. Classification. This is a non-code ordinance.

Section 2. Statement of ownership. The City of \_\_\_\_\_ has acquired by deed the following real property:

(Legal description of property).

Section 3. Statement of finding of public purpose. The Council finds that it is in the best public interest to lease land to the \_\_\_\_\_ for a \_\_\_\_\_. The Council further finds that the land to be leased to the \_\_\_\_\_ is not required for other public purposes.

Section 4. Purpose of disposal. The land to be leased by this ordinance is to be used by the \_\_\_\_\_ for the purpose of constructing and operating a public \_\_\_\_\_ which will serve all residents of the City of \_\_\_\_\_.

Section 5. Determination of price. As the City of \_\_\_\_\_ obtained this lot from the Townsite trustee at no cost, the Council has determined that the lease of the land necessary for this project shall be issued for [the cost of recording the lease document] and for an annual rent to be determined through negotiation between the City and the lessee.

Section 6. Qualification of applicant. Only the \_\_\_\_\_ is qualified to receive a lease to the lot that is to be disposed of in this disposal.

Section 7. Type of lease and restrictions on use. The term of the lease to be granted to \_\_\_\_\_ shall be \_\_\_\_ years. Additional terms and conditions of this lease will be specified in the lease contract which will be executed by the City and \_\_\_\_\_. The Mayor is authorized to sign the lease contract on behalf of the City.

Introduction. \_\_\_\_\_

First reading. \_\_\_\_\_

Public hearing/second reading. \_\_\_\_\_

ADOPTED by a duly constituted quorum of the Council of the City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
ATTEST:

### **Example 5: Authorizing an easement agreement across municipal lands for location of utility lines**

In this case, a utility company needs to extend some utility lines across city land. In order to install the lines, the utility company needs to have site control so that they can not only construct the lines, but operate and maintain them as needed. The city could possibly dispose of title to a strip of land containing the utility lines but chose instead to dispose of an interest in the land, an easement, to the utility company so that the city will retain the title to the land.

The land across which the utility company wants to extend the lines is a tract of land the City received from the federal townsite trustee. The legal description for the utility corridor will need to be done by metes and bounds until a survey can be obtained. The city council wants the utility company to pay for the survey whenever there is a need for a survey to be done for the utility corridor.

As with disposing of title to land, before the city council can dispose of an interest in the land, the council must first have a code ordinance in place which gives them the authority to dispose of municipal property. In this case, the city had adopted an ordinance similar to the DCRA model code ordinance that is in this handbook.

With a code ordinance in place, the city council must now prepare and introduce a non-codified ordinance which will authorize this specific disposal. In developing this ordinance, the council must make a number of determinations. These include:

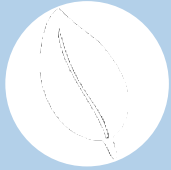
- a finding that the real property or interest in real property is no longer necessary for other public purposes and a statement of facts upon which such a finding is based;
- a finding that it is in the public interest to dispose of this interest in property (an easement) to a utility company for construction, operations, and maintenance of utility lines;
- the value of the property and a determination, whether the property should be disposed at market value or at less than fair market value. In this example, the city decided to dispose of only an interest in property; therefore, the utility company is not receiving full title to the land, only a right to use the land for an extended period of time. In this case, the city decided to charge the utility company only the cost to record the easement agreement documents. In addition, any future survey costs, if a survey is needed (for any purpose) for the utility corridor, will also be borne by the utility company;
- other items including a legal description (metes and bounds, pending survey) of the property, the method of disposal, and other procedures. With the passage of the non-code ordinance authorizing the disposal of interest in the land by easement, the city can proceed with the preparation of an easement agreement.

(also refer to the sample non-code ordinance that follows this discussion)



Goodnews Bay, Commerce/DCRA





(To a utility for a utility line easement)

CITY OF \_\_\_\_\_, ALASKA  
ORDINANCE #\_\_

AN ORDINANCE AUTHORIZING THE DISPOSAL  
OF AN INTEREST IN CERTAIN CITY LANDS

BE IT ENACTED BY THE CITY COUNCIL OF \_\_\_\_\_ that pursuant to Chapter \_\_\_\_\_ of the Municipal Code the City of \_\_\_\_\_ shall dispose of certain City-owned lands under the terms and conditions as set forth in this ordinance.

- Section 1. Classification.**
- Section 2. Statement of ownership.**
- Section 3. Statement of finding of public purpose.**
- Section 4. Purpose of disposal.**
- Section 5. Determination of price.**
- Section 6. Easement agreement and restrictions on use.**

**Section 1. Classification.** This is a non-code ordinance.

**Section 2. Statement of ownership.** The City of \_\_\_\_\_ has acquired by deed the following real property:  
*(Legal description of property).*

**Section 3. Statement of finding of public purpose.** The Council finds that it is in the best public interest to convey an easement in land to the \_\_\_\_\_ for the construction, operation, and maintenance of \_\_\_\_\_ utility lines serving residents of the City. The Council further finds that the lands affected by this easement to the \_\_\_\_\_ are not required for other public purposes.

**Section 4. Purpose of disposal.** The easement to be conveyed by this ordinance is to be used by the \_\_\_\_\_ for the purpose of constructing, operating, and maintaining \_\_\_\_\_ lines which will serve residents of the City.

**Section 5. Determination of price.** As the City of \_\_\_\_\_ obtained the land from the Townsite Trustee at no cost, the Council has determined that the easement necessary for this project shall be conveyed for [the cost of recording the easement agreement document]. The easement will be conveyed by metes and bounds descriptions, pending survey. When surveyed, survey costs will be paid by the (utility company).

**Section 6. Easement agreement and restrictions on use.** The easement agreement will contain a clause that states that if abandonment or nonuse of the property occurs for any six consecutive months, the easement shall be vacated at the option of the city, and all interests in the property that have been granted shall revert to The City, or its successor, upon such abandonment.

Introduction. \_\_\_\_\_  
First reading. \_\_\_\_\_  
Public hearing/second reading. \_\_\_\_\_

ADOPTED by a duly constituted quorum of the Council of The City of \_\_\_\_\_, Alaska, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
MAYOR

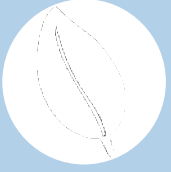
# Sample Non-Code Ordinances ...

ATTEST:

\_\_\_\_\_  
CITY CLERK



Scammon Bay, Commerce/DCRA



Hoonah, Commerce/DCRA



## SAMPLE LAND DOCUMENTS

This chapter presents sample land documents (deeds, leases, and an easement agreement) that could be used to convey land or an interest in land.

The reader should note that after the first sample quitclaim deed, the sample documents which follow correspond to and could be used as a follow-up to the non-code ordinances provided as examples #1 through #5 in Chapter Six of this handbook.

Following are descriptions of the land documents contained in this section:

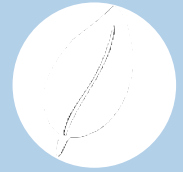
**Quitclaim deed:** This deed conveys whatever title a party has (if any) in real property to another party.

**Lease contract:** A lease is used to dispose of an interest in real property without transferring ownership of that property.

**Easement agreement:** An easement allows passage across real property without granting any other ownership rights in that property.

While many may request that the city provide a warranty deed or special warranty deed for a conveyance of land, it is recommended that the city issue only quitclaim deeds for such transfers. Many cities in rural Alaska do not have staff that have expertise in land title or land document preparation to determine if any interests besides the city's exist for a property. Unresolved, unrecorded or unknown land claims or interests in land frequently exist in rural Alaska communities. These interests may be superior claims than the city's interest in the land and may cause the city substantial liability if the city uses any warranty type transfer document. With a warranty deed the city guarantees that the

recipient or grantee of the deed has been provided with clear title and will as some documents are written "make the grantee whole" or cover any losses of the grantee should some land title problem arise. Better for the city to place the burden of title search on the grantee since the grantee is usually requesting the land from the city and may already have some sort of development budget from which to work from. A certificate to plat or a preliminary title report are both minimum "land title searches" that can be conducted by a title company prior to making the land transfer. In land transactions in urban Alaska these are nearly always conducted. The seller of the property often shares some of these expenses with the buyer and the buyer often (especially where financing is involved) obtains buyer's title insurance to protect against title defects that may arise. A danger that does exist for rural Alaska communities is that many of the land title policies are written so that the land title insurance does not cover certain land claims such as Native allotments, ANCSA 14(c) claims and unidentified easements such as RS 2477 and ANCSA 17(b). Because fewer land transfers occur in rural Alaska communities, the title companies do not specialize in these areas and tend to have numerous disclaimers if they do agree to do a title search. Unfortunately it is somewhat of a "buyers beware" market and those developers of land should conduct a certain level of research before acquiring and constructing. Additionally, the city should include with any transfer of land its own disclaimer that the transfer is subject to land transfers of record and valid existing rights.





“The following sample documents correspond to and could be used as a follow-up to the non-code ordinances provided as Examples 1-5 in Chapter Six of this handbook.”

QUITCLAIM DEED

THE GRANTOR, City of \_\_\_\_\_, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance \_\_\_\_\_ approved by the City Council on \_\_\_\_\_, 20\_\_\_\_, for the sum of \_\_\_\_\_ and other valuable consideration, conveys and quitclaims to \_\_\_\_\_, all interest which it has, if any, in the following described property:

This transfer is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date of transfer.

Date: CITY OF \_\_\_\_\_  
\_\_\_\_\_  
Mayor

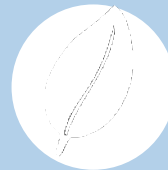
STATE OF ALASKA) \_\_\_\_\_ )ss  
\_\_\_\_\_) Judicial District. )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me the undersigned a Notary Public for the State of Alaska personally appeared \_\_\_\_\_ known to me to be the Mayor for the City of \_\_\_\_\_, and executed the foregoing document upon acknowledging that his act was duly authorized by ordinance of the City Council for the City of \_\_\_\_\_.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires: \_\_\_\_\_

*This sample deed was designed to be used with Example #1 from Chapter Six of this handbook for the disposal of municipal lands to settle claims of equitable interest on municipal lands.*



**QUITCLAIM DEED**

THE GRANTOR, City of \_\_\_\_\_, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance \_\_\_\_\_ approved by the City Council on \_\_\_\_\_, 20 \_\_\_\_, for the sum of \_\_\_\_\_ and other valuable consideration, conveys and quitclaims to the GRANTEE, \_\_\_\_\_ all interest which it has in the following described property:

In the event the property described herein is not used for residential purposes for a period of \_\_\_\_\_ years following the date on this deed, the title to this property and the improvements thereon shall revert to the City of \_\_\_\_\_ at the City's option.

This transfer is subject to all valid existing rights, including easements, rights-of-way, reservataions, or other interests in land, in existence on the date of transfer.

Dated: \_\_\_\_\_ CITY OF \_\_\_\_\_  
\_\_\_\_\_  
Mayor

STATE OF ALASKA    )  
                                  )ss  
\_\_\_\_\_,Judicial District. )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me the undersigned a Notary Public for the State of Alaska personally appeared \_\_\_\_\_ known to me to be the Mayor for the City of \_\_\_\_\_, and executed the foregoing document upon acknowledging that his act was duly authorized by ordinance of the City Council for the City of \_\_\_\_\_.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires: \_\_\_\_\_

# Sample Land Documents...

*This sample deed was designed to be used with Example #2 from Chapter Six of this handbook for the disposal of municipal land for residential development.*



## QUITCLAIM DEED

THE GRANTOR, City of \_\_\_\_\_, a municipal corporation in the State of Alaska, pursuant to authorization of Ordinance \_\_\_\_\_ approved by the City Council on \_\_\_\_\_, 20\_\_\_\_, for the sum of \_\_\_\_\_ and other valuable consideration, conveys and quitclaims to the GRANTEE, \_\_\_\_\_ all interest which it has in the following described property:

In the event the property described herein is not used for residential purposes for a period of \_\_\_\_\_ years following the date on this deed, the title to this property and the improvements thereon shall revert to the City of \_\_\_\_\_ at the City's option.

The GRANTEE shall build, within \_\_\_\_\_ years of the date of this deed, a dwelling of at least \_\_\_\_\_ square feet upon the real property described herein. Furthermore, the GRANTEE shall also live within this dwelling. If these conditions are not met, the title to this property and the improvements thereon shall revert to the City of \_\_\_\_\_.

This transfer is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date of transfer.

Dated: \_\_\_\_\_ CITY OF \_\_\_\_\_  
\_\_\_\_\_  
Mayor

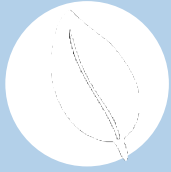
STATE OF ALASKA    )  
                                  )ss  
\_\_\_\_\_, Judicial District. )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me the undersigned a Notary Public for the State of Alaska personally appeared \_\_\_\_\_ known to me to be the Mayor for the City of \_\_\_\_\_, and executed the foregoing document upon acknowledging that his act was duly authorized by ordinance of the City Council for the City of \_\_\_\_\_.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_  
at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires: \_\_\_\_\_





**SAMPLE LEASE DOCUMENT  
LEASE CONTRACT**

THIS lease, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of \_\_\_\_\_, a municipal corporation, hereinafter referred to as "City" and \_\_\_\_\_, herein called "Lessee".

