Land and Resource Management Division

POLICY AND PROCEDURES MANUAL

Matanuska-Susitna Borough
COMMUNITY DEVELOPMENT DEPARTMENT
350 EAST DAHLIA AVENUE
PALMER, ALASKA 99645

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POLICY AND PROCEDURES MANUAL
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PART FIVE:

AGRICULTURAL LAND

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TITLE 23
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AGRICULTURAL LAND SALES: **Grazing / Range Management Lease**	
PART 5	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030 (A) & (E)

2.1 Classification. Grazing/range land shall first be classified per the classification procedure.

3.1 Notice. Before offering a grazing/range management lease, the land & resource management division will publish a descriptive notice containing:

(1) the date, time and place of offer;

(2) the period during which applications will be accepted;

(3) a statement of terms and conditions of offer, including the terms of payment and length of lease, lessee qualifications, lease performance requirements, and any other special conditions or limitations; and

(4) for each parcel:

(A) size;
(B) appraised value;
(C) interests to be conveyed;
(D) range management plan requirements, if any; and
(F) any special conditions that may be imposed upon the conveyance.

4.1 Lessee qualification.

(a) The borough manager or his/her designee may require a prospective lessee to qualify by providing evidence that would establish the lessee's:

(1) ability in farm or range management;
(2) ability to obtain financing;
(3) agricultural or range management training and experience;
(4) financial ability;

(b) The borough manager may disqualify a prospective lessee for prior

delinquency in payment of taxes or rents, for default in payments toward contracts or loans, including any loan under the Alaska Agricultural Revolving Loan Fund, or for other good cause,

(c) The prospective lessee shall demonstrate how improvements, especially barbed wire, will be removed at the end of the lease.

(d) The lessee shall be required to indemnify the borough, hold the borough harmless from events related to the activities of the lease, and hold insurance naming the borough as an additional insured.

5.1 Lease Method. Grazing/range management leases may be by auction, sealed bid, lottery or any other method prescribed by law. The lease offer will be conducted according to the relevant procedure for the particular disposal method.

6.1 Range Management Plan.

(a) An approved range management plan will be required as a condition of the lease. The successful lessee must submit an approved plan before the lease is executed. For each lease offer, the borough manager may accept, reject, or modify the plan after consultation with the local soil and water conservation district.

(b) If the successful lessee submits an acceptable range management plan within the time specified in the offer notice, the plan will be incorporated into the lease as a covenant and a subsequent condition, and will be recorded in that form.

(c) If a successful lessee fails to provide an acceptable range management plan within the time specified in the sale notice, or within an extension of time granted by the borough manager for good cause shown, he forfeits his bid deposit and the tract may be offered to the next highest bidder, or next qualified applicant, with the secondary award conditioned upon the submission of a range management plan, within a time period equal to the time originally allowed.

(d) A previously approved range management plan may be modified at the request of the lessee. The borough manager may approve, reject, or modify the range management plan modification after consultation with the local soil and water conservation district.

7.1 Contents of Range Management Plan. The range management plan must include:

(1) a map of the proposed range/grazing lease area showing:

(A) the planned location of any clearing and breaking of ground;

(B) location and size of any real property improvements (if authorized);

(C) location of windbreaks, ponds, and similar conservation measures and improvements;

(D) location points of passage for the general public;

(2) planned soil conservation measures.

8.1 The borough manager may require a schedule of planned development where such performance is in the borough's best interest. The borough manager may require evidence that the plan is economically sound. A minimum stocking amount will be required.

9.1 Construction of Real Property Improvements.

(a) In conjunction with an executed lease of a parcel, the borough manager will authorize the construction of fixed, permanent, or immovable structures reasonably required for or related to range management, within designated areas not over one acre. Fencing will not be counted against the one acre allotment.

(b) All real property improvements must be depicted and described in the range management plan and must be incorporated into the lease.

(c) Changes in the location or size of the area designated for real property improvements are subject to approval of the borough manager. The borough manager may approve a change if:

(1) the maximum area specified under (a) of this section is not exceeded; and

(2) the change is consistent with an approved range management plan.

10.1 Assignment. No assignment of a grazing/range management lease is allowed without the approval of the borough assembly ordinance upon recommendation of the borough manager

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Agricultural Land Sales: Agricultural Disposal	
PART 5	**Effective Date: 07-20-1999**

1.1 Authority: 23.05.030 (E)
23.10.150

2.1 Classification. The land shall first be classified per classification procedure as "Agricultural lands."

3.1 Sale Notice. The offering of borough-owned land in an agricultural disposal will be published in a descriptive brochure containing at a minimum:

A. the date, time and place of awarding/naming the successful bidder/buyer for the parcel(s) in the disposal; and

B. the period during which bids/applications will be accepted; and

C. a statement of the interest to be conveyed, terms and conditions of disposal, the terms of payment and length of contract, purchaser and borrower qualifications required, contract performance requirements, and any other special conditions or limitations; and

D. maps for each parcel identifying the vicinity where the parcel is located and the immediate area; and

E. additionally the following information will also be provided for each parcel:

1. approximate size in acres;

2. minimum sale price;

3. any special reservations and conditions, such as easements or non-development buffers, which will be imposed upon the parcel at time of conveyance.

4.1 Purchaser qualification.

A. In addition to meeting the qualifications of applicants and bidders required by MSB 23.10.090, in order to be eligible to purchase at an agricultural

sale, a prospective purchaser must register prior to the sale and must sign a statement worded substantially as follows:

"I hereby acknowledge and affirm that if I am the successful purchaser, I will use the land acquired at this sale for agricultural purposes as required by the sale program set forth in the covenants, conditions and restrictions and all agricultural land use district regulations in which boundary the parcel is located and which have been disclosed to me. I further acknowledge and affirm that I will abide by the provisions of applicable federal, state and borough laws, and regulations. I understand that if I am the successful purchaser, I will be required to submit information required by the program and meet the borough's lending requirements to qualify for any financing offered by the borough to purchase the parcel. I further understand that the classification of the property as "agricultural land" only identifies the land as being "presently or potentially valuable for production of agricultural crops" and the borough makes no warranties, either express or implied, nor assumes any liability whatsoever regarding the social, economic, or environmental aspects of the property, to include, without limitation, the soil conditions, water drainage, physical access, availability of personal use wood supplies now or in the future, or natural or artificial hazards, which may or may not exist, or merchantability, suitability, or profitability of the property for any use or purpose."

B. The borough manager may require a prospective purchaser to provide evidence that would establish the purchaser's:

1. ability to obtain financing and repay debt, including credit reports and income verification; or

2. net worth;

3. evidence of Alaska residency by providing the physical location of Alaska residence and by submitting a copy of one of the following:

   a. current Alaska voter registration card issued for more than 30 days; or

   b. current Alaska driver's license issued for more than 30 days; or

   c. current Alaska hunting or fishing license issued for more than 30 days; or

d. current year Alaska permanent fund filing receipt; or

e. an affidavit signed by two individuals who swear and attest they have known the individual to be a resident of Alaska for more than the 30 previous days.

4. United States citizenship by submission of a copy of one of the following:

a. certified copy of certificate of birth in U.S. or U.S. possession

b. U.S. passport

c. U.S. Immigration Service issued form for one of the following:

i. certificate of U.S. citizenship; or
ii. certificate of naturalization; or
iii. U.S. citizen ID card.

d. certification of birth abroad issued by U.S. Department of State

e. Native American tribal document

f. Current voter's registration card

C. The borough manager will require proof of the authority to conduct business in the state of Alaska if the prospective purchaser is a corporation, partnership, limited liability company, joint venture or some other entity which is not acting in the capacity of an individual, and proof that the individuals have authority to act on behalf of the entity.