City for and in consideration of the rent specified to be paid by Lessee, and the covenants and agreements made by the Lessee, hereby leases the following described property:

To have and to hold unto said Lessee on the following terms and conditions:

**1. Term:** The terms of this lease shall be \_\_\_\_\_ years beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, except as otherwise provided herein.

**2. Rental:** Lessee agrees to pay City as rent for the above described property the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) upon execution of this lease, and \_\_\_\_\_ dollars (\$ \_\_\_\_\_) on the \_\_\_\_\_ day of each and every month until the termination of this lease, without delay, deduction or default.

**3. Purposes:** Said property shall be used for \_\_\_\_\_ and for no other purpose whatsoever without the written consent of City.

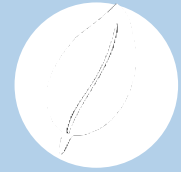
**4. Buildings and Improvement:** Lessee may, at Lessee's sole cost and expense, make such changes, alterations or improvements (including the construction of buildings) as may be necessary to fit said premises for such use, and all buildings, fixtures and improvements of every kind or nature whatever installed by Lessee, shall remain the property of Lessee, who may remove the same upon the termination of the lease, provided, that such removal shall be done in such a manner as not to injure or damage the property; and provided further that should lessee fail to remove said buildings, fixtures or improvements as above provided, City at its option may require Lessee to remove the same. In the event that said Lessee shall fail to remove said buildings, fixtures and improvements after receipt to notice from City, City may remove the same and dispose of the same as it sees fit, and Lessee agrees to sell, assign, transfer and set over to City all of Lessee's right, title and interest in and to said buildings, fixtures, improvements and any personal property not removed by Lessee, for the sum of one dollar (\$1.00) Lessee further agrees that should City remove said buildings, fixtures and improvements as above provided, that Lessee will pay City upon demand, the cost of such removal, plus the cost of transportation and disposition thereof.

**5. Taxes:** Lessee shall pay any taxes and assessments upon personal property, buildings, fixtures and improvements belonging to Lessee and located upon the property, and all leasehold and possessory interest, taxes levied or assessed by any property taxing authority.

**6. Repairs and Maintenance:** Lessee represents that Lessee has inspected and examined the property and accepts the property in its present conditions and agrees that City shall not be required to make any improvements or repairs whatsoever in or upon the property or any part thereof; Lessee agrees to make any and all improvements and repairs at Lessee's sole cost and expense, and agrees to keep said properties safe and in good order and condition at all times during the term hereof, and upon expiration of this lease, or any earlier termination thereof, the Lessee will quit and surrender possession of said premise as quietly and peaceably and in good order and condition as the same was at the commencement of this lease, reasonable wear, tear and damage by the elements excepted; Lessee further agrees to lease the property, free from all nuisance and dangerous and defective conditions.

**7. Assignment and Mortgage:** Neither the property nor any portion thereof shall be sublet, nor shall this lease, or any interest therein, be assigned, or mortgaged by Lessee, and any attempted assignment, subletting, or mortgaging shall be of no force or effect, and shall confer no rights upon any assignee, sublessee, mortgagee or pledgee.

In the event that Lessee shall become incompetent, bankrupt, or insolvent, or should a guardian, trustee, or receiver be appointed to administer Lessee's business affairs,



neither this lease nor any interest herein shall become an asset of such guardian, trustee or receiver, and in the event of the appointment of any such guardian, trustee, or receiver this lease shall immediately terminate and end.

**8. Liability:** Lessee shall save City harmless from any loss, cost or damage that may arise out of or in connection with this lease or the use of the property by Lessee, or his agents, or employees, or any other person using the property; Lessee agrees to deliver to City upon the execution of this lease, two executed copies of a continuing public liability and property damage insurance policy, satisfactory to City, indemnifying and holding City harmless against any and all claims, in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for injury to anyone person, and \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for property damage, and shall keep the same in force during the term of this lease;

**9. Denial of Warranty Concerning Title or Conditions:** The Lessor makes no specific warranties, expressed or implied, concerning the title or condition of the land, including survey, access, or suitability for any use, including those uses authorized by this lease. The Lessee leases the land subject to any and all valid existing rights, covenants, terms, and conditions affecting the Lessor's title to the land in existence on the effective date of this lease.

**10. Mechanics Liens:** Lessee agrees that at least five (5) days before any construction work, labor or materials are done, used or expended by Lessee or on Lessee's behalf by any person, firm or corporation by any contractor, that Lessee will post and record, or cause to be posted and recorded as provided by law a notice of nonresponsibility on behalf of City, giving notice that City is not responsible for any work, labor or materials used or expended or to be used or expended on the property.

**11. Termination by City:** City may terminate this lease at any time if it should be determined by its City Council that public necessity and convenience requires it to do so, by serving upon Lessee in the manner herein provided a written notice of its election to so terminate, which notice shall be served at least \_\_\_\_\_ (\_\_\_\_) days prior to the date in said notice for such termination.

**12. Default:** In the event that Lessee shall be in default of any rent or in the performance of any of the terms or conditions herein agreed to be kept and performed by Lessee, then in that event, City may terminate and end this lease, forthwith, and City may enter upon said premises and remove all persons and property therefrom, and Lessee shall not be entitled to any money paid hereunder or any part thereof; in the event City shall bring a legal action to enforce any of the terms hereof or to obtain possession of the property by reason of any default of Lessee, or otherwise, Lessee agrees to pay City all costs of such action, including attorney's fees plus the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

**13. Holding Over:** In the event that Lessee shall hold over and remain in possession of the property with the written consent of the City Council such holding over shall be deemed to be from month to month only, and upon all of the same rents, terms, covenants and conditions as contained herein.

**14. Notices:** Any notices which are required hereunder or which either City or Lessee may desire to service upon the other, shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage prepaid, return receipt requested, addressed to Lessee at \_\_\_\_\_ or addressed to City at \_\_\_\_\_, \_\_\_\_\_ AK \_\_\_\_\_ attention Mayor.

**15. Advance Rental:** City acknowledges receipt of the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), which shall be credited by City to the last month's installment of rent to become due hereunder.

**16. Waiver:** Waiver by City of any default in performance by Lessee of any of the terms, covenants, or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

**17. Compliance With Laws:** Lessee agrees to comply with all laws, ordinances, rules and regulations which may pertain or apply to the property or the use thereof.

**18. City May Enter:** Lessee agrees that City, its agents or employees, may enter upon the property at any time during the term or any extension hereof for the purposes of inspection, digging test holes, making surveys, taking measurements, and doing similar work necessary for the preparation of plans for the construction of buildings or



"An easement allows passage across real property without granting any other ownership rights to that property."

improvements on said premises, with the understanding that said work will be performed in such a manner as to cause minimal interference with the use of the property by Lessee.

**19. Successors In Interest:** All of the terms, covenants and conditions contained herein shall continue, and bind all successors in interest of Lessee herein.

**20. Authority:** This lease is entered into by the City pursuant to authority granted by Ordinance \_\_\_\_\_ passed and approved by the City Council of \_\_\_\_\_ on \_\_\_\_\_.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

CITY OF LESSEE:

\_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
ADDRESS:  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF ALASKA )  
 )  
 )ss  
\_\_\_\_\_Judicial District. )

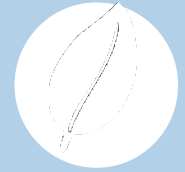
On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me the undersigned Notary Public, personally appeared \_\_\_\_\_ known to me to be the individual described in and who executed the foregoing instruments for the CITY OF \_\_\_\_\_ as Mayor, and acknowledged to me that s/he understood the contents of the instrument, was duly authorized to sign the instrument and did sign the instrument as a free and voluntary act for the uses and purposes therein described.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ at \_\_\_\_\_, Alaska.

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA

My Commission Expires: \_\_\_\_\_





**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of \_\_\_\_\_, (hereinafter called "Grantor"), and \_\_\_\_\_, (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantee desires the use of the property of Grantor as an Easement including the right to construct, operate and maintain \_\_\_\_\_; and

WHEREAS, in consideration of \_\_\_\_\_ (\$ .00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor is willing to enter into an easement agreement for the use of the property subject to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Grantor hereby grants Grantee an easement to use the following described property:  
  
(See attached property plan Appendix A)  
  
The legal description may change to conform to a survey or surveys.
2. This Easement Agreement grants the right to construct, operate and maintain a \_\_\_\_\_ (hereinafter "Improvements") within the above described property. Grantee agrees to assume sole responsibility for the construction, operation and maintenance of said Improvements within the property. Grantee agrees to repair any damage to Grantor's property or Improvements occurring from Grantee's construction, operation or maintenance of said Improvements.
3. Only such rights are granted hereby as are necessary for construction, operation and maintenance of the Improvements. Grantor reserves the right to use the property in any manner and for any purpose not inconsistent with the aforesaid purpose and to relocate the Improvements at its sole cost and expense, if further development warrants such action.
4. Grantee agrees to defend, indemnify and hold harmless Grantor, its officers, agents and employees, from and against all claims, demands, judgments, costs and expenses (including reasonable attorney's fees) which may arise by reason of injury to any person or damage to any property attributable to the negligence of Grantee, Grantee's officers, agents and employees, in connection with Grantee's construction, operation and maintenance of said Improvements and its use of or presence on the property.
5. This Easement Agreement shall automatically cease upon abandonment, herein defined as nonuse for any six (6) consecutive months, and all interests granted herein shall revert to grantor, or its successor, upon such abandonment.
6. All notices referred to in the Easement Agreement shall be sent to the respective parties at the address stated below:



GRANTEE

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

GRANTOR

City of \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

7. The rights granted to and duties assumed by Grantee under this Easement Agreement may not be assigned or delegated by Grantee without the prior written consent of Grantor. Any attempted assignment or delegation by Grantee without the prior written consent of the Grantor shall be void.
8. This Easement Agreement may be amended from time to time, as may be necessary, by mutual consent of both parties; provided, however, that no amendment to the Easement Agreement shall be effective unless in writing and signed by both parties.
9. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.
10. Both parties represent and warrant that they have the authority to execute this Easement Agreement.

This transfer is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land, in existence on the date of transfer.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement to be effective on the day and year first above written.

GRANTEE

\_\_\_\_\_  
 \_\_\_\_\_

GRANTOR

\_\_\_\_\_  
 Mayor  
 \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment  
 Appendix A: Property Plan

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 )ss  
 \_\_\_\_\_ JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, in and for the State of Alaska, duly commissioned and sworn as such, personally appeared \_\_\_\_\_, known to me to be the Mayor for the City of \_\_\_\_\_, and who acknowledged to me that he executed the within Easement Agreement upon acknowledging that his act was duly authorized by ordinance of the City Council for the City of \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public (or U.S. Postmaster)  
 in and for the State of Alaska

My Commission Expires: \_\_\_\_\_

# SAMPLE ORDINANCES AND FOLLOW-UP PROCEDURES FOR COMPETITIVE LAND DISPOSALS

This chapter presents sample ordinances and procedures for each of the three competitive types of disposals (lottery, sealed bid, and outcry auction) that are outlined within the model code ordinance of Chapter Four.



The three competitive types of disposals discussed in this chapter are summarized as follows:

## 1. Land Disposal by Lottery, Bristol Bay Borough (1983) (Pages 69 – 75)

In this example, the Bristol Bay Borough received land from the State of Alaska. The Borough then subdivided the land and desired to dispose of the lots by lottery. To do this, the Borough outlined the purpose and detailed procedures of the lottery within the Borough's Code of Ordinances. This ordinance (codified) and a brochure regarding the disposal is included in this chapter.

## 2. Land Disposal by Sealed Bid, Fairbanks North Star Borough

(1987) (Pages 76 – 115)

A useful guide for municipalities who wish to

dispose of lands by sealed bid auction, this example includes:

- A non-code ordinance which authorizes the disposal of specific lands by sealed bid
- An internal Borough memorandum which outlines detailed procedures for conducting the sealed bid auction; and
- A sale brochure which provides information about the various lands being disposed of and sealed bid procedures.

## 3. Land Disposal by Outcry Auction, City of Petersburg (1983) (Pages 116 – 122)

This example includes:

- A copy of the code ordinance provision authorizing disposal of lands by auction
- A copy of the staff memo recommending the lands to be disposed of
- The notice containing the auction procedures, and
- The non-code ordinance authorizing the sale of auctioned lands.



## Example 1: Land Disposal by Lottery

### EXAMPLE 1:

#### Land Disposal by Lottery, Bristol Bay Borough (1983)

In this sample, the Bristol Bay Borough received land from the State of Alaska. The borough then subdivided the land and desired to dispose of the lots by lottery. To do this, the Borough outlined the purpose and detailed procedures of the lottery within the borough's code of ordinances. This ordinance (codified) and a brochure regarding the disposal is included in this section.

Note that the borough did not first pass a code ordinance outlining general authority and procedures for land acquisition and disposal before going ahead with a non-code ordinance for the specific disposal. The borough instead chose to include everything about this specific disposal in their codified ordinance.





*Bristol Bay Borough*

BOX 189 • NAKNEK, ALASKA 99633

JIM D. CLARK  
MAYOR

**ORDINANCE NO. 83-11**

TELEPHONE  
(907) 246-4224

AN ORDINANCE PROVIDING FOR THE DISPOSAL OF LAND BY LOTTERY AND SETTING FORM THE SALE PROCEDURES, DISCOUNT PROGRAM, RESIDENCE REQUIREMENTS, FILING FEES, OVER-THE-COUNTER SALES.

WHEREAS, the Bristol Bay Borough has pursuant to A.S. 29.18.201 received a patent from the State of Alaska to land located within the Borough as the Borough's general grant land entitlement, and

WHEREAS, a portion of the land described as Naknek River Subdivision has been subdivided into 108 lots, and

WHEREAS, the Bristol Bay Borough desires to make available to qualified persons the opportunity by lottery to purchase lots located within the Naknek River Subdivision, and

WHEREAS, the Borough desires to encourage persons to acquire residential property and to construct single and multi-family residences thereon and to encourage persons to reside in the Borough, and

WHEREAS, the offering of said lots for sale by lottery will make improved residential land available for said purposes, and

WHEREAS, the cost of conducting the lottery should be defrayed by charging an application fee.

BE IT ORDAINED BY THE ASSEMBLY OF THE BRISTOL BAY BOROUGH, ALASKA

Section 1. Ordinance Nos. 81-10, 83-2 and 83-3 are hereby repealed.

Section 2. There is hereby added to the municipal code of the Bristol Bay Borough Chapter 18.08, which is to read as follows:

18.08.010 Disposal of land by lottery. The Bristol Bay Borough may dispose of the following-described real property by lottery: Naknek River Subdivision, consisting of 108 lots, located in the Kvichak Recording District, Third Judicial District, State of Alaska.

18.08.020 Purchase price. The purchase price of each lot shall be the Bristol Bay Borough's assessed valuation therefore as determined by the Borough Assessor, plus closing costs.



Example 1:  
Land Disposal by  
Lottery

Note that the borough did not first pass a code ordinance outlining general authority and procedures for land acquisition and disposal before going ahead with a non-code ordinance for the specific disposal. The borough instead chose to include everything about this specific disposal in their codified ordinance.



## Example 1: Land Disposal by Lottery

ORD. NO. 83-114  
PAGE TWO

### 18.08.030 Qualifications to participate in lottery.

(a) To qualify to participate in the lottery, an applicant shall :

- (1) at the time of application be an individual having attained the age of eighteen (18) years;
- ( 2 ) be a resident of the State of Alaska for thirty (30) days immediately preceding the lottery;
- (3) not be a corporation, partnership or joint venture;
- (4) pay a non-refundable application fee of TEN DOLLARS (\$10) for each application, up to a maximum of fifteen (15) applications, but may file no more than one (1) application per lot; and
- (5) certify that the applicant is qualified under the provisions of this section.

(b) If an applicant files more than fifteen applications, then all applications by said applicant shall be null and void, and the applicant shall not be entitled to purchase a lot by lottery.

(c) Employees of the Bristol Bay Borough, members of the Assembly, and their families, if otherwise qualified, are eligible to participate in the lottery.

### 18.08 -040 Lottery Procedures.

(a) The Borough Manager shall accept applications to purchase particular lots upon the following procedures and conditions:

- (1) The application period may not be less than thirty (30) days.
- (2) No application may be accepted less than fifteen (15) days before the lottery.
- (3) Notice of the application period and the date of the lottery shall be given by posting notice in three (3) places within the Borough. Such notices shall be posted not fewer than forty-five (45) days prior to the date of the lottery.
- (4) The application shall be made on a form provided by the Borough.
- (5) The Assembly shall determine the number of and which lots to be included in the lottery.

(b) If only one application for a lot is received, the Borough Manager shall offer the lot to the applicant who applied for the lot, if the applicant is qualified to participate in the lottery. If more than one application is received for a lot, the applicant who is entitled to purchase the lot shall be determined by lottery. If the

ORD. NO. 83-11  
PAGE THREE

Borough Manager does not receive an application for a lot included in the lottery, or if the purchaser fails to sign a contract of sale, the lot may be disposed of under the terms of section 18.08.060.

(c) The lottery shall be conducted in public by the Borough Auditors or their representative.

(d) An aggrieved lottery participant may appeal to the Bristol Bay Borough Assembly within ten (10) days after the lottery is conducted for a review of the lottery procedures. The decision of the Assembly is final.

18.08.050 Terms of sale. The terms of sale are as follows:

(a) Five percent (5%) of the purchase price to be paid at closing;

(b) the balance shall be evidenced by a promissory note secured by a Deed of Trust in the lot, to be paid in equal monthly, quarterly or annual installments over a period of not more than twenty (20) years, including interest at the rate of six points below National Bank of Alaska's prime rate (and published as such at the date notice of the lottery is posted; provided that in any event the interest rate shall be not less than five percent (5%) nor higher than ten percent (10%)).

18.08.060 Over-the-counter sales. Lots which are offered by lottery and are not awarded during or prior to the lottery or which have been relinquished will be available over the counter to persons qualified to have participated in the immediately preceding lottery under the same terms and conditions as for lots purchased at lottery. The over-the-counter sales will be available at the Borough Office on a first-come, first-serve basis from 8:30 a.m. to 4:00 p.m. on the thirtieth (30th) business day after the lottery and for a period of three (3) months thereafter.

18.08.070 Relinquishment. Successful applicants shall give notice in writing to the Borough Manager of their relinquishment of their right to purchase, the notice to be received prior to the purchaser's executing the sale documents.

A person who so relinquishes becomes eligible to apply for another lot over the counter or in a subsequent lottery. A person who relinquishes or defaults after execution of the sale documents is not eligible to obtain another lot from the Bristol Bay Borough.

18.08.080 Limitations/restraints.

(a) No person may by lottery or over the counter acquire more than one (1) lot in Naknek River Subdivision.

(b) No lot may be sold, transferred or conveyed for a period of ten (10) years after the date of sale and such sale, transfer or conveyance shall be void except as follows:

(1) by devise or descent;

(2) by a bona fide foreclosure (in which event the restraint on alienation shall become void as to said lot);



## Example 1: Land Disposal by Lottery



## Example 1: Land Disposal by Lottery

ORD. NO, 83-11  
PAGE FOUR

(3) between immediate family, defined as first degree of kinship;

(4) if the lot is free and clear of any balance of the purchase price or lien due the Borough.

(c) A purchaser shall not be or become ineligible to acquire a lot by lottery over the counter if the purchaser shall become an owner of another lot pursuant to subsection (b).

18.08.090 No warranty implied. By selling land the Bristol Bay Borough does not give nor imply any warranty as to the land's fitness, use, or suitability, or whether public utilities or service will be provided. It shall be the responsibility of the applicant purchaser to determine whether the land will meet his needs.

18.08.100 Title search. Prior to the lottery, the Borough Manager shall obtain a title report for the property from a land title company.

18.08.110 Lottery drawing order. The order of drawing will be determined by the number of applications received, with the drawing for one lot which the most applications were received being held first. Each lot will be awarded to the first qualified applicant whose name is drawn, and who has not yet been awarded a lot. Once an applicant has been awarded a lot, all other applications by that person shall be disregarded. Successful applicants may trade their awarded lots with other successful applicants for a period of fourteen (14) days immediately following the lottery drawing.

18.08.120 Lottery cancellation. The Borough Manager may cancel, postpone or delay any lottery.

18.08.130 Discount for construction - after occupied for one (1) year. A purchaser shall be eligible for a discount equal to thirty percent (30%) of the purchase price if within five (5) years of the date of sale (defined as the date of the deed) the purchaser, or his successors in interest (as permitted by 18.08.080 (b)), complete to Bristol Bay Borough requirements and Naknek River Subdivision covenants, conditions and restrictions, a single or multi-family residence of at least 1,000 square feet of living space (excluding garage) on the lot and thereafter reside in the residence for one (1) continuous year. The discount shall be applied or paid, if at all, to the record owner at the time the discount is applied for unless the application is rejected. The discount will not be allowed unless the purchaser shall make application for the discount after completion of the residence and continuous occupancy of the residence for a minimum of one (1) year, and not later than six (6) years after the date of sale. If the discount is allowed, it shall be applied as follows:

(a) The amount of the discount shall be deducted from the remaining principal balance of the promissory note. Remaining periodic payments are not excused.

(b) If the discount or any portion thereof exceeds the remaining principal balance of the promissory note, the discount or excessive portion thereof shall be refunded to the purchaser.





Example 1:  
Land Disposal by  
Lottery

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(c) If a purchaser does not timely apply for the discount, the discount is waived.  
18.08.140 Excused periods of absence for discount. The following are excused periods of absence under section 18.08.130 in determining the one (1) year continuous occupancy after construction of the residence;

- (a) military service;
- (b) college or trade school;
- (c) medical illness not to exceed 180 days;
- (d) other absence from the residence for a period not to exceed 90 days;

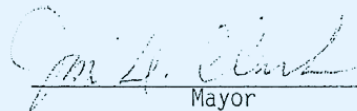
If a purchaser does not timely apply for a discount, the discount is waived.

18.08.150 Severability Any provision of this chapter determined to be invalid, void or illegal shall in no way affect, impair nor invalidate any other provision hereof, and such other provisions shall remain in full force and effect,

Introduction and First Reading August 18, 1983.

Public Hearing and Second Reading September 19, 1983.

Adopted by the Assembly of the Bristol Bay Borough,  
Alaska, this 19th day of September, 1983.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Borough Clerk

## QUESTIONS AND ANSWERS

- Q. Can more than one member of a family submit an application for a lot?
- A. Yes, providing each member meets the basic requirements, and is at least 18 years old.
- Q. What happens if my name is not chosen?
- A. You have the opportunity to purchase unselected lots over the counter after the lottery.
- Q. How do I qualify for discounts?
- A. Residential and multi family structures may receive up to a 30% discount by building a residence within 5 years after the lottery.
- Q. Can lots be traded?
- A. Yes, successful applicants may trade with other successful applicants for 14 days after lottery selection.
- Q. Does the subdivision have restrictive covenants and restrictions?
- A. Yes, the covenants and restrictions are available at the borough office.
- Q. Can I draw and keep more than one lot?
- A. No, only one lot per person.



BRISTOL BAY BOROUGH  
BOX 189  
Naknek, Alaska 99633

Announcing  
NAKNEK RIVER SUBDIVISION  
LAND LOTTERY

## LAND LOTTERY NAKNEK RIVER SUBDIVISION

OVERLOOKING THE NAKNEK RIVER  
AND THE KATMAI NATL. PARK

### SCHEDULE

**APPLICATION PERIOD:** Applications will be available and accepted from October 12, 1983 to November 11, 1983 Mon. - Fri. 8 a.m. - 4:30 p.m. at the Borough Offices.

**LOTTERY:** November 26, 1983

**LOCATION:** Borough Building

**TIME:** 3 p.m.

**CLOSING:** November 27, 1983 to December 27, 1983

**OVER THE COUNTER:** December 27, 1983 to April 1, 1983

**FOR MORE INFORMATION, CONTACT:**  
BRISTOL BAY BOROUGH  
P. O. BOX 189  
NAKNEK, ALASKA 99633  
(907) 246-4224



## Example 1: Land Disposal by Lottery



## Example 1: Land Disposal by Lottery

### SOME QUICK FACTS

NAKNEK RIVER SUBDIVISION LOCATION IS LOCATED AT MILE 7.5 OF THE NAKNEK-KING SALMON HIGHWAY.

86 LOTS TO BE SOLD

SIZE OF LOTS RANGE FROM 2 ACRE LOTS TO APPROXIMATELY 7 ACRE LOTS.

QUALIFICATIONS:

18 years of age at the time of application.

Be a resident of the state of Alaska for thirty days preceding filing of applications.

FEES:

Each application must have a non-refundable fee of \$10.00. Maximum of 15 applications per person.

TERMS:

5% down payment, balance in pre-arranged monthly, quarterly or annual payments.

INTEREST:

6 points below prime interest rate at the time of sale or not less than 5%, not more than 10%.

DISCOUNTS:

Discounts up 30% can be awarded for timely construction.

ROADS:

Each lot for sale is accessible by an improved gravel road.

WATER & SEWER DISPOSAL:

All lots are sized to accommodate individual wells and sewage disposal systems.

ELECTRICITY:

Power lines will be to all of the lots sold by the spring of 1984.

### NAKNEK RIVER SUBDIVISION



NOTE: Lots excluded from this sale:

- Block 3 Lots 7 through 20
- Block 5 Lots 1 through 4
- Block 4 Lots 7 through 11
- Block 11 Lots 1 and 2



### Example 2: Land Disposal by Sealed Bid

#### EXAMPLE 2:

##### Land Disposal by Sealed Bid, Fairbanks North Star Borough (1987)

This example includes:

- a non-code ordinance which authorizes the disposal of specific lands by sealed bid
- an internal borough memorandum which outlines detailed procedures for conducting the sealed bid auction; and
- a sale brochure which provides information about the various lands being disposed of and sealed bid procedures.

Two important points to note about these sample documents:

1. The non-code ordinance doesn't contain a finding that the lands being disposed of are no longer necessary for municipal purposes or a description of the value of the property to be disposed (this second item is contained in the sale brochure). If the DCRA model code ordinance is used, note that these two items are required to be included in the non-code ordinance for specific disposal.
2. The sale brochure has a section regarding disclaimer clauses (page 6) and other required reading for participants (e.g., site inspection, utilities, trails and easements, etc.) on pages 8-11.