D. The borough manager may refuse to approve borough financing based on the analysis of the prospective purchaser's ability to repay debt which may take into consideration prior delinquency in payment of taxes, rents, default in payments toward any contracts or loans, or for other good cause.

5.1 Sale Method. Agricultural land sales may be by outcry or sealed bid auction, lottery or any other method allowed by law. The sales will be conducted according to the relevant procedure for the particular disposal method. Parcels that have been offered in a competitive agricultural disposal program and have

not been sold may be placed in an over the counter sale. The method of conducting the sale will change to the over the counter process, however the terms and conditions attaching to the parcel under the agricultural land sale program and financing qualifications will remain the same as the competitive agricultural land sale program.

6.1 Soil and Water Conservation Plan.

A. The prospective purchasers will be informed that technical planning assistance is available through the local soil and water conservation district in cooperation with the United States Department of Agriculture, Natural Resource Conservation Service.

7.1 Construction of Real Property Improvements.

A. Each agricultural land sale program will include terms and conditions under which construction of real property improvements will be authorized. The agricultural land sale programs will encourage responsible development and may authorize the construction of fixed, permanent, or immovable structures reasonably required for or related to agricultural production, within designated areas. This designated improvement area(s) must be identified by the purchasers or owners who shall submit a location map(s) on a form approved by the manager and acceptable for recording, prior to construction of any such improvements within the area(s); however, the purchasers or owners shall not be required to designate the area(s) by a specific time frame under the terms and conditions of the sale.

B. The designated areas when calculated together may not exceed five acres in size, except as set forth below. The areas may include homesites, well and septic locations, and the farmstead areas normally required for yards, driveways, parking, barns, animal pens, outbuildings, and other similar uses.

C. Areas larger than five acres may be authorized by the borough manager and designated if unusual or large scale real property improvements are necessary for agricultural development of the parcel conveyed.

D. Changes in the location or size of the designated real property improvement area are subject to approval of the borough manager. The borough manager may approve a change if the change is consistent with the agricultural use of the property.

E. The method for designating and amending the real property improvement sites will be set out in the terms and conditions of the agricultural land sale program and will be enforced by covenants, conditions, and restrictions.

F. Processing and recording fees may be charged to the owners that request the designated improvement sites be amended.

8.1 Subdivision and Sale.

A. A parcel sold in a borough agricultural land sale authorized under Title 23 is considered to be a single farm unit. It may not be divided for a period of ten years from the date the sale documents from the borough conveying the property to the buyer is recorded.

B. After ten years, the farm unit may be divided provided no parcel so divided is less than 40 acres in size, and no more than four parcels may be created from the original farm unit boundary. Any such division must meet the subdivision code and regulations of the Matanuska-Susitna Borough (MSB) platting division.

C. Upon division of the farm unit, designated real property improvement areas will remain in the location and size most recently authorized by the borough manager unless amended as provided under the terms and conditions of the farm sale program.

D. The terms and conditions of the financing offered by the MSB to purchase borough-owned land, among other things, prohibits the property from being subdivided or the ownership being transferred without the specific consent of the lender during the loan term. If the loan term is longer than ten years then the restrictions under the loan would survive the expiration of the ten year rule set forth in 9.1 (A).

9.1 Enforcement of Agricultural Use and Program Requirements.

A. The requirements of agricultural use and the terms and conditions of the agricultural land sale programs will be enforced by the use of contractual covenants, conditions, and restrictions, or by adoption of an agricultural land use district for the area prior to the sale, or any combination of the two methods deemed appropriate for the particular program.

B. The requirements of any financing offered by the MSB to purchase the agricultural parcels will be enforced based on the terms and conditions of the deed of trust and note secured.

C. In the event the parcel is located within the boundary of an agricultural land use district, or such other zoning which may exist, all development, including construction of real property improvements, will conform to the adopted regulations for the district or zone.

PART TEN:

APPLICATIONS

Filing and Acceptance 10-1

TITLE 23
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APPLICATIONS:	Filing & Acceptance
PART 10	Effective Date: 09-20-1994

1.1 Authority: 23.05.060
23.10.080

2.1 This section outlines the process to make application to use or purchase borough real property.

3.1 Prior to making application, the interested person shall request a pre-application conference with the land & resource management division staff.

4.1 The applicant will be responsible for completion of the appropriate application form, qualified bidder/buyer statement, and applicant questionnaire.

5.1 The applicant must submit the completed documents and application fee to the land & resource management division.

6.1 The documents will be reviewed for adequate location description, clear explanation of use of request, and contact address and phone numbers.

6.2 The documents will be date stamped and logged in.

6.3 The land & resource management chief[1] will review the application and assign it to a staff person for cursory review. Items to be researched will be:

a. verification of borough ownership;

b. current classification, it any;

c. competing applications for same property;

d. verification that applicant is qualified bidder/buyer at time application is received;

e. requested use or purchase meets disposal or uses permitted under borough code.

[1] Land Management Officer changed to Land & Resource Management Chief effective 5/21/2001.

7.1 Based on the cursory information the staff person will make recommendation to the land & resource management chief to accept or reject the application.

7.2 A formal acceptance or rejection of the application will be sent to the applicant 30 days after receipt of the application, or as otherwise provided in code, by certified mail.

8.1 The manager may delegate the authority to accept or reject the application.

9.1 Acceptance of an application shall not in any way vest any right to the applicant in the real property or to use of the real property applied for.

10.1 Accepted applications will be processed according to the policies and procedures adopted for the method of disposal or use as required by code.

11.1 Rejected applications will be held for a period of three years in an alphabetical file by applicants' name.

PART FIFTEEN:

BEST INTEREST FINDING

Best Interest Finding 15-1

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Best Interest Finding	
PART 15	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(G)
23.05.060(B)
23.10.060

2.1 The purpose of a best interest finding is to: (1) determine if borough land should be sold or leased at less than fair market value; (2) identify if a proposed use is a public purpose that should be engaged in by the borough; and (3) determine the appropriate classification of the land for which a less than fair market value use is proposed; or (4) if fees should be waived

3.1 This policy and procedure is divided into four sections. Section A: Determination if the proposed use is a public purpose in the best interest of the borough. Section B: Determination of the highest and best use of the parcel proposed for a less than fair market value disposal. Section C: Preparation of a best interest finding document. Section D: Recommendation.

4.1 Section A. Public Purpose Finding:

In making a decision to dispose of land at less than fair market value, the proposed purpose to be provided by the applicant must be equal to or greater than the loss of potential revenue from the land, and equal to or greater than the benefits to be gained by putting the revenue to an alternative public purpose.

4.2 The benefit derived from an applicant is the purview of the manager and the assembly. The ;and & resource management division must first collect all pertinent information from the applicant so that the manager and assembly can determine if the public purpose provided by the applicant warrants a less than fair market value disposal, and if other applicants should be able to compete in providing the service. The "Application to Purchase, Lease, or Use Borough Owned Land or Resources" is used to collect this information along with the following additional information.

5.1 Section B. Determination of Highest and Best Use, and Determination of Appropriate Land Use Classification.

Highest and best use defined: the reasonably probable and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and results in the highest value.

5.2 Determination of highest and best use is part of the valuation process for borough land according to adopted policies and procedures.

5.3 Land use classification is a planning and zoning determination and is accomplished by the classification of borough land according to procedures adopted by assembly resolution.

6.1 Section C. Preparation of the Best Interest Finding Document. The following is a suggested outline for a best interest finding.

7.1 Heading: Identify the proposed action type and project name/name of the prospective grantee or recipient (e.g., "Proposed Negotiated Lease to ACME, Inc., a non-profit "Alaska Corporation"); MSB number, if one is assigned, and document title "Best Interest Finding and Decision" at the top of the page.