This information should be a useful guide for other municipalities who wish to dispose of lands by sealed bid auction.



## Example 2: Land Disposal by Sealed Bid

### ORDINANCE NO. 87

#### AN ORDINANCE PROVIDING FOR THE SALE OF CERTAIN BOROUGH LAND SETTING THE DATE OF SALE AND PRESCRIBING TERMS.

BE IT ORDAINED, by the assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. The following described parcels of Borough land shall be offered for sale at a public sealed bid auction:

PARCEL NAME	# LOTS
All lots in Skylight Heights Subdivision, First Addition	39
Grieme Road Agricultural Project, Lots 1, 2, 3	3
U.S.S. 3148, Lots 149, 150, 163	3
U.S.S. 3210, Lots 53, 62	2
U.S.S. 3213, Lot 131	1
Hamilton Acres Subdivision, Lot 3, Block 18	1
Fairmeadow Estates Subdivision, Lot 3, Block 2	1

Section 3. Sealed bids shall be received by the Land Management Department beginning Monday, August 31, 1987. Bids will be opened in public beginning at 10:00 a.m. Saturday, September 12, 1987. All bids will be opened at the Borough Assembly Chambers, Fairbanks North Star Borough Administrative Center, 809 Pioneer Road, Fairbanks, Alaska. Sale brochures and bid packets will be available at the Fairbanks North Star Borough, Department of Land Management, 809 Pioneer Road, Fairbanks, Alaska, beginning Monday, August 17, 1987.

Section 4. Each bid must be accompanied by a bid fee of \$25.00. Down payments will be due at the time the real estate purchase agreement is signed.

Section 5. The minimum acceptable bid shall be eight-five percent (85%) of the appraised value.

Section 6. All sales shall be on the following basis:

a. The terms of the sale shall be eight i) or ii) below, at the option of the purchaser:



### Example 2: Land Disposal by Sealed Bid

- i. the purchaser shall make a down payment of five percent (5%) of the purchase price. The balance due shall be paid in equal monthly installments according to an amortization schedule based on ten percent (10%) compound interest, for a period of ten (10) years. Parcels in the Grieme Road Agricultural Project shall have a payoff period of twenty (20) years.
  - ii. The purchaser shall make a down payment of five percent (5%) of the purchase price. A discount of ten percent (10%) off the purchase price will be given for full payment of the purchase price minus the discount by 5:00 p.m. Wednesday September 16, 1987. If such payment in full is not timely received, the purchaser shall pay in accordance with option (i) above. If payment is timely received, a quitclaim deed shall be executed in accordance with section (6.d) below.
- b. Payment of unpaid balances may be accelerated at the option of the purchaser without penalty.
- c. The highest responsive bidder shall:
- i) Execute a real estate purchase agreement: and
  - ii) Pay in full in accordance with 6.a.ii (above), or execute a promissory note and deed of trust.
- d. After the payment in full has been received, the Borough Administration shall execute a quitclaim deed in favor of the highest responsive bidder.
- e. Any United States citizen or resident alien, eighteen (18) years of age or older, is eligible to participate in this sale.
- e. The following persons may not participate in Fairbanks North Star Borough land sales either in their spouse, dependent child, or solely-owned or family-owned business:
1. a. Borough Mayor
  - b. Borough Administrative Director
  - c. Director, Department of Land Management

Section 7. The Director of the Department of Land Management shall have the authority to publish such auction procedures as she shall deem advisable. All bidders must comply with said procedures to be considered responsive bidders. The director of the Department of Land Management shall have sole discretion to determine if a bidder has complied with bid or auction procedures.

Section 8. Effective Date. This ordinance shall be effective on the day after its adoption.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Assembly



## Example 2: Land Disposal by Sealed Bid



## Example 2: Land Disposal by Sealed Bid

### ★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907 452-4761

#### M E M O R A N D U M

TO: 1987 Land Sale Workers  
FROM: Doug Braddock, Land Management Planner  
DATE: August 25, 1987  
SUBJ: 1987 LAND SALE PROCEDURES

Attached is a set of procedures for the 1987 Sealed Bid Land Auction to be conducted on Saturday, September 12, 1987 beginning at 10:00 a.m. On the last page of the procedures you'll notice that I have tentatively assigned everyone jobs based on similar tasks they have accomplished at land sales in the past. If you would like a different job, please let me know and we'll try to arrange a trade.

I have also attached an information sheet titled, "*Receiving Sealed Bids*". Note that we are collecting a **\$25.00 fee for each bid submitted.**

Please read both of these papers carefully as many of the procedures have changed from previous years. As a result of these changes, it is important that we stage a realistic mock-up of the sale to ensure that all loopholes in the procedures have been plugged. This "dummy sale" is scheduled for after our staff meeting on **Wednesday, September 2, 1987.** Please let me know if this time is convenient for you. We will discuss the procedures in detail at the dummy sale to make sure all of your questions about the sale are answered.

attachments

DB



## LAND SALE PROCEDURES

Sealed Bid Auction  
September 12, 1987

Borough Assembly Chambers

## SALE SCHEDULE

9:00 a.m.	Transfer bid envelopes to Assembly Chambers.
10:00 a.m.	Sale begins.
1:00 p.m.	Sale ends. Transfer bid envelopes to storage.



## Example 2: Land Disposal by Sealed Bid



## Example 2: Land Disposal by Sealed Bid

### 1987 Sealed Bid Land Auction

#### PROCEDURES FOR LAND SALE CUSTOMERS

#### RECEIVING SEALED BIDS

The Department of Land Management will be receiving only hand-delivered sealed bids for the September 12, 1987 Land Sale. These sealed bids will be received in our office from 8:00 a.m. August 31, 1987 until 5:00 p.m. September 8, 1987.

In a sale of this type, it is very important to ensure that all customers are treated in a consistent manner. Therefore, the person receiving bids should follow these steps:

1. Review the sale procedure with the bidder. Make sure the bidder understands the modified sale procedures. In particular, emphasize the fact that the bidder can bid on as many parcels as desired but stands to lose \$25.00 on each unsuccessful bid.
2. At least one large envelope will be delivered to you by the person submitting the bid. This is the delivery envelope.
3. Open this envelope. It should contain a smaller envelope, a Bidder Application Form, and a completed power-of-attorney form (if necessary). This smaller envelope is the SEALED BID ENVELOPE and SHOULD NOT BE OPENED.

Once the sealed bid envelope and the forms are removed from the large envelope, the large mailing envelope can be discarded.

4. Stamp the date and time received in the lower left corner of the sealed bid envelope. Remember, DO NOT OPEN this envelope. Initial the date and time on the envelope.  
  
Make two photocopies of the Bidder Application Form and
  - A. File one photocopy in the Bidder Application File located in Barbara Powell's office;
  - B. Give one photocopy to the bidder;
  - C. Attach the original to the sealed bid envelope with a spring clip.
5. Collect the \$25.00 bid fee for each bid submitted. Give each bidder a standard borough receipt for the money collected.
6. If the bidder has had problems with large unpaid bills or delinquent taxes, remind he/she to call us on Thursday, September 10, 1987 to verify that the bidder is eligible for the sale.
7. Update 'BIDS RECEIVED' sheet on the counter.
8. Give the sealed bid envelope (with the attached Bidder Application Form copy) to Doug or Barbara.
9. Doug or Barbara will file the bid in the locking file drawer in Barbara's office.



## Example 2: Land Disposal by Sealed Bid

**NOTE:** The procedures for opening the sealed bids on the day of the sale is very different from that used at past sealed bid auctions. Please read the following procedures carefully to make sure you understand them. Ask Doug or Barb for clarification on any point that is unclear to you.

### SALE PROCEDURES

**WELCOME:** Announcer welcomes public to the land sale. See supplemental “Information for Announcer” instruction sheet.

**BID OPENING:** (Borough Assembly Chambers):

1. **Announcer** explains process of opening and announcing bids. (See “Information for Announcer” instruction sheet.)
2. **Announcer** opens all of the bids for all of the parcels. Recorder #1 writes the name of each bidder and the amount of each bid on the large bid tally sheet for each parcel. Recorder #2 writes the name of each bidder and amount of each bid on the small bid tally form for each parcel. As each bid tally sheet is completed, it is taped on the wall of the Assembly Chambers in the order of bid opening. This process continues uninterrupted until all of the bid envelopes for all of the parcels have been opened.
3. There will be a 20 minute pause at this point to allow the audience to inspect the bid tally sheets.

**PRIMARY SALE:** (Borough Assembly Chambers):

1. Beginning with the parcel with the most bids (if the parcels have the same number of bids, the priority will be determined alphabetically by subdivision name, block, lot), the **announcer** asks the highest bidder for the parcel whether he/she would like to purchase the parcel. If the high bidder does not want to purchase the parcel (or does not sign the real estate purchase agreement), the next highest bidder is given the opportunity to purchase the parcel. The **announcer** notifies the high bidder that a “second chance” to purchase the parcel will not be given unless all other bidders for the parcel decline to purchase it and the parcel is reoffered in the secondary sale. The runner will notify the **announcer** when the real estate purchase agreement is signed for each parcel.



### Example 2: Land Disposal by Sealed Bid

2. The procedure outlined in #1, above, will continue until all parcels with bids placed on them have been offered to the listed bidders.
3. When a high bidder is determined, the announcer will instruct the bidder to go to the HIGH BIDDERS TABLE in the Ester Room to sign the real estate purchase agreement.

#### SECONDARY SALE:

1. Parcels that are not sold in the primary sale because all bidders declined to accept them will be reoffered for sale in the secondary sale. For each parcel, the **announcer** will read the same list of bidders in the same order as in the primary sale using the same procedure outlined in #1, above. Parcels which had no bids originally placed on them will not be offered in the secondary sale.
2. When a high bidder is determined, the **announcer** will instruct the bidder to go to the HIGH BIDDERS TABLE to sign the real estate purchase agreement.

#### PROCEDURE FOR HIGH BIDDERS (High Bidders Table – Ester Room)

1. **Runner** delivers the high bid envelopes to the Purchase Agreement **Administrator I**. The **Purchase Agreement Administrator I**:
  - A. Explains the provisions of the purchase agreement to the purchaser;
  - B. Types the correct information onto the purchase agreement form;
2. Purchase Agreement Administrator II checks each purchase agreement as signed, and:
  - A. Schedules a closing date and time with the purchase and gives the bidder a Closing Appointment form showing the date and time of the closing;
  - B. Makes two photocopies of the original purchase agreement;
  - C. Gives one copy to the purchaser and places the other copy in the parcel file. The original should also go in the parcel file;
  - D. Notifies the Runner that the purchase agreement has been completed. The Runner then notifies the Announcer so that the audience can be informed.

## SALES STAFF

### ASSEMBLY CHAMBERS:

1 Announcer  
1 Filer  
2 Recorders

1 Runner

### WORKER

Don Bruce  
Barb Powell  
J. Grandfield,  
D. Braddock  
Karen Lidster

### HIGH BIDDERS' AREA:

1 Purchase Agreement Administrator I  
1 Purchase Agreement Administrator II

Ralph Malone  
Pat Weaver

### GENERAL:

1 Miscellaneous Helper

Nancy Albrittain-Jackson

### 8 STAFF MEMBERS NEEDED FOR SALE

-----

### SPECIFIC DUTIES BY POSITION:

1. Announcer: See separate "Information for Announcer" instruction sheet.
2. Filer: Keeps track of bids for each parcel as they are opened; helps announcer with all aspects of bid opening; assists announcer in notifying the audience when purchase agreements have been signed.
3. Recorder #1: As bids are opened, records bidder names and amounts on large bid tally sheets; when all bids for a parcel are opened, confers with Recorder #2 to determine the highest bidder; designates the high bid on the large bid tally sheet for each parcel; tapes the bid tally sheet for each parcel on the wall of the Assembly Chambers.
4. Recorder #2: As bids are opened, records bidder names and amounts on small bid tally forms; when all bids for a parcel are opened, confers with Recorder #1 to determine the highest bidder; designates the high bid on each bid tally form; assists Recorder #1 in taping the bid tally sheets on the wall of the Assembly Chambers.



## Example 2: Land Disposal by Sealed Bid



### Example 2: Land Disposal by Sealed Bid

5. Runner: Moves the high bid information from the announcer to the High Bid Table in the Ester Room; informs the announcer when the purchase agreement has been signed for each parcel.
6. Purchase Agreement Administrators I and II: Administers the real estate purchase agreement to each high bidder; schedules a closing date and time for each high bidder; answers any questions the high bidders have about the closing procedure.
7. Miscellaneous Helper: Fills in where needed; answers questions; assists the runner during busy times.

## *1987 Sealed Bid Land Auction*

### INFORMATION FOR ANNOUNCER

This sheet should answer any questions you might have on minimum bid requirements and difference between successful and unsuccessful bidders. You will have to make sure that each bid meets the minimum criteria for bid submittal and be able to identify the successful bidder.

#### GENERAL INFORMATION:

The announcer is the staff worker mainly responsible for conducting the auction. Because the sale procedure is very different this year, the announcer will undoubtedly receive many questions from the audience regarding the procedure to be used. At the beginning of the auction explain the following (this script is only a suggestion; however, all of the points contained in the script should be mentioned in the introductory explanation):

“There will be three parts to this auction: (1) the bid opening; (2) the primary sale, and (3) the secondary sale. Please listen carefully while I briefly explain each part.