8.1 Proposed Action: Clearly state the reason a best interest finding is needed, cite the section of code that requires a best interest finding, or other extenuating circumstances that led to the need, what led to the proposal, identify the applicant, if any; what the action is; and the location of the proposed action. If an application is involved, set out the division's proposal, not just the applicant's request; they are not necessarily the same. For example, an applicant may have asked for a 55-year, 200-acre noncompetitive lease, in response to which the division's "proposed action" is to offer a 20-year, 80-acre competitive lease at public auction.

9.1 Authority: List all relevant parts of the borough code that apply to the adjudication of the proposed action. Include where the authority lies to make the decision (check the delegations of authority).

10.1 Discussion: The following items must be addressed under one heading titled "Discussion":

a. Location: Identify the location of the subject action by its general

geographic area, the community council or city, if applicable; the coastal district if it is within the coastal zone; the USGS map coverage and the complete legal description. A location map or sketch map should be included in the attachment section.

b. Title: Discuss how the borough obtained title to the parcel, the title status, any restrictions including federal and state of Alaska patent reservations and exceptions, and any third party conflicts or pending interests. This information is obtained from a title report and/or status plats, borough land records, district recorder's office records, and LAS.

c. Background: Give a brief chronological background or history of the case. Emphasize the procedural history of the case and timing of significant actions. Be sure to include dates for all pertinent applications, decisions, etc.

d. Planning and Classification: Discuss the planning and classification status of the proposed disposal parcel. At a minimum, this section must address the following:

1. If a state land use plan or borough community comprehensive plan is in effect for the proposed action, identify the plan, unit, and sub-unit (if applicable), and discuss how the proposal is consistent or inconsistent with the plan's designations, prohibited uses (if any), management intent and applicable guidelines. If not consistent with the plan, can a plan amendment or special exception resolve the conflict? If a site-specific plan is necessary, can it be combined with the preliminary finding and decision?

2. If classified, what is the classification? If the area is not classified or the project is inconsistent with the classification, does the parcel need to be classified or reclassified? What is the requested classification and when was it requested.

3. If the proposed action is within the borough's coastal zone, is it subject to the borough's coastal management plan (specify section). Is it subject to an Alaska Coastal Management Program (ACMP) consistency determination? Are special conditions or stipulations necessary to ensure consistency?

ACMP Consistency Determination: Discuss the coastal consistency determination and any action required to be in compliance with the ACMP, if applicable.

4. Is the parcel closed to mineral entry? If not, is a mineral closing order needed?

5. Is platting required? If not, how does the property meet existing platting requirements? Will the plat require approval by the Department of Environmental Conservation (DEC) to determine the parcel's suitability for on-site wastewater disposal? (DEC's subdivision plan review regulations apply to authorizations such as rights-of-way, not just to conventional subdivisions. If in doubt, find out no later than the agency review phase whether DEC considers the proposed action a "subdivision.") Would changes in the proposal, such as a larger parcel size or different lot orientation, facilitate DEC's approval?

6. If the parcel is within a city or community council boundary, is the proposal consistent with the comprehensive plan? Zoning? If not consistent, what is required to obtain approval or consistency?

e. Waterbodies: Identify all public and/or navigable waterbodies within or bordering the boundaries of the subject parcel.

f. Access: Address if the parcel has legal access and its potential for development. In addition, address AS 38.05.127, access to navigable or public waters as required by the Matanuska-Susitna Borough/State of Alaska Settlement Agreement and audit
cedures.

1. Reference existing waterbody and public access easement(s), and those which need to be reserved, including width. If a reduction or waiver of the easement is required, state the reasons.
2. Discuss projected use of easement and allowable uses, including any limitations as to type of vehicle or ability to construct road.

g. Agency Comments: Summarize all borough and non-borough agency comments and responses by agency. Also include a summary of any public comments that may have been received prior to issuing the finding and decision. If public comments were received, change the title to Public and Agency Comments. All negative comments received during agency review are to be considered in the finding and decision.

h. Environmental Hazard Risk: Include a discussion of the environmental risk associated with the proposed disposal. If an on-the-ground inspection is conducted, include the finding from the inspection report.

i. Performance Guaranties and Insurance: Will bonding and/or insurance be required? If not, why not? If so, how much and why?

j. Public Health Safety and Welfare: In this section describe the proposed action's potential impact on the public health, safety and welfare. Consider whether or not the proposed action will: create accident or environmental hazards, create atmospheric or ground or surface water pollution, create excessive noise or harm important view sheds.

k. Public Convenience: Public convenience is a measure of the public's ability to travel efficiently and effectively. In this section the proposed action's potential impact on the public's ease and cost of travel (both money and timeliness) is addressed.

l. Development Pattern: Describe the existing development pattern of the immediate area in which the proposed action is to occur. Consider type of development, density, transportation routes, etc. After describing the existing development pattern then describe the proposed action's impact on the existing pattern of development.

m. Direct Costs/Revenues: Indicate whether or not the proposed action will have any direct costs to the borough associated with it. Also state any revenues that the borough may receive if the proposed action is approved.

n. Important Public Domain Lands: State whether or not the borough lands where the proposed action is to take place are important to

retain or remain unencumbered. For example, has the parcel been identified as a future fire hall site? A school site? Is the parcel the last or almost last amount of borough land in the area?

o. Public Nuisance: Indicate whether or not the proposed action may create a public nuisance. Public nuisance is defined as an action that may or may not cross a parcel's boundary line and that creates annoyance, discomfort, inconvenience or damage to the owner of other property. Examples of nuisance include noise, smells, fumes, dust, and other offensive conditions.

p. Economic Impact: Describe the proposed action's potential impact on the borough's economy. How many new jobs will be created? What type of jobs will be created and what skills will be required? What increase in real estate taxes is expected? Will the proposed action create other economic opportunities or make existing businesses more competitive? Will the borough participate in the project? In most cases this information will be supplied by the applicant. The applicant should be required to justify the submitted material.

q. Survey and Appraisal: This section should address whether the proposed disposal will require survey and appraisal. If required, what type is needed, and who will be responsible for doing or paying for the work? Address standards for surveying waterbodies, e.g. meandering navigable or public waters.

r. Alternatives: Discuss the pros and cons of any alternatives that can be identified for this proposal. At a minimum, discuss: terminating the proposed action; modifying the proposal; moving the proposed action to another location, if applicable; and proceeding with the action as proposed. If the proposal is for a lease, discuss alternatives for the lease term (duration) and lease compensation method. Discuss whether another program could provide a good alternative: Could the land be sold outright instead of being leased? Could sites be offered at auction instead of under the homestead program?

In sum, the discussion section must clearly show why the division believes the proposed disposal is in the public's best interests, including broader considerations such as the likelihood that the disposal will generate new jobs, surplus revenues for the general fund or lead to improved access recreation. It is especially important, if some factors are negative (e.g. local

opposition), to explain that the division has a duty to balance the public's interest as a whole. The document should also make clear that it is indeed preliminary with final action being the purview of the assembly. It need not present a finished solution for every problem: the public review process may come up with a better way. Or, based on public comments on the preliminary decision, the division might decide not to go ahead with the disposal.

11.1 Section D. Recommendation: Identify the preferred alternative for the proposed action. List any special stipulations and reservations proposed to be included in the authorization or conveyance document; if not already done in the discussion section, explain why these terms and conditions are necessary to serve the public's best interest.

12.1 If the recommendation for the preferred alternative is to deny the application, see step number 13.1. The following statement will be used for the preliminary finding and decision when the preferred alternative is other than a denial of an application:

"I find that the proposed action may be in the public's best interest and it is hereby recommended for approval by the borough assembly."

13.1 Denial: Denial of an application does not require a special finding. However, an applicant must be advised about the specific reasons for the denial and advised of the appeal process under MSB 23.05.090.