“In just a moment we will open all of the bids for all of the parcels at once and place them on large sheets of paper. These sheets of paper will be placed around the Assembly Chambers where you can see them. We will then give you about 20 minutes to look over the results of the bidding.

“In the primary sale the highest bidder for each parcel will be asked whether he or she would like to purchase the parcel. If not, the next highest bidder will be asked the same question, and so on until the parcel is accepted. Once you decide you do not want the parcel you cannot change your mind unless the parcel is not purchased by any other person that has bid on it. We will start with the parcel having the most bids on it and progress to that having the least number of bids on it. If the parcels have the same number of bids, the priority will be determined alphabetically by subdivision name, block, lot. Each bidder that wants to purchase a parcel will be instructed to go to the High Bidders Table to sign a real estate purchase agreement and schedule a closing.

“Parcels that received bids but did not get sold in the primary sale will be reoffered in the secondary sale. I will proceed in the same order as in the primary sale. This will give you a second chance to purchase a parcel you may not have accepted in the primary sale.



## Example 2: Land Disposal by Sealed Bid



### Example 2: Land Disposal by Sealed Bid

“You may ask yourself, ‘Why does this sound so complicated? What are the advantages?’ The main reason we have adopted this procedure is to give you more flexibility at this sale. Because you do not risk losing a down payment, you can bid on many lots with the idea of increasing your chances of getting the parcel that you want. You can choose not to purchase a parcel on which you are the highest bidder without fear of losing your down payment. You stand to lose only the \$25.00 bid fee. The secondary sale allows you a second chance to purchase a parcel you might have chosen not to accept the first time around.

“Does anyone have any questions before we begin?”

#### MINIMUM BID REQUIREMENTS:

1. The amount of the bid must equal at least 85% of the appraised value for the parcel.
2. A bidder or an agent with power-of-attorney must be present at the sale in order to purchase a parcel. When a high bidder has been identified, verify that the bidder is in the audience. If the bidder is not present, the parcel is offered to the next highest bidder. Ask the highest bidder whether he/she would like to purchase the parcel. If the bidder would like to purchase the parcel, instruct him/her to proceed to the HIGH BIDDERS TABLE. If the bidder does not want to purchase the parcel, ask the next highest bidder. Continue this procedure until the parcel is accepted. If all bidders decline to purchase a parcel, it will be reoffered in the secondary sale.

#### SUCCESSFUL BIDDERS:

A successful bidder is one who meets the minimum bid requirements, submitted the highest bid for a parcel, wants to purchase the parcel, and is present at the sale. In the case of a tie bid, the bid submitted to the Department of Land Management earliest will be the successful bid. Each bid envelope is marked with the date and time of submittal.



## THINGS TO ANNOUNCE:

Announce the following at the beginning of the sale and periodically throughout the sale:

1. Warn the audience that all low bidders for a parcel should remain in the audience until you indicate that the purchase agreement for the parcel has been signed. Mention that the secondary sale will allow bidders a “second chance” to purchase a parcel.
2. Minimum bid requirements (see above).
3. Definition of a successful bidder (see above).
4. Warn the audience that all persons who sign a purchase agreement **MUST** be at the scheduled closing meeting that they will arrange at the time the purchase agreement is signed.
5. Announce that the OTC Sale will resume on Monday, September 14, 1987 in the office of the Department of Land Management.



## Example 2: Land Disposal by Sealed Bid



## Example 2: Land Disposal by Sealed Bid

### 1987 SEALED BID LAND SALE

#### BID TALLY SHEET

LOT/PARCEL				NUMBER OF BIDS	
FAIRMEADOW ESTATES	BLK	02	LOT:	3	
GRIEME ROAD	BLK		LOT	1	
GRIEME ROAD	BLK		LOT	2	
GRIEME ROAD	BLK		LOT	3	
HAMILTON ACRES	BLK	18	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	1	
SKYLIGHT HEIGHTS	BLK	01	LOT	2	
SKYLIGHT HEIGHTS	BLK	01	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	4	
SKYLIGHT HEIGHTS	BLK	01	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT:	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
SKYLIGHT HEIGHTS	BLK	01	LOT	10	
SKYLIGHT HEIGHTS	BLK	01	LOT	11	
SKYLIGHT HEIGHTS	BLK	01	LOT	12	
SKYLIGHT HEIGHTS	BLK	01	LOT	13	
SKYLIGHT HEIGHTS	BLK	01	LOT	14	
SKYLIGHT HEIGHTS	BLK	01	LOT	15	
SKYLIGHT HEIGHTS	BLK	01	LOT:	16	
SKYLIGHT HEIGHTS	BLK	01	LOT	17	
SKYLIGHT HEIGHTS	BLK	01	LOT	18	
SKYLIGHT HEIGHTS	BLK	01	LOT	19	



## Example 2: Land Disposal by Sealed Bid

LOT/PARCEL				NUMBER OF BIDS	
FAIRMEADOW ESTATES	BLK	02	LOT:	1	
GRIEME ROAD	BLK		LOT	2	
GRIEME ROAD	BLK		LOT	3	
GRIEME ROAD	BLK		LOT	4	
HAMILTON ACRES	BLK	18	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
SKYLIGHT HEIGHTS	BLK	01	LOT	10	
SKYLIGHT HEIGHTS	BLK	01	LOT:	11	
SKYLIGHT HEIGHTS	BLK	01	LOT	1	
SKYLIGHT HEIGHTS	BLK	01	LOT	2	
SKYLIGHT HEIGHTS	BLK	01	LOT	3	
SKYLIGHT HEIGHTS	BLK	01	LOT	4	
SKYLIGHT HEIGHTS	BLK	01	LOT	5	
SKYLIGHT HEIGHTS	BLK	01	LOT	6	
SKYLIGHT HEIGHTS	BLK	01	LOT	7	
SKYLIGHT HEIGHTS	BLK	01	LOT	8	
SKYLIGHT HEIGHTS	BLK	01	LOT	9	
U.S.S. 3148	BLK	01	LOT:	14	
				9	
U.S.S. 3148	BLK	01	LOT	15	
				0	
U.S.S. 3148	BLK	01	LOT	16	
				3	
U.S.S. 3210	BLK	01	LOT	53	

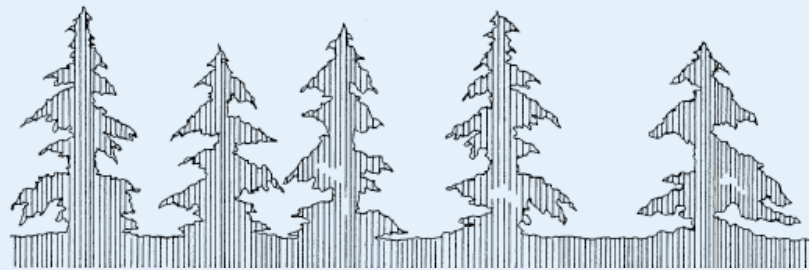


Example 2:  
Land Disposal by  
Sealed Bid

★ Fairbanks  
North  
Star  
Borough

Department of Land Management  
809 Pioneer Road  
P.O. Box 1267  
Fairbanks, Alaska 99707  
907/452-4761

Fairbanks North Star Borough  
**LAND SALE**  
SEPTEMBER 1987



**FAIRBANKS NORTH STAR BOROUGH**

P.O. Box 1267 - 809 Pioneer Road  
Fairbanks, Alaska 99707  
(907) 452-4761

**BOROUGH MAYOR**

Juanita Helms

**ASSEMBLY MEMBERS**

Sandra Stringer  
Jerry Norum  
Valerie Therrien  
Paul Chizmar  
Chris Birch

Carol Rayfield  
Jeff Weltzin  
J.B. Carnahan  
Ed Shellinger  
Phil Younker

Buzz Otis  
Presiding Officer

**1987 SEALED BID LAND AUCTION**

Saturday, September 12, 1987

In the

Fairbanks North Star Borough Assembly Chambers

**DEPARTMENT OF LAND MANAGEMENT**

Nancy Albrittain-Jackson, Director



**Example 2:  
Land Disposal by  
Sealed Bid**



## Example 2: Land Disposal by Sealed Bid

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FAIRBANKS NORTH STAR BOROUGH  
Department of Land Management  
1987 SEALED BID LAND AUCTION

**INSTRUCTIONS FOR PARTICIPANTS**

IMPORTANT DATES AND PLACES

Sale Brochures/Bid Packets Available:

When: 8:00 a.m., Aug. 17, 1987  
To  
5:00 p.m., Sept. 8, 1987

Where: Department of Land Management  
Second floor, Borough Administrative Center  
809 Pioneer Road  
Fairbanks, Alaska 99701

Bid Submittal Deadline:

When: 5:00 a.m., September 8, 1987  
Where: Bids must be submitted IN PERSON to  
The Department of Land Management  
Second floor, Borough Administrative Center  
809 Pioneer Road  
Fairbanks, Alaska 99701

Land Sale:

When: 10:00 a.m., Saturday, September 12, 1987  
Where: Borough Assembly Chambers, first floor  
Borough Administrative Center  
809 Pioneer Road  
Fairbanks, Alaska 99701

Reoffering in the Over-the-Counter Sale:

When: Starting 8:00 a.m., Monday, September 14, 1987  
Where: Department of Land Management, second floor  
Borough Administrative Center  
809 Pioneer Road  
Fairbanks, Alaska 99701



## Example 2: Land Disposal by Sealed Bid



### Example 2: Land Disposal by Sealed Bid

#### SEALED BID LAND SALE PROCEDURES

1. You may submit any number of bids in this land sale. However, you may submit only one bid per parcel. There will be a non-refundable \$25.00 fee for each bid submitted, regardless of whether the bid is successful or not.
2. The required down payment will be due on the day of the sale at the time the real estate purchase agreement(s) is signed.
3. You MUST BE PRESENT at the sale to purchase parcels. If you cannot be present, you can assign an agent to act on your behalf with a power-of-attorney form available from the Department of Land Management. If the high bidder is not in the audience or declines to purchase the parcel, option to accept the parcel will pass to the next highest bidder.
4. In order to reduce the number of defaults on land sold by the borough, a limited credit check will be done to determine the eligibility of each applicant. New borrowers with no credit history will be eligible. However, if you have had previous difficulties with large unpaid bills, delinquent taxes, or similar situation, you should call the Department of Land Management at 452-4761, ext. 242 on Thursday, September 10, 1987 to obtain your eligibility status. The Department of Land Management will not call you. **YOU MUST CALL LAND MANAGEMENT TO BE CERTAIN YOU ARE ELIGIBLE FOR THE SALE.** If you are determined to be ineligible, your bid will be declared invalid and your application fee will be refunded. This is the only case in which the application fee will be refunded.
5. Sale day procedures will be different from past sealed bid sales the borough has conducted. Please read the following very carefully to familiarize yourself with the new procedures. The new procedures are designed to make it easier for you to place bids and to increase the amount of flexibility you have on the sale day itself. These procedures will allow you to bid on many parcels and choose to purchase only those you desire the most. You stand to lose only the \$25.00 fee for each unsuccessful bid. The sale will consist of these three parts:
  - a. Bid Reading – At the beginning of the sale, all bids for all parcels will be opened, read publicly and listed on large sheets of paper placed within viewing distance of the audience.
  - b. Primary Sale – Beginning with the parcel with the most bids, the high bidder will be asked whether he/she accepts the parcel. If so, that parcel is deemed to have been sold and the announcer will move on to the parcel with the next highest number of bids. If the high bidder does not wish to purchase the parcel or does not sign the real estate



purchase agreement, the next highest bidder is given the opportunity to accept the parcel. A “second chance” for the high bidder to purchase the parcel will not be given unless all other bidders for the parcel decline to accept it and the parcel is reoffered in the secondary sale. This process will continue until all parcels with bids placed on them have been offered to the listed bidders.

c. Secondary Sale – Parcels that are not sold because all bidders declined to accept them in the primary sale will be reoffered for sale in the secondary sale. The same list of bidders will be read by the announcer in the same order as in the primary sale. This will give the bidders who have declined to purchase a parcel in the primary sale a second chance to purchase. Parcels which had no bids originally placed on them will not be offered in the secondary sale.

The announcer will clarify the above procedures at the beginning of the land sale to make sure everyone understands them.

6. If you are the high bidder, you must either proceed to the HIGH BIDDERS TABLE to sign a real estate purchase agreement or you must notify the announcer that you do not wish to buy the parcel.
7. All persons who have submitted bids for a parcel should remain in the Assembly Chambers until the announcer notifies you that the real estate purchase agreement has been signed. If the high bidder does not sign the real estate purchase agreement, the parcel will be reoffered to the remaining bidders during the Secondary Sale.



### Example 2: Land Disposal by Sealed Bid



## Example 2: Land Disposal by Sealed Bid

### HIGH BIDDERS

1. At the HIGH BIDDERS table you will be asked to complete and sign a real estate purchase agreement with the borough.
2. High bidders must place their minimum 5% down payment(s) with the clerk at the time the real estate purchase agreement is signed (on the day of the sale). Cash, personal checks, money orders, cashiers' checks, and certified checks will be accepted. Please make checks out to FNSB.
3. You must arrange an appointment with the Department of Land Management for closing to complete a Deed of Trust and Promissory Note or to pay in full.
4. You must pay for all recording, processing, and closing fees (approximately \$150.00 per parcel) at the time of closing. Call our office at 452-4761 (ext 241) for an estimate of these costs.
5. See the section about TERMS below.