14.1 Execution: The finding and decision is signed and dated by the adjudicator and initialed by the land and resource management chief[1] and Community Development director[2].

15.1 Attachments: Include any attachments such as a map of the project area, the full legal description, and any other relevant information. Attachments should be clearly labeled Exhibit "A" "B" etc. and referenced as such in the body of the finding.

16.1 Distribution: If the proposed action is based on an application, the potential grantee is an interested party and should receive a copy of the finding and decision by certified mail. Include a cover letter stating that the division is

[1] land management officer changed to land & resource management chief effective 5/21/2001

[2] Planning Director responsibilities regarding: Title 23 changed to Community Development director effective 7/7/1998

now ready to forward the proposal to the appropriate board and/or commission after which the proposal will be submitted to the borough assembly, but warning that the proposal does not constitute a final decision, does not represent a commitment, and does not convey any rights. Interested parties have the opportunity to comment on the preliminary decision during the board/commission and assembly consideration period; and if they are aggrieved by the final finding and decision, they have the opportunity to appeal it (see MSB 23.05.090). It is the record of the adjudication process used to arrive at the proposed decision and is subject to change as a result of input received during the board/commission and assembly consideration period. Appropriate resolutions are proposed and forwarded to the board/commission and assembly for consideration.

PART TWENTY:

CLASSIFICATION

Classification of Borough Land 20-1

TITLE 23
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POLICY AND PROCEDURE MANUAL

CLASSIFICATION OF BOROUGH LAND	
PART 20	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.100
23.10.030(B)

2.1 This section addresses the process required to classify borough land. The classification must be a use as defined in MSB 23.05.100 and processed as required by MSB 23.10.030(B) and these established procedures. Classification of borough land must meet the public notice requirements of Title 23.

3.1 The assembly classifies land by ordinance. A change in classification also takes place by ordinance.

4.1 It is the policy of the borough to encourage and facilitate the agricultural use of land, when such land is suitable or potentially suitable for agricultural purposes, and to assure to the extent feasible that such land is put to no use that will diminish its agricultural worth. To implement this policy in the classification process, a highest and best use analysis shall be completed by the land and resource management division and submitted to the agricultural and forestry advisory board for their review and comment. The board's comments with the division report will then be forwarded to the planning commission and assembly. The planning commission will make a recommendation to the assembly.

5.1 Nothing in these policies and procedures prohibits the classification of land to take place concurrently with some other action involving the same land which requires the same review process for approval (e.g., lottery disposals or remote parcel program disposals).

5.2 Procedure for classifying borough owned land is as follows:

A. The land and resource management division shall complete a highest and best use analysis of each parcel which will result in a recommended classification.

B. When developing the highest and best use analysis, parcels will be first analyzed for their present and future agricultural uses. The

borough policy of encouraging and facilitating agriculture will be based on the following criteria:

(1) soil conservation service capability classes;

(2) probable type of agriculture use: fruit and vegetable, hi density animal production, developed pasture, forage and grains, and undeveloped pasture;

(3) future agriculture needs to maintain potential regional agriculture subsistence for the maximum potential population;

(4) physical accessibility and proximity to markets both potential and existing;

(5) existing plans and regulations and development patterns within one mile of subject parcel. Housing development should not automatically exclude all types of agriculture development on class II and III soils;

(6) appraisal;

(7) borough goals and objectives;

(8) the demand for the most probable use of the subject parcel based upon the number of sales, availability of properties for sale and occupancies on adjacent land;

(9) financial feasibility for a requested use;

(10) physical characteristics;

(11) historical use of the subject parcel;

(12) potential public uses;

(13) public infrastructure within one mile of the subject parcel;

(14) other pertinent information.

C. The land and resource management division shall prepare a review packet and submit the recommended classification for interdepartmental and manager's review. The review packet will also be submitted to the community council, if any.

D. Based on the comments received, the land and resource management division will prepare a packet and submit it to the planning commission for review and consideration.

E. Upon receipt of the agricultural and forestry advisory board and planning commission comments, the land and resource management division will prepare an assembly memorandum. The assembly memorandum will include planning commission recommendations and all comments received from all entities (e.g., public agency, community councils, etc.). Negative comments must be discussed. An ordinance approving the recommended classification will be included in the assembly packet.

F. Public notice will be given in accordance with policy and procedures adopted in accordance with MSB 23.05.025.

PART TWENTY-FIVE:

EASEMENTS AND RIGHTS-OF-WAY

Purchases	25-1
Public Easements and Rights-of-Way	25-2
Acquisition Procedures	25-6
Trail Dedication	25-9

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

PRIVATE EASEMENTS AND RIGHTS-OF–WAY: PURCHASES	
PART 25	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(F)
23.10.060(B)(3)
23.10.110

2.1 This section applies to the granting of private easements or right-of way on borough lands.

3.1 Requests for easements or right-of-way shall be in writing pursuant to the application procedure.

4.1 The borough may require a legal description approved by a registered surveyor, and illustration or as-built drawing of the easement location as necessary.

5.1 Easements or right-of-way shall be granted in the best interest of the borough.

6.1 The location or alignment of easements or rights-of–way shall be according to commonly accepted industry practice, and in a manner that will cause the least impact to borough lands. The borough will seek to promote locations that provide the greatest public good with the least private harm. The land and resource management chief[1] as directed by the community development director[2] may require that an alignment study be completed and approved by the borough prior to the granting of an easement. A best interest finding may be required.

7.1 Easements or rights-of-way shall be granted at fair market value (FMV).

7.2 Public notice of the action shall take place in accordance with the public notice procedure.

7.3 Easements or rights-of-way which impact the larger parcel may be required to be valued by an appraisal as determined necessary by the land and resource management chief[1].

[1] land management officer changed to land & resources management chief effective 5/21/2001.
[2] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

PUBLIC EASEMENTS AND RIGHTS-OF-WAY	
PART 25	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(F)
23.10.060(D)
23.10.080
23.10.110

1.2 This procedure addresses the dedication of easements and right-of-way. Easements and right-of-way may be issued for a specific length of time and all are conditional on continued use, and may be charged a fee based on a fee schedule adopted by the assembly.

1.3 The word “dedicate” is synonymous with “grant,” “convey” or “reserve.” Specific language is needed to dedicate an area to public use. The designation of a public area on a plat is sufficient to dedicate it to public use.

2.1 An easement is the public’s right to make use of borough land. It is a right to use for a specific purpose rather than a right to possess. An easement may be established for such uses as rights-of-way, airstrips, log transfer facilities, water pipelines, etc.

2.2 To vacate an easement means to void it and to extinguish the right to use the land.

2.3 The borough’s policy regarding the vacation of section line easements during subdivision is to vacate the easement only within lot lines of subdivided parcels, where alternate access to adjoining lands is provided by the subdivision design, or in areas where topography makes the section line impossible to utilize.

3.1 It is the policy of the borough that a public easement reserved or granted on borough land is not a disposal of an interest in land.

3.2 The vacation of an easement is a disposal of borough interest where the easement crosses non-borough land. When the borough is the underlying landowner, the vacation of an easement is not a disposal of an interest in land.

The requirement of due process requires notice to protect those persons who may be affected by the vacation of the easement.

3.3 Unless prohibited by Title 27 of the borough code, the centerline survey required in 4.1 (I) may be waived by the manager based on consideration of the following:

A. the cost of monumentation necessary to tie into existing surveys;

B. other methods of describing the location of the easement, such as existing property lines, preliminary survey, description using angles and distances, etc.; and

C. the likelihood of conflicts with existing or proposed land uses; and

D. proposed length of use; and

E. proximity to other monuments; and

F. population density; and

G. development patterns within one mile of the proposed action.

If the centerline survey is waived, a sketch map of the easement showing the approximate location of corner ties as the easement crosses survey lines is substituted at a minimum.

3.4 Generally, it is the policy of the borough to charge no fee for a public easement except when requested to do so by the assembly.

3.5 In order to qualify for a public easement, the applicant must state that exclusive use of the easement is not required and that he understands that the easement may subsequently be vacated through normal Title 27 procedures.

3.6 It is the policy of the borough to provide for an integrated network of easements, rights-of–way, trails, etc. The interconnecting of proposed easement to existing and future easements shall be considered when adjudicating the application.

3.7 Although the borough reserves the right to grant access across leased

lands, it is the borough's policy to exercise this right only when there is no other way to solve an access problem. The borough encourages the applicant for such an easement to work with the lessee to minimize loss to utility of the parcel. The borough's commitment to the lessee may require the applicant to bear additional costs such as placing the easement along the perimeter of the leased parcel rather than directly across it or constructing the improvements in a certain manner.

3.8 The borough assumes no responsibility for maintenance of structures constructed within public easements on borough lands, and it assumes no liability for injuries or damages attributable to construction within public easements. The borough also makes no warranty that dedicated lands are suitable for the proposed use.

3.9 An easement that is identified for "public access" without further use limitations (i.e., pedestrian, dog sled, snow-machine, etc.) may be used for any mode of transportation commonly employed for access purposes.

4.1 The following procedures are used to dedicate a public easement.

A. When the application is received by the Land and Resource Management Division, it is reviewed to verify borough ownership and that application is made on the proper form. If in the judgment of the reviewer the application is complete and accurate pursuant to the application procedure, and is accompanied by any required fee, it is considered proper and accepted.

1. The application is serialized by assignment of an MSB number.

2. A case file is created which contains the original application and any pertinent enclosures or inclusions.

3. The application is added to the department's real property files.

B. The land under application is researched to identify any restrictions resulting form title documents, area or management plans, classification, cooperative agreements, other land actions, or any surveys in progress. Surrounding land status is also checked to make sure the easement does not duplicate an existing or proposed

dedication and to trouble shoot any potential problems involved with access during construction.

C. Interdepartmental review is initiated. If construction is to take place the applicant is requested to obtain a construction permit from the borough Department of Public Works.

D. The site of the easement and construction access is inspected if appropriate. The volume of timber and materials to be removed is estimated and a decision is made regarding their disposition.

E. The public is notified of the proposal pursuant to the public notice procedure.

F. The borough manager approves or denies the application. If the application is denied, a letter is prepared stating the reason for denial and is sent to the applicant. If the application is approved a one-year land use permit is prepared, including the conditions that the permit will result in dedicated easement upon submission of a description or as-built of a centerline location survey acceptable to the borough. The disposal of timber and material is also addressed at this time.

G. The applicant signs the permit agreeing to conditions therein, and returns it, and a bond or a time certificate of deposit if necessary to insure compliance with stipulations or to insure that the survey is submitted to the district for signature.

H. When the signed permit and bond are returned by the applicant, it is signed by the borough manager and the information is added to the land and resource management division file system.

I. When the applicant submits the description or as-built centerline location survey, it is reviewed for accuracy and completeness. If satisfactory, the bond is returned to the applicant.

J. The dedication document is completed and executed by the borough manager and added to the land and resource management division's file system.

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LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

PUBLIC RIGHT-OF-WAY ACQUISITION PROCEDURES	
PART 25	**Effective Date: 2-1-2006**

1.1 Authority: MSB 23.05.030

2.1 The Matanuska-Susitna Borough (MSB) in desiring to improve public right-of-way and public use easements for roads, trails and other related public transportation purposes, shall comply with the following procedures and in accordance with Title 23 for acquisition of real property or interest therein.

3.1 This section shall apply for the acquisition of Public Right-of-Way and Public Use Easements, and provides authorization for acquisition by fee, license, permit, or other interest.

4.1 Property to be acquired by the borough under this section will be surveyed or otherwise described based on an engineered designed and a value established prior to commencement of any negotiation with a property owner.

5.1 Valuation of Right-of-Way or Public Use Easement shall follow Title 23 procedures for determining fair market value. If a fee appraisal is required, the appraiser will contact the owner and extend an invitation for the owner to accompany the appraiser during his inspection of the property. Whenever reasonable, appointments should be made at the owner's convenience.

6.1 The borough will establish just compensation from the estimate of fair market value before negotiating with any owner. Any amounts paid over just compensation for the Right-of-Way or Easement will be documented as to the justification used in arriving at the amount of the settlement and shall be approved by the borough manager and require the approval of the assembly prior to the transaction.

7.1 During the appraisal or valuation process, the borough will not consider any factors of the project that would influence the valuation of the property except physical deterioration wherever appropriate.

8.1 During acquisition of a portion of the owner's property, the borough will not leave an uneconomic remnant without offering to acquire the entire property from the owner.

9.1 If a fee appraisal is completed, the borough will give to the owner at the initiation of negotiation a written statement known as the "fair offer letter." That statement will be the amount of just compensation based on a review and analysis of an appraisal(s) made by a qualified appraiser with a summary thereof, showing the basis for just compensation. Included in the fair offer letter will be identification of the real property to be acquired, including the estate or interest being acquired. There will be, when appropriate, the identification of the improvements and fixtures considered to be part of the real property to be acquired. The fair offer letter will show that portion of the just compensation considered the amount of damages to the remaining property. At the initiation of negotiation with the owner, the borough will give to the owner an acquisition brochure which contains the Policies and Procedures for Public Right of Way Acquisitions.

10.1 The borough will not require the owner or tenant to surrender possession of the property before 90 days after the agreed purchase price has been paid or the approved amount of compensation has been paid into court. The 90 day notice may be reduced only in the event the property being acquired is unimproved, contains no personal property, and is not being utilized by the owner or tenant.

11.1 Every reasonable effort will be made to acquire expeditiously real property by negotiations without exercising the right to eminent domain. No action will be taken to advance condemnation, defer negotiations or condemnation, or take any other action coercive in nature in order to compel an agreement on the price to be paid for the property.

11.2 No eminent domain or condemnation process may proceed without prior approval by the assembly under the terms and conditions of Resolution Serial No. 05-098.

12.1 When any interest in real property is acquired, at least an equal interest will be acquired in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which will be adversely affected by the use to which such real property will be put.

13.1 The borough will pay direct or reimburse the owner for expenses necessarily incurred in the acquisition for:

A. Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring borough;

B. Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property;

C. The pro-rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring borough, or the effective date of possession of such real property by the acquiring borough, whichever is the earlier.

14.1 A donation or gift of real property will be accepted only after the owner has been fully informed of their right to receive just compensation.

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TRAIL DEDICATION	
PART 25	**Effective Date: 09-20-1994**

1.1 Authority: 23.05.030
23.05.060
23.10.110
23.10.250

2.1 Definitions: A trail is a 10' to 60' wide right-of-way. A right-of-way is: (1) the right to pass across the lands of another; (2) land, property, or interest therein, usually in a strip, acquired for or devoted to recreation or transportation purposes.

2.2 Commercial use of trails requires a fee as established by the fee schedule.

3.1 A trail not presumed to exist per paragraphs 7.1 or 7.2 of this procedure must be legally established in accordance with paragraphs 8.0, 8.1, 8.2 of this procedure. A trail is legally established when an easement has been acquired either from a private party, or through approval of an interagency agreement when the trail is located on other public or borough-owned land. Trails can be established per paragraph 8.0 without the need for a separate legal description within dedicated borough park land as part of the normal development of park land. A trail is dedicated by ordinance by the assembly following prescribed procedures for ordinance adoption.

3.2 All necessary property interest shall be acquired prior to obtaining dedication of a trail not presumed to exist as defined in paragraph 7.0 of this procedure.