### PARTICIPANT ELIGIBILITY

1. Any United States citizen or resident alien, eighteen (18) years of age or older, is eligible to participate in this sale. Please see Item #4 on page 2.
2. There is no requirement for the applicant to be a resident of Alaska.
3. The following persons may not participate in Fairbanks North Star Borough land sales either in their own name or in the name of their spouse, dependent child, or solely-owned or family-owned business:
  - a. Borough Mayor
  - b. Borough Administrative Director
  - c. Director, Department of Land Management

## TERMS

- Option #1: A minimum down payment of five percent (5%) of the purchase price. The balance shall be paid in equal monthly installments according to an amortization schedule based on ten percent (10%) interest, for a period of ten (10) years. Parcels in the Grieme Road Agricultural Subdivision shall have a payoff period of twenty (20) years.
- Option #2: A discount of ten percent (10%) of the purchase price is available if the balance is paid in full by the time of closing. A down payment of five percent (5%) of the purchase price must be made at the time the real estate purchase agreement is signed if you choose this option.

Payments of unpaid balances may be accelerated at the option of the purchaser. There is no penalty for prepayment.

### **IF YOU CANNOT BE AT THE LAND SALE**

If you cannot attend the land sale, you can give power-of-attorney to someone to act on your behalf at the sale. Special Power-of-Attorney forms specifically for the sale are available at the Department of Land Management. You must use this special form. If possible, the completed and notarized form (a notary is available at the borough) should be attached to your bid application and a copy given to the person with the power-of-attorney. Otherwise the person with power-of-attorney must have the form in his/her possession at the sale. The parcel legal description on the power-of-attorney form must be the same as the parcel on which you are bidding. If you bid on more than one parcel you will need a separate form for each parcel.

Be sure the person to whom you have given power-of-attorney knows that he/she **MUST** be present at the sale. If that person is not at the sale, you lose any opportunity to buy parcels.



## Example 2: Land Disposal by Sealed Bid



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### REOFFERING IN THE OVER-THE-COUNTER SALE

Parcels not sold in the sale will be reoffered over-the-counter starting at 8:00 a.m., Monday, September 14, 1987. In the over-the-counter sale the lots will be offered on a continuous first-come, first-served basis during normal business hours. Parcels will be sold at appraised value and at the same terms as in the sale. For more information, contact the Department of Land Management at the Borough Administrative Center (452-4761 ext. 241).

### DISCLAIMERS

This brochure is for informational purposes only, and does not constitute an offer to sell. It is possible that, after the publication of the packet, modifications may become necessary. Anyone wishing information concerning modifications may call or write the Borough Department of Land Management at P.O. Box 1267, Fairbanks, Alaska 99707, (907) 452-4761. Any such changes will be announced as soon as possible and will be available at the Department of Land Management. However, it is your responsibility to keep yourself informed of any changes or corrections.

Although the borough has researched the land that is for sale, the borough makes no warranty or representation, either expressed or implied, with respect to the land that is for sale, including its quality, merchantability, or fitness for particular purpose. This land is sold "as is" and you, the buyer, are assuming the entire risk as to its quality and suitability for your intended use.

In no event shall the borough be liable for direct, indirect, special, incidental, or consequential damages arising out of the use or the inability to use the land that is for sale, even if advised of the possibility of such damages.

The right is reserved to adjourn, postpone, or vacate this sale, in whole or part, at any time prior to or during the offering, where such action is deemed necessary by the borough administration to protect the interest of the borough. One or more parcels may be modified, or withdrawn, at any time prior to or during the disposal period.

The right is reserved to waive any technical defects in this brochure.

### FURTHER INFORMATION

Further information may be obtained from the Department of Land Management, Fairbanks North Star Borough, P.O. Box 1267, Fairbanks, Alaska 99707, or by phoning (907) 452-4761.

## REQUIRED READING

### FOR ALL PARTICIPANTS

#### SITE INSPECTION

ALL PARTICIPANTS ARE STRONGLY URGED TO PERSONALLY EXAMINE THE PARCEL(S) IN WHICH THEY ARE INTERESTED PRIOR TO SUBMITTING AN APPLICATION. The Borough does not warrant that the parcels are suited for any particular use whatsoever. There is no substitute for a thorough personal inspection of the parcel(s). If you would like a representative of the Department of Land Management to accompany you on a site inspection, arrange an appointment with our office at your convenience (call 452-4761 ext. 241).

#### CONVEYANCES AND TAXES

Conveyance of title to parcels sold in this sale will be by quitclaim deed. A quitclaim deed conveys title or interest in land without warranty. However, most land offered in this sale was conveyed from the federal government to the state and from the state to the borough. The borough obtained patent to the land through the Municipal Selections Act (AS 29.18.201-.213). There are no known intervening owners or claimants. Only the Hamilton Acres Parcel and the Fairmeadow Estates Parcel were privately owned prior to borough ownership.

Parcels selling for more than \$2,500.00 will have \$50.00 in sales tax assessed on them. Parcels selling for under \$2,500.00 will have two percent (2%) sales tax assessed on them.

Property sold in this sale is also subject to property taxes and assessments. Presently there is no property tax due.

#### ZONING

All parcels offered in this sale are zoned in accordance with Title 18 of the Fairbanks North Star Borough code of ordinances. The parcels shall be used only in accordance with this Title.

A zoning permit must be obtained from the borough, Department of Community Planning, before the start of any excavation, construction, or installation for a new structure or for the modification of any existing structure which would result in a different use of the structure, an increase in number of dwelling units in the structure, or in the size, height or location of the structure. A zoning permit is not a building permit. There are not building codes outside of the City of Fairbanks with the Fairbanks North Star Borough. The zoning permit is used to determine compliance with the local zoning designation. Construction within the City of Fairbanks must conform to city building codes.



## Example 2: Land Disposal by Sealed Bid



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### PLATTING

Lots in Skylight Heights Subdivision are being offered for sale contingent upon receiving final plat approval before September 12, 1987. Grieme Road Agricultural Parcels have received approval from the Fairbanks North Star Borough Platting Board. The plat for subdivision contains more details than can be included in the maps in this brochure. You are encouraged to inspect copies of the plats located on the counter at the Department of Land Management.

### MINERAL RESOURCES

The State of Alaska retains ownership of all oil, gas, coal, ores, minerals, fissionable material, geothermal resources and fossil fuels which may be in or upon land conveyed to the borough. The State has reserved the right to enter upon the land to explore for and develop these materials. It may lease them or allow mining claims to be staked. However, Alaska law also provides that the surface owner be compensated for damages resulting from mineral exploration and development.

A Mineral Closing Order has been obtained for Skylight Heights Subdivision. The mineral potential for other parcels in this sale is low. The Hamilton Acres Parcel and Fairmeadow Estates Parcel include the mineral rights because the original private owner obtained the land from the federal government through homesteading.

### UTILITIES

Electric service may not be available to all subdivisions and parcels. Engineering and economic considerations, availability of rights-of-way, and how quickly the parcels are occupied will all play a role in determining how soon a particular parcel can be served. If electric service is important to you, contact Golden Valley Electric Association for more information before purchasing a lot. It is your responsibility to check on the specific availability of power to the lot in which you are interested. The borough is not planning to supply electrical power to or within any of the parcels offered in this sale.

Telephone service will not be provided by the borough. If telephone service is important to you, contact the Municipal Utilities System (MUS). If the parcel in which you are interested is within, or south of, North Pole, contact Telephone Utilities of the Northland.

### SEWER AND WATER

Purchasers are responsible for their own water supply and sewer disposal systems. The borough does not provide installations, test borings, percolation tests, wells, or other



## Example 2: Land Disposal by Sealed Bid

improvements. All water and sewer-related improvements are subject to applicable State of Alaska regulations enforced by the State of Alaska, Department of Environmental Conservation (ADEC). These regulations detail specific requirements for water supply systems, sewage disposal systems, and solid waste disposal.

All subdivisions have been reviewed and approved by ADEC as required by state regulation 18 AAC 72.065. Potential purchasers are urged to examine the subdivision plats for any conditions of approval. Purchasers are required to contact ADEC prior to beginning any construction of a dwelling on a parcel to familiarize themselves with the governing state regulations and any special requirements that might apply. All sewage systems must be approved by ADEC.

To obtain water rights, the purchaser must apply to the State of Alaska, Department of Natural Resources, at the Northcentral District Office, 4420 Airport Road, Fairbanks, Alaska 99701, phone (907) 479-2243.

### DRIVEWAYS, ROADS AND DRAINAGE

No obstructions shall be placed in drainage ditches adjoining any subdivision lot. Metal culverts of not less than 12 inches in diameter by 20 feet in length shall be placed on grade under driveways leading from the public roads onto any lot to avoid obstruction of any drainage ditch. If a parcel is not within a road service area, the road maintenance responsibilities rest with individual purchasers.

Within Skylight Heights Subdivision, First Addition, all driveway access must be from subdivision roads. No driveway access will be allowed from Murphy Dome Road.

### TRAILS AND EASEMENTS

The lots being offered for sale are subject to trails or easements of various types. These trails and easements are delineated on the plat for each subdivision. It is important that you inspect the full sized subdivision plat(s) in the Department of Land Management office to ensure that you are aware of the presence of any trails or easements which may affect the lot in which you are interested.

### AGRICULTURAL RESTRICTION

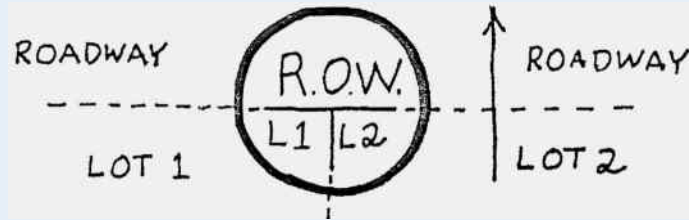
Agricultural use restrictions and covenants against resubdivision have been placed on the three agricultural parcels in the Grieme Road Agricultural Project. Prospective purchasers are advised to familiarize themselves with these restrictions (See page 39).



## Example 2: Land Disposal by Sealed Bid

### FINDING THE LOT CORNERS

Look for survey markers (similar to the following to identify the corners of a lot in Skylight Heights Subdivision:



This marker is approximately 1 1/2 inches in diameter and mounted on rebar close to the ground. Look for survey stakes approximately 15 feet from the edge of the driveable surface of the road. At the base of each stake you will find one of the above markers.



## CHECKLIST

The following checklist is for your convenience to aid you in making an informed decision. All of these factors should be considered by a prospective purchaser, but other factors not included in this list may be of importance to you.

1. \_\_\_\_\_ **HAVE YOU INSPECTED THE PARCEL PERSONALLY?**  
You are strongly encourage to review all information and personally inspect the parcel you intend to purchase. If you would like to inspect the parcel along with a member of our staff, please arrange an appointment at your convenience.
2. \_\_\_\_\_ Are there any easements or other encumbrances on the parcel which you intend to purchase? This information is available at the office of the borough Department of Land Management.
3. \_\_\_\_\_ Does the zoning of the parcel allow the use you anticipate for it? The Department of Community Planning can answer questions you may have regarding specific uses.
4. \_\_\_\_\_ Does the parcel have adequate access year around for your vehicle? What provisions will be necessary for a driveway?
5. \_\_\_\_\_ Is the parcel suitable for your anticipated use? Is there a good building site on the parcel? Consider the following:
  - soils and vegetation
  - easements
  - slope and aspect
  - zoning and setbacks
6. \_\_\_\_\_ Are the soils on the parcel satisfactory for your intended use? What is the potential for permafrost and/or thermokarst pitting? Contact the USDA Soil Conservation Service (479-6767) for specific information about soil types.
7. \_\_\_\_\_ Is the slope satisfactory? Is the slope too great for your intended type of construction?
8. \_\_\_\_\_ Are the utilities you desire presently available, or soon to be available? If they are not available, how much will it cost to bring them to the parcel? Contact Golden Valley Electric Association (electricity) and the Municipal Utilities System (telephone) for further information.



## Example 2: Land Disposal by Sealed Bid

## Competitive Land Disposals ...



### Example 2: Land Disposal by Sealed Bid

9. \_\_\_\_\_ If you desire a well, how deep is the water table? Is the available water of good enough quality to fit your needs?
10. \_\_\_\_\_ Always check what is happening on land adjacent to the parcel. What is the potential for further development in the area, and will further development be of concern to you?
11. \_\_\_\_\_ Are there use restrictions (covenants) contained in the deed for the parcel in which you are interested? Agricultural parcels have retractions against resubdivision and against certain uses. The borough Department of Land Management can provide a copy of any restrictions or covenants for a parcel.
12. \_\_\_\_\_ Are there any other factors besides these which are important to you?

# PARCEL *Catalog*



## Example 2: Land Disposal by Sealed Bid



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### SKYLIGHT HEIGHTS – FIRST ADDITON

Legal Description: Within the SE1/4 of Sec. 9 and the N1/2, N1/2 SW1/4 of Sec. 16 in T. 1N., R. 3W, F.M.