4.1 A trail shall be described by metes and bounds description on the easement document, or reflected on a recorded subdivision plat or similar instrument, or by angle point survey with chains, i.e. remote areas.

5.1 Private parties may donate the right-of-way for trails. As a general policy the borough will not pursue establishing prescriptive rights for trails across private lands, unless the trail falls within the guidelines of federal RS 2477 grants.

6.1 The manager shall recommend to the planning commission and assembly

trails to be dedicated for park and recreation purposes. The planning commission shall review the proposed trail dedication and advise the assembly. The assembly shall dedicate trails by ordinance when the necessary property interest has been acquired.

7.0 Trails meeting the conditions of paragraphs 7.1 or 7.2 of this procedure but are either:

a. located on non-borough lands without appropriate dedication documents and written objections have been filed with the community development director[1] by the real property owner; or

b. have been vacated in accordance with Alaska state statutes or MSB Title 27;

are not presumed to exist.

7.1 Trails listed in the Matanuska-Susitna Borough (MSB) Trails Inventory dated September, 1987 are presumed to exist.

7.2 Trails are also presumed to exist if the following criteria, where criterion "a" is mandatory, are satisfied:

a. a Trail Witness Statement Form issued by the community development department [1] has been executed and notarized by two witnesses.

b. the trails are evident on aerial photography obtained prior to the adoption of this procedure; or

c. the trail is illustrated on BLM, GLO, USGS, state, or other official maps issued prior to adoption of this procedure; or

d. former trail descriptions and maps were recorded prior to adoption of this procedure; or

e. trails in non-recorded but previously executed covenants executed by duly authorized individuals and executed prior to adoption of this

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

procedure; or

f. other appropriate third party documents.

7.3 Appropriate formal dedication documents shall be recorded for trails existing per paragraph 7.1 or 7.2 when administratively possible.

7.4 Trails shall be open to the public but may be restricted to certain uses, e.g., equestrian, pedestrian, mountain bike, dog-mushing, snow machines, etc., if the restriction has been approved by the planning commission as recommended by the MSB Trails Committee.

7.5 The MSB assumes no liability for trail use whether stated or implied. Should the borough accept a trail from a private property owner, the borough will provide the private property owner appropriate indemnification for the trail's use.

8.0 For those trails not satisfying paragraphs 7.1 or 7.2 of this procedure the following dedication procedures shall apply.

A blanket dedication may occur if the entire parcel has been classified for trail or park use by the assembly upon recommendation by the planning commission. Within areas dedicated by the blanket procedure, the location of trails need not be surveyed and may be routed, rerouted, closed, or eliminated without formal action by the planning commission or the assembly. The community development department [2] will be notified, in writing, of any proposed action or modification occurring within the area prior to implementation. Such notification is required for review purposes only so that conflicts with, or acknowledgement of, other approved easements, right-of-ways (e.g., utilities) are identified prior to action.

8.1 Remote Areas.

A. In remote areas the locational standard required prior to dedication of the trail may be by compass bearing, or better, initiated at a permanently established survey marker and with trail markers established no less than every 1,320 feet.

[2] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

B. A remote area is defined to be those places of the MSB meeting the following criteria:

1. real property outside of recorded subdivision; and

2. real property outside a municipality; and

3. those areas located more than one mile from a road constructed to borough local road standards and which is connected to the public road system; or

4. a special or unique area as determined by the community development department[3] and concurred upon by the planning commission.

The boundaries of the remote area change as new roads meeting borough local road standards are constructed.

8.2 Non-Remote Areas.

A. In Non-Remote areas the locational standard required prior to dedication of trail shall be an approved survey conducted by a professional land surveyor. A professional lands surveyor is any person meeting the Alaska state licensing requirement.

B. Defined - Non-remote Areas are defined to be those places meeting any of the following criteria:

1. places not meeting the remote criteria as defined in Section 8.2 of this procedure; or

2. real property located within a recorded subdivision; or

3. real property located within any municipality within the MSB.

[3] Planning Director responsibilities regarding Title 23 changed to Community Development Director effective 7/7/1998.

PART THIRTY:

FEE SCHEDULE

Fee Schedule 30-1

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FEE SCHEDULE	
PART 30	**Effective Date: September 21, 2004**

1.1 Authority: 23.05.060

2.1 An application fee of $50.00 is due upon submission unless this charge is inapplicable by the terms of an adopted program or permit procedure.

3.1 A processing fee of $250.00 is due upon acceptance of an application, unless this charge is inapplicable by terms of an adopted program or permit procedure.

4.1 In addition to Sections 2.1 and 3.1, a $500.00 non-refundable deposit shall be required for application of a less than fair market value (FMV) lease or sale. The deposit will be applied to the lease or sale price if the application is approved.

5.1 For Over-the-Counter land sale programs, a $100.00 processing fee is required with the submission of each bid.

6.1 Permit fees:

A. Personal Intermittent Use Permit:

Adult (18 years and older)	$25.00
Parent/guardian for minor	$10.00

B. Public Use Cabin Permit:

Daily rate	$40.00

Occupancy of the public use cabin is from 12 noon to 12 noon. Rates will be published for specific cabins, based on location, amenities, desirability, size and season.

C. Designated Special Use and Management Area Permits will be issued based on a schedule of fees adopted for each area.

D. Land Use Permits:

Annual Minimum/Non-commercial use	$500.00
Annual Minimum/Commercial use	$500.00

A commercial permittee will also be charged annually no less than twelve percent (12%) of the assessed parcel value per acre; or ten percent (10%) of (FMV).

Overland access/seasonal	$150.00
Overland access/one-time	$ 50.00

E. Designated Area Personal Use Permits:

Wood per cord	Market Rate
Gravel per c/y	Market Rate
Peat per c/y	Market Rate
Other earth material c/y	Market Rate
Garden plots	$100.00
Harvest of natural vegetation	$100.00

7.1 Easement and Rights of Way Fees:

A. Public Utility Facilities Easements:

Utility Transmission/Distribution:	
Borough owned land	FMV by sq.ft. of easement area, or 125% of assessed value of easement area
Utility service to borough owned land	No Charge

B. Private Utility Easements — FMV by sq.ft. of easement area

C. Roads and Driveways:

Private	FMV by sq.ft. of easement area
Public	No Charge

D. Trails:

Motorized Vehicles:

Private	FMV by sq.ft. of easement area
Public	No Charge
Commercial	$250.00 or In-kind value of $250.00 or more.

Non-Motorized and Pedestrian:

Private	FMV by sq.ft. of easement area
Public	No Charge
Commercial	$100.00 or In-kind value of $100.00 or more; or $1.00 per person per day

8.1 Timber resource fees:

A. For all timber sales including salvage, the minimum stumpage prices shall be based on fair market value.

B. A $100.00 fee is due for each timber sale contract extension requested.

9.1 Assignments of Alaska Division of Land leases: In addition to other application fees, a document fee of $250.00 will be due upon acceptance of the application.

PART THIRTY-FIVE:

LEASES

Cancellation & Termination: Termination of Leases 35-1

Real Property Disposals: Leases 35-3

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CANCELLATION AND TERMINATION: Termination of Leases	
PART 35	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.080

2.1 Definitions:

Lease: A written document in which the rights to use and occupancy of land and/or improvements transferred by the owner to another for a specified period of time in return for a specified rent.

Lessor: The Matanuska-Susitna Borough (borough).

Lessee: The tenant.

3.1 The borough issues leases with terms and conditions that are agreed to by the tenant at the time the lease is signed by the tenant. Should the tenant default on lease payments or not comply or fulfill the terms and conditions of the lease, the borough may terminate the lease. Conditions under which the lessor may terminate the lease are contained in the lease document.

3.2 A decision to terminate a lease is obtained by having a memorandum approving the termination signed by the land management chief[1], community development director[2], and borough manager.

3.2 Generally upon receiving approval to terminate a lease, notice is sent to the tenant informing them of the intent and time-frame for termination, and any conditions that can be met by the tenant to avoid termination.

4.1 A letter terminating a lease is signed by the borough manager and sent by certified mail to the address for the tenant contained in the lease.

5.1 A borough issued lease may also be terminated by mutual agreement, in which case either the borough or the tenant may initiate termination of the

[1] land management officer changed to land & resources management chief effective 5/21/2001.
[2] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

lease. Termination of a lease will be accomplished when all parties to the lease agreement have signed an agreement to terminate the lease. The borough manager will sign the termination of lease on behalf of the borough.

6.1 If the lease to be terminated is recorded, the borough will record a notice of termination, titled as applicable, either NOTICE OF TERMINATION OF LEASE BY DEFAULT, or NOTICE OF TERMINATION OF LEASE BY MUTUAL AGREEMENT.

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REAL PROPERTY DISPOSALS: LEASES	
PART 35	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030 (E)
23.10.180

2.1 This chapter addresses policies and procedures for leases, excluding material leases.

2.2 "Lease" in this chapter means a contract for the use and possession of the surface estate for a specified period of time and under specific terms. Because a lease conveys a property interest in land, it is necessary to prepare a recommendation for planning commission and for assembly approval. Applications for leases must be advertised pursuant to the public notice procedures provided in MSB 23.05.025.

2.3 A "development plan" is a written statement of the lessee's intentions regarding development and use of the leased land. If an approved development plan is required by regulation or by the director exercising his discretion, it will conform to his specification and is binding on the lessee. A development plan will be consistent with the classification of the land, and it becomes a binding part of the lease contract.

2.4 A "local comprehensive plan" means a plan adopted by a municipality upon which it exercises it's zoning authority. It does not mean studies, proposals or spot zoning.

3.1 Generally, all borough lands are available for surface lease. However, classifications may limit the types of activity for which property may be leased.

3.2 The question of permit versus lease is generally decided on the basis of the applicant's stated intentions. If the applicant requests the use of borough land for not more than one year the person applies for a land use permit. If the person wishes exclusive use for more than one year, if the person wishes to construct permanent improvements, the person applies for a lease.

3.3 Where land use patterns are congested or when competitive interest exists, the

community development director[1] may decide to offer a lease of any term at public auction.

3.4 All persons to be named in the lease document sign the lease application.

3.5 In all competitive offerings in which a development plan is required, the legal publication will stipulate that in order for a person to enter into the lease, a development plan meeting the requirements of the regulations and the community development[1] director must be submitted to the land & resource management division on or before the date stipulated in the legal publication.

No later than 30 working days following the last date the development plan is received the person submitting a development plan will be given notice of the division's approval or disapproval of the plan, in whole or in part, and the reason therefore.

3.6 Lease disposal of unclassified land may be made only when in conformance with a local comprehensive plan.

3.7 The awarding of a lease for whatever purpose does not constitute a waiver of any requirement for permits or other authorizations as may be required for certain uses, whether it be state, federal, or municipal entity. A lease may be revoked if applications for necessary permits are denied.

3.8 A lease made at less than fair market value annual rental will require a public interest finding and will provide for unrestricted public use and access.

3.9 All leases of land which are made at less than fair market value shall terminate if the use changes from the approved development plan or if the use is not consistent with the use approved for the lease, and shall be conditioned upon unrestricted public enjoyment of the benefits of the project. For instance, public access through a hydropower site may be restricted for safety reasons, but if the benefit of the project (electricity) will be made available through a public utility, a lease may be negotiated for less than fair market value.

The land & resource management chief shall determine whether or not a lease by application at fair market value to an eligible person may contain the reverter clause or the requirement for public access.

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998

3.10 A lease of borough land is preferred to a sale when one of the following conditions apply:

A. The long-term management strategy for the land has not yet been decided or has been determined to best be achieved by retention in borough ownership;

B. The proposed use of the land is contingent upon the possession of other permits not under the control of the borough, (i.e., guiding area permits);

C. The nature of the proposed use requires that the borough retain the greatest control over the long-term development and operation of the facility (i.e., oil and gas industrial lease tracts); or

D. The facility, although owned and operated by a private interest, provides an important public service (i.e. power generation site).

4.1 The filing of an application vests no rights in the applicant to a lease or to use of the land while under application. Unauthorized use constitutes trespass. Upon becoming aware of a trespass, the community development[2] department shall serve notice, both by regular and certified/return receipt mail, upon the trespasser and thereafter proceed with appropriate action, including terminating processing the application.

4.2 The trespasser shall be notified that he is in trespass and notice given that the improvements are to be removed within 60 days. If notice is not complied with, the case is then turned over to the borough attorney's office for action.

5.1 Competitive leases are offered via sealed bid, outcry auction, or request for proposal, per applicable procedure. The location of the offering is determined by the purchasing officer on the basis of convenience to the anticipated bidders as well as other factors considered to best serve the interests of the borough. A prospective bidder must attend in person or be presented by an agent. An agent may not represent more than one bidder.

[2] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

6.1 A lease by application should not be used as a short-term solution to a long-term problem. That is, a short-term lease should not be used for the types of activities usually requiring a land use permit, but which will continue for longer than one year.

PART FORTY:

MANAGEMENT AGREEMENTS

Management Agreements 40-1

Interagency Agreements 40-4

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

MANAGEMENT AGREEMENTS	
PART 40	**Effective Date: 09-20-1994**

1.1 Authority: 23.05.030(A)
23.10.010(B)
23.10.160

2.1 Management Agreement An agreement between the borough and a person or borough agency wherein the borough transfers some or all of its management authority over real property to the other party.

2.2 This section describes the method by which a borough real property asset or facility may be managed and operated by a non-borough entity.

3.1 Management agreements are an appropriate vehicle to manage certain borough owned real property assets and facilitates. Joint use planning or management, or a sole management authority must show its ability to assist utilization and provide expertise and services at an equivalent or superior standard, but in a more cost effective manner than the borough could provide on its own.

3.2 Management Agreements may be executed between the borough and other governmental agencies or private individuals or agencies for the purpose of managing a borough real property asset.

3.3 Management agreements shall include, unless inapplicable by its own terms, sections regarding the following terms and conditions:

____ Right-of-way
____ Subleasing
____ Breech of agreement
____ Notice of default
____ Sanitation
____ Removal or forfeiture of improvements or chattels
____ Retention of payments
____ Location of structures And improvements
____ Relationship of parties
____ Assignments
____ Modification
____ Notice
____ Responsibilities
____ Written waiver
____ Terms
____ Violations
____ Environmental impairment
____ Issuance
____ Management fee

____ Facility use standards and termination
____ Default, right to cure
____ Compliance with laws
____ Choice of law
____ Severability
____ Amendment
____ Force majeure
____ Integration

Other terms and conditions may be included in management agreements.

3.4 Any management agreement term that exceeds five years requires assembly approval by ordinance.

4.1 Following is the procedure for issuance of management agreements:

A. The application on a form issued by the community development director[1] is received at the borough and reviewed for accuracy and completeness. A joint use or cooperative management agreement may not require an application if the proposal is being initiated by the borough.

B. Land status is checked for borough ownership and for any reservations or prohibited uses and to determine if the area is subject to coastal zone regulations. If the existing classification is inconsistent with the proposed use, a brief review of the classification will take place. In general, classification older than five years should be reviewed for changing characteristics or use patterns and if indicated a reclassification may be in order. The application will be rejected if the existing classification is inconsistent with proposed use and reclassification is not indicated.