General Location: The subdivision is located northwest of the City of Fairbanks on new Murphy Dome Road, 7 miles from the intersection with Goldstream Road and Sheep Creek Road. Soils: This subdivision contains Gilmore, Steese, and Fairbanks silt loams which are well drained and generally good for development. For more information regarding soil types, contact the USDA Soil Conservation Service at 479-6767.

Slope: Slopes range from 15% - 30%.

Aspect: Most lots are south facing.

Vegetation: Mixture of birch, aspen, and spruce.

Water: The potential for arsenic to occur in well water is moderate. Wells can be expected to be deep.

Access: All lots are accessed by either Vancouver Road or Richard Berry Drive, both off new Murphy Dome Road. Murphy Dome Road is paved from the intersection with Goldstream Road and Sheep Creek Road to beyond the subdivision.

Fire Service Area: None.

Road Service Area: On August 27, 1987, the Borough Assembly will vote on the addition of Skylight Heights to an existing road service area. If approved, maintenance of the roads by the service area will begin July 1, 1988. For more information, contact the Rural Service office at 452-4761, ext. 223.

Utilities: The nearest power line is approximately two miles to the east in Drouin Springs Subdivision.

Zoning: Rural Estates LA-II (RE LA-II) with minimum lot size of 5.4 acres. For more information about specific uses within RE LA-II zoning, contact the Department of Community Planning at 452-4761, ext. 260.

Easements: There is a 15' public utility easement (P.U.E.) along some interior lot lines and a 30' P.U.E. along lot lines adjacent to road right-of-ways. Two lots have driveway easement along the P.U.E. You should inspect the detailed plat in the Department of Land Management office for the exact easements on the lot in which you are interested.

Covenants: The covenants for this subdivision are listed on pages 15-17.

Mineral Rights: The State of Alaska has retained ownership to all mineral resources which may be in or upon the land. However, a mineral closing order has been obtained from the State for this subdivision. This closing order prohibits the staking of mining claims while it is in effect.

\* \* \* \* \*

## DECLARATION OF PROTECTIVE COVENANTS

FOR

### SKYLIGHT HEIGHTS SUBDIVISION – FIRST ADDITON

The FAIRBANKS NORTH STAR BOROUGH, an Alaska municipal corporation, of Fairbanks, Alaska, being the fee owner of all lots of that certain subdivision known as SKYLIGHT HEIGHTS SUBDIVISION FIRST ADDITON, according to the plat thereof filed \_\_\_\_\_ as Plat NO. \_\_\_\_\_, Records of the Fairbanks Recording District, State of Alaska, desiring to ensure the orderly development and use of lots in said subdivision, and desiring to prevent nuisances or impairments of the attractiveness or value of said lots, does hereby declare and adopt the following protective covenants as to limitations and restrictions upon the use of all lots in the Skylight Heights Subdivision – First Addition.

### PROTECTIVE COVENANTS

In cases where the following covenants conflict with the subdivision zoning, the most restrictive standard shall apply.,

LAND USE AND BUILDING TYPE. All lots shall be used only for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot containing more than two (2) DWELLINGS IN A SINGLE BUILDING (DUPLEX). No building shall exceed 35' in height. Each lot shall have only one building containing dwellings. Accessory buildings, such as garages or other buildings customarily adjunctory to a place of residence, shall be of a permanent nature and of harmonious design and appearance with each other and with dwelling building.



## Example 2: Land Disposal by Sealed Bid



### Example 2: Land Disposal by Sealed Bid

1. **DWELLING SIZE AND QUALITY.** The minimum permitted dwelling size for this subdivision shall be 480 square feet, exclusive of basements, decks, garages, and open porches. Cabin lofts may be included in the minimum square footage calculations. The exterior of said dwelling shall be completed within three (3) years after the beginning of construction, and finished with an acceptable, recognized, permanent finish material. No exposed urethane insulating foam is allowed. Accessory buildings shall also be finished in the same manner as the exterior of the dwelling within three (3) years after the beginning of construction.
2. **MOBILE HOMES.** No mobile home, trailer or any type of temporary dwelling unit will be allowed in this subdivision as a permanent residence. All homes must have permanent foundations in conformance with the minimum standards of the Federal Housing Administration as of the year of construction. Absolutely no exception to this covenant will be allowed. The term “MOBILE HOME” means a dwelling unit which is designed for transportation as one or more units, after fabrication, on highways to a site where it is to be occupied and to which site it arrives complete and ready for occupancy except for incidental unpacking and assembly operations, location on jacks or foundations, and connections to utilities.
3. **FACTORY ASSEMBLED DWELLINGS.** Factory assembled dwellings are allowed under these covenants. “Factory assembled dwelling” means a dwelling that comprises at least two finished, transportable components which are combined on the site to form one complete dwelling attached to a permanent foundation.
4. **EASEMENTS.** Easement for the installation and maintenance of utilities are reserved as shown on the recorded plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities.
5. **NUISANCES.** No noxious or offensive activity, including, but not limited to, noise disturbances caused by motorized vehicles, shall be carried out on any lot or subdivision road, nor shall anything be done thereon which may become an annoyance or nuisance. Specifically, (a) the parking of commercial vehicles or the use of the lot for the storing of vehicles, machinery, surplus equipment, scrap, or any other items not directly connected with the use of a lot for residential purposes is specifically declared to be a nuisance within the meaning and intent hereof; (b) the collection or keeping of non-operational motor vehicles and other non-operational machinery of any other type is prohibited; (c) the parking of vehicles and the storage of coal, wood, or any other materials on subdivision roadways is prohibited; (d) the operation of any commercial business is strictly prohibited. No automotive or heavy equipment repair shops will be allowed.

6. TEMPORARY RESIDENCE. An individual may reside in a mobile home, trailer or temporary dwelling located on an undeveloped lot in the subdivision for a period not to exceed one (1) calendar year only for the purpose of residing in said mobile home, trailer or temporary dwelling while constructing a permanent residence on said lot.
7. GARBAGE AND REFUSE DISPOSAL. No lot, nor any part thereof, shall be used as a dumping or storage ground for refuse or rubbish of any kind. Trash, garbage and other waste shall be kept in sanitary containers; accumulated trash, garbage, and other waste shall be dispensed of regularly.



### Example 2: Land Disposal by Sealed Bid



### Example 2: Land Disposal by Sealed Bid

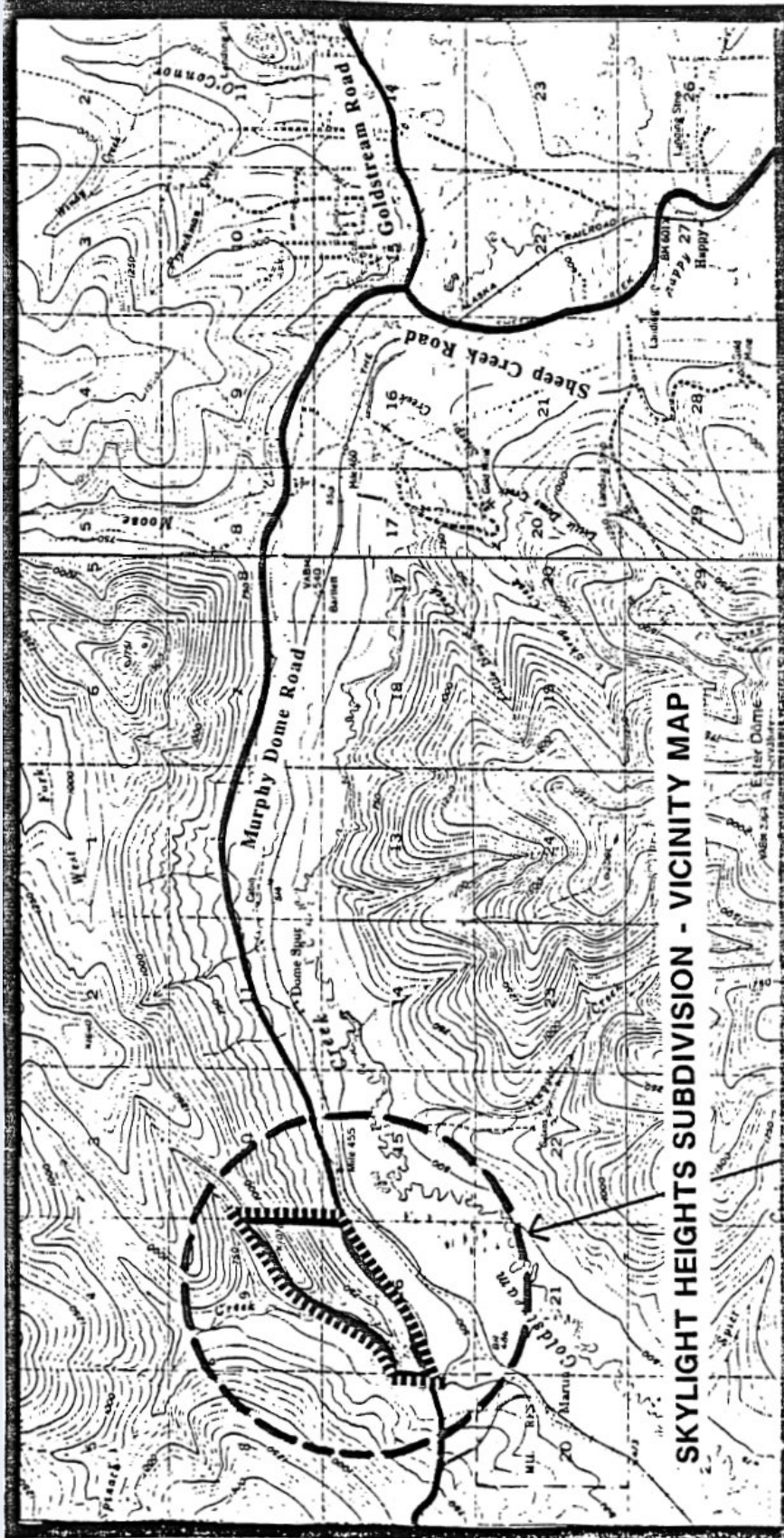
#### II. GENERAL PROVISIONS

1. **DURATION.** These covenants shall run with the land and shall be binding upon the within parties and those claiming, under the within parties though succession in interest to any lot or lots in said subdivision, to stand for the benefit and protection of present and future owners of lots in said subdivision. These covenants shall be enforceable at the insistence of the record owner of any lot in said subdivision. The successors in interest thereto shall ensure their benefit and protection by proceedings in equity to restrain violation and by proceedings at law to recover damages for the violation thereof. These protective covenants are to remain in effect for a period of twenty-five (25) years, commencing on the date of recordation hereof, but being subject to modification or renewal by written instrument executed by all the record owners of said lots, placed of record in said Fairbanks Recording district.
2. **FULLY PROTECTED RESIDENTIAL AREA.** The covenants contained herein in their entirety shall apply to the entire SKYLIGHT HEIGHTS SUBDIVISION – FIRST ADDITON.
3. **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.



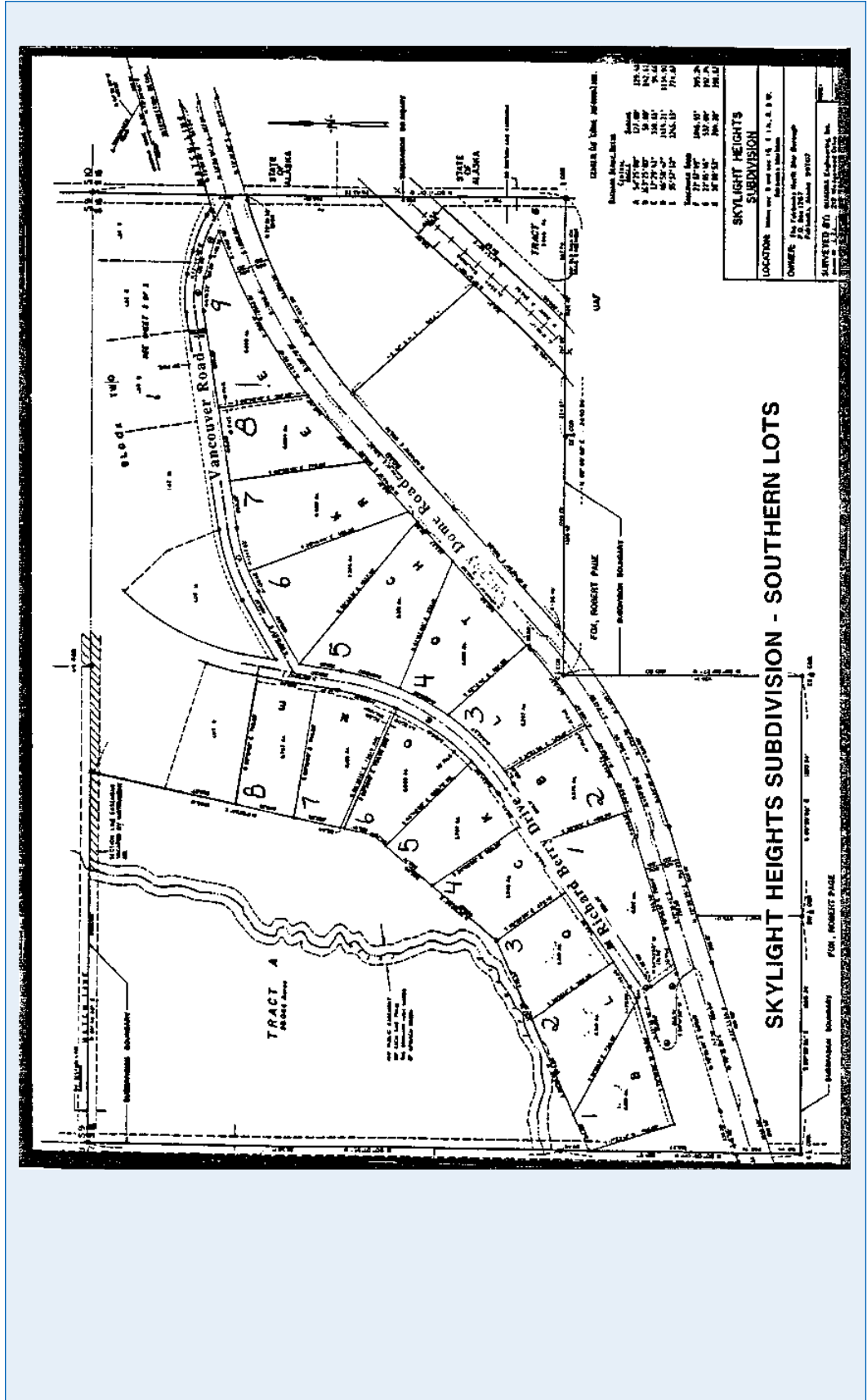


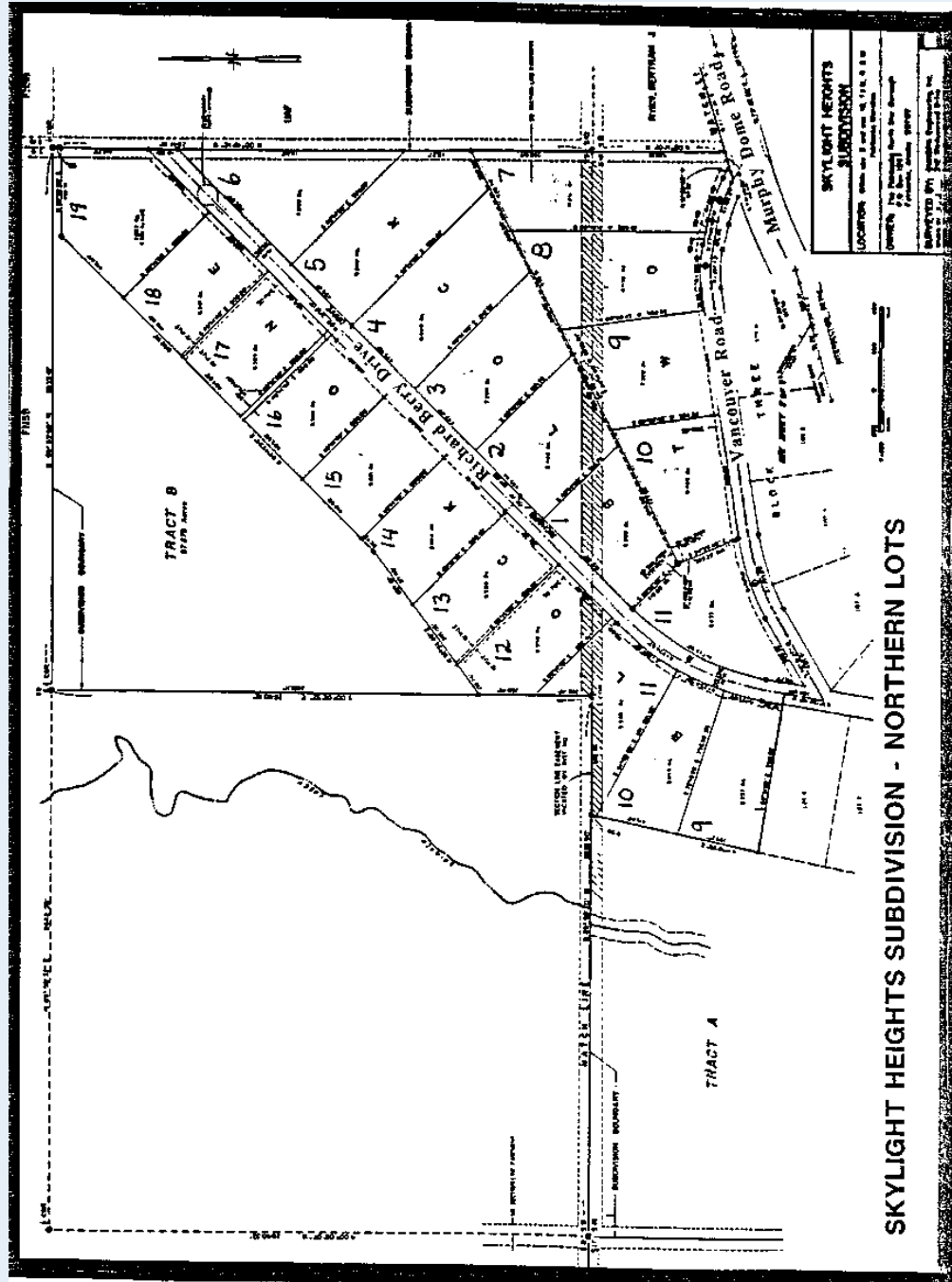
Example 2:  
Land Disposal by  
Sealed Bid





Example 2:  
Land Disposal by  
Sealed Bid





Example 2:  
Land Disposal by  
Sealed Bid



### Example 3: Land Disposal by Outcry Auction

#### **EXAMPLE 3:**

##### **Land Disposal by Outcry Auction, City of Petersburg (1983)**

The City of Petersburg has a provision in their code ordinance (an excerpt of the provision is included in this chapter) which authorizes disposal of city lands by auction. To begin this process, city staff recommends to the city council which lands can be disposed of. These recommendations are presented to the council for their consideration. If the council authorizes the disposal by motion, notice of the lands to be auctioned and other auction procedures are published. After the auction takes place, the city council passes a special ordinance, that authorizes the sale of various lots which were offered at the auction.

This example includes:

- a copy of the code ordinance provision authorizing disposal of lands by auction;
- a copy of the staff memo recommending the lands to be disposed of;
- the notice containing the auction procedures; and
- the non-code ordinance authorizing the sale of auctioned lands.



## Example 3: Land Disposal by Outcry Auction

16.12.070—16.12.80 The Mayor and City Clerk are hereby authorized and directed to execute a deed (lease) to: \_\_\_\_\_

(Buyer or Lessee)

Upon execution and compliance with all terms and conditions of this Resolution.

PASSED AND APPROVED by the City Council of the City of Petersburg, Alaska this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Ord. 477 §3 (part) 1982).

16.12.070 Public auction. Any sale or lease of property shall be offered at public auction unless the council specifically approves a motion to allow an exemption to an auction. When property is sold or leased at a public auction the following procedures shall apply:

The minimum accepted bid shall be determined by the council after the review of an independent appraisal for market value.

Property owners adjacent to the property to be auctioned shall be notified of the sale by certified mail.

Notice of the auction shall be published once a week for two consecutive weeks in a newspaper of general circulation in Petersburg. If there is no such newspaper, the notice shall be posted within the same time at three public places within the city.

At the completion of the auction, the high bidder shall pay to the city an earnest money deposit equal to five percent of the bid together with any costs of survey, appraisal, advertising and other expenses incidental to the conveyance.

All lands not sold at public auction, shall be sold on a first-come, first-served basis using the application procedures described in Section 16.12.020. (Ord. 477 §3 (part) 1982).

16.12.080 Earnest money deposit. Five percent of the purchase price shall be deposited with the city for each lot or parcel of land within two working days after the approval of an application by the city council. Said earnest money deposit shall be applied toward the purchase price and the balance of the purchase price shall be due and payable within one hundred and eight days. If the applicant fails to make the payment in full at the end of one hundred and eight days, the earnest money deposit shall be forfeited to the city unless an extension is authorized by a formal motion and approval by the council. (Ord. 477 §3 (part) 1982).

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(Petersburg 4/82)



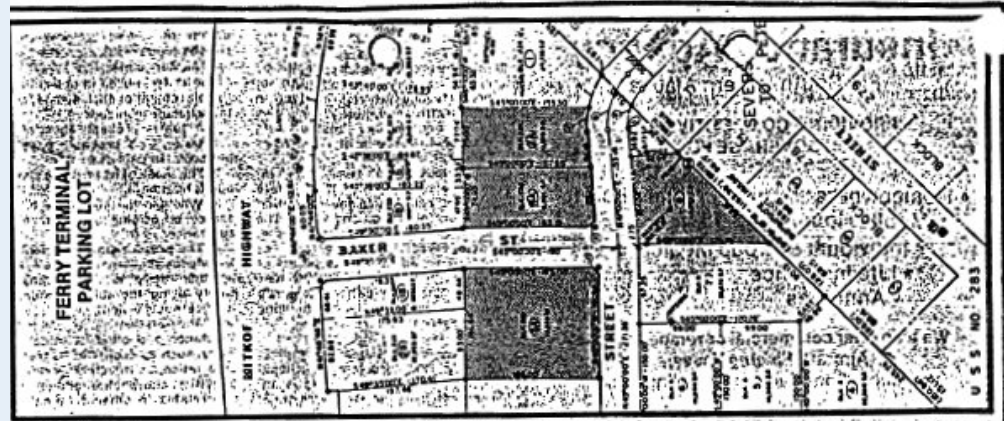
BLOCK	LOT	ACREAGE	PER ACRE VALUE	APPRAISED VALUE	MINIMUM BID
02	6	7.085	\$2,575.86	\$18,250.00	\$15,512.50
02	7	9.631	\$2,102.59	\$20,250.00	\$17,212.50
02	8	8.038	\$2,270.47	\$18,250.00	\$15,512.20
02	9	7.302	\$2,636.26	\$19,250.00	\$16,362.50
02	10	6.405	\$2,966.43	\$19,000.00	\$16,150.00
02	11	6.635	\$3,014.32	\$20,000.00	\$17,000.00
03	1	6.617	\$2,720.27	\$18,000.00	\$15,300.00
03	2	5.575	\$3,004.48	\$16,750.00	\$14,237.50
03	3	6.257	\$3,196.42	\$20,000.00	\$17,000.00
03	4	6.933	\$2,884.75	\$20,000.00	\$17,000.00
03	5	8.371	\$2,448.93	\$20,500.00	\$17,425.00
03	6	7.373	\$2,610.88	\$19,250.00	\$16,362.00
03	7	8.400	\$2,321.43	\$19,500.00	\$16,575.00
03	8	6.004	\$2,998.00	\$18,000.00	\$15,300.00
03	9	6.095	\$2,789.17	\$17,000.00	\$14,450.00



## Example 3: Land Disposal by Outcry Auction



Example 3:  
Land Disposal by  
Outcry Auction



## City Land Sale By Public Auction

Wednesday, January 26, 1983 7:30 p.m. • City Council Chambers

Lot	Block	Appraisal	Square Footage	Cost/Sq. Ft.	Zone	Location
Lot 2A	224	\$18,500	11,670	\$1.58	R-1	O Street Skylark Subdiv. II
Lot 4A	224	\$19,000	12,031	\$1.57	R-1	O Street & Baker Skylark Subdiv. II
Lot 3A	221	\$29,000	23,238	\$1.25	R-1	O Street & Baker Skylark Subdiv. II
Lot 8	A	\$21,500	13,889	\$1.54	R-1	O Street Skylark Subdiv. II

Subject to future assessment if water service and O Street is constructed by City, or may be constructed at owner's expense according to Petersburg Standard Specifications for construction.

The city council has classified the above described parcels of city land as available for sale. The land will be offered at appraised fair market value, at a public auction on Wednesday, January 26, 1983 at 7:30 p.m. in the city council chambers. Following are the procedures that will be followed for sale of the property.

### Auction Procedures

**MINIMUM BIDS:** The minimum amount the City will accept for a parcel has been established by the city council after a review of an independent appraisal of fair market value.

**NOTICE:** Notice of an auction is given by publication and by certified mail to adjacent property owners to the parcels of land.

**QUALIFIED BIDDERS:** No person may acquire more than one parcel at a particular auction or within the first 30 day period that it is offered over-the-counter. The bidder must be present in person or be represented by a legitimate agent. Agents must have a written document authorizing them to act for another. The document must be notarized and must contain the signatures of both parties.

**TERMS:** At the conclusion of the auction, the high qualified bidder shall pay the City an earnest money deposit equal to 5 per

cent of the bid together with any costs of survey, appraisal, advertising and other expenses incidental to the conveyance. The earnest money deposit shall be applied to the purchase price and the balance of the purchase price shall be due and payable within 180 days.

Construction of improvements within 4 years shall be required as a condition to the conveyance.

Should the high bidder at the auction not qualify, the parcel will be offered to the next highest bidder who is qualified and willing to make a deposit.

If there are no willing bidders, the parcels will be offered for sale over the counter on a date to be announced at the conclusion of the auction. At the beginning of over-the-counter sales, all persons will be issued a priority number for making an application on a first come first served basis. If more than one person is waiting at 8 a.m. on the day over-the-counter sales begin, a drawing will be held to determine priority.

Auction begins at 7:30 p.m. Wednesday, January 26th in the City Council Chambers.

Published: Jan. 12, 19, 1983



**City of Petersburg**  
772-4511