C. The application, if proper, is then given an MSB case number and a case file prepared.

D. A request for interdepartmental review of the application will be prepared and routed for the purpose of identifying problems or conflicting plans which other borough departments may have with the proposed assessment and area of use. If the property is located within a community council area, a request for review similar to the interdepartmental review package will be prepared and mailed to the council.

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

E. If the application affects the jurisdiction of another agency (i.e. parks, sanctuaries, etc.) it is forwarded to the appropriate agency for action and the applicant is notified.

F. Any proposed use which may be potentially damaging to the environment or hazardous to the health, safety or welfare of the public must be carefully reviewed. Discretion should be used when coordinating with other agencies which, by law or other authority, share jurisdiction over the use. Examples of these types of activities include storage of flammable or explosive materials, activities in zones of suspected geological hazards, use of a material site for target practice, and activities which may significantly affect anadromous fish habitat.

Review and approval by the appropriate agency is mandatory when the activity applied for is within a game refuge, critical habitat area, coastal district, or other area designated “special use.”

In cases where an application is sent to other agencies, the applicant is notified that additional review time will be required. The application is forwarded to the appropriate agency for review with a request for response within 15 working days. If agency review is mandatory, no agreement will be entered into without concurrence and failure of the agency to respond must be deemed non-concurrence. Where a review is elective, the notice will give the agency 15 calendar days to respond, and a non-responsive will be deemed a non-objection. Comments are reviewed and appropriate special conditions added to the agreement.

G. Where applicable, a finding of consistency with the coastal management program must be made for each agreement entered into. The consistency determination will be made by the authorized officer.

H. The agreement is either executed, denied or the review period extended within a 30 day period. The agreement of application denial is signed by the borough manager or his designee with any necessary stipulations or conditions.

I. If the application is denied, the applicant must be informed of the reason for denial. He then has the right to appeal such denial according to MSB 23.05.090.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

MANAGEMENT AGREEMENTS: INTERAGENCY AGREEMENTS	
PART 40	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(A)
23.10.010(B)
23.10.160(D)

2.1 Definitions:

Interagency agreement: Any management agreement between various departments of the borough general government or between the borough general government and the Matanuska-Susitna Borough School District for the sole purpose of assigning day-to-day management of a borough facility.

Agency: A subunit of borough government, such as the school district, which by its function has primary use of the land or facilities owned by the borough.

3.1 All real property owned or leased by the borough that is owned or leased in the name of the borough is to be managed under an interagency agreement. This includes real property used as parks, property on which a public facility is situated such as a school or fire station, and property leased for borough facilities.

4.1 The borough manager is authorized to manage and control the borough-owned real property. The borough manager may delegate authority and responsibility for real property management functions.

5.1 Authority for the administration of the management, development, and disposal of borough real property resides with the community development department[1] and must be delegated before another borough agency can make a management, development, or disposal decision regarding borough real property.

6.1 The borough manager through an interagency agreement can additionally name the primary user of land or a facility for day-to-day management. The responsibility for administration of the management, development, and disposal of borough real property still resides with the community

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

development department[1] The primary user department, through a fully executed interagency agreement, obtains day-to-day management of a borough asset and responsibility for its proper use and maintenance.

7.1 The management transfer to the agency requires that the agency be responsible for all costs associated with the use of the real property transferred.

8.1 An interagency agreement is executed by the director of the community development department as the recommending agency, concurred by the director or equivalent position of the department which will manage the real property; and approved by the borough manager.

PART FORTY-FIVE:

OWNERSHIP

Accepting Deeds in Lieu of Foreclosure on a Deed of Trust	45-1
Donations	45-4
Tax Foreclosures	45-6

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

OWNERSHIP: Accepting Deeds in Lieu of Foreclosure on a Deed of Trust	
PART 45	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.010(B)
23.05.030(A)
23.05.080(B)

2.1 Definitions:

Deed of trust: A legal instrument similar to a mortgage that, when executed and delivered, conveys or transfers property title to a trustee. A deed of trust can be used in place of a mortgage contract.

Trustee: A person who controls legal title to property under a trust agreement.

Beneficiary of trust deed: The lender, who is one of three parties in a trust deed agreement. The borrower, or trustor, gives the title to a third party, the trustee, who holds the title in trust for the benefit of the borrower and the lender.

Deed of trust note: The document executed by the borrower, which sets forth the principal amount of the loan, interest rate, and interval of payments required of the borrower for which payment is promised. A deed of trust note is secured by a deed of trust, which specifies the real property taken as collateral and creates a lien on the property until the note is paid or otherwise released.

Foreclosure: The legal process in which a lender or forces the sale of a property to recover all or part of a loan on which the trustor has defaulted.

Deed in lieu: A deed given by an owner or debtor in lieu of foreclosure by the lender or mortgagee.

Buyer: The debtor, borrower, or trustor.

3.1 When the borough finances real property that it sells, the borough requires that the buyer sign a deed of trust to the real property sold as security and

that the buyer will perform on the terms of the deed of trust note which finances the real property sold. The borough becomes the beneficiary of the trust deed.

4.1 Should the buyer default on the deed of trust note, or fail to perform on the deed of trust, the borough as lender and beneficiary of the trust deed may foreclose under the terms of the deed of trust.

5.1 At its option, the borough as beneficiary may also accept a deed from the trustor to the real property sold in lieu of foreclosure.

6.1 The borough requires that real property conveyed in lieu of foreclosure must be conveyed by warranty deed.

7.1 Prior to acceptance of a warranty deed in lieu of foreclosure the borough will require that all conditions contained in the deed of trust be met. The following conditions are not conclusive and are annotated for the purpose of emphasis:

Clear title: Title of the real property to be conveyed to the borough in lieu of foreclosure must be in the same condition as when the borough originally sold the property. The borough's lien must be in first position, and the property cannot be subject to any other liens or encumbrances. The borough shall require an owner's title policy issued at the time of conveyance.

Environmental contamination: The real property to be conveyed to the borough in lieu of foreclosure will be inspected for environmental contamination. The borough may contract for an environmental inspection if site conditions so warrant. Any clean up and remediation of environmental contamination will be the responsibility of the buyer. Necessary remediation must be completed before the deed in lieu of foreclosure is executed.

Environmental affidavit: Executed by grantor prior to accepting deed in lieu.

Waste: The real property to be conveyed to the borough in lieu of foreclosure must be in good condition and repair and must not have suffered waste.

Costs: The owner (trustor) is required to pay all costs associated with the real property to be conveyed to the borough in lieu of foreclosure. Costs

may include title reports, payment of real property taxes, preparation of documents, reasonable attorney fees, environmental inspection reports, and site remediation.

Estoppel Affidavit: A statement of material facts and conditions, signed by the trustor, that the property is conveyed willingly and without duress, and that it does not constitute a mortgage loan or agreement, and is a complete conveyance of all interest the grantor(s) held in the property.

8.1 A deed in lieu of foreclosure must be accepted by the borough manager. A deed in lieu of foreclosure is accepted by the borough only if acceptance is determined to be in the best interest of the borough.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

OWNERSHIP: DONATIONS	
PART 45	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(B)(2)

2.1 Donation: The gift of real property to the borough from a person.

3.1 Private individuals may gift real property to the borough, and the borough manager may accept gifts of real property if accepting the gift of real property is in the best interest of the borough.

4.1 Real property may be donated to the borough for several reasons: for public purposes, parks, etc.

4.2 The conveyance shall be in the best interest of the borough without title flaws or encumbrances, liability, environmental contamination, or unreasonable costs associated with the transaction.

4.3 The department receiving a proposal to donate real property conducts a pre-application conference with the applicant to discuss borough procedures. Upon submittal of a formal intent to transfer property to the borough, the accepting department shall conduct an "in-house" review whereby all borough departments are asked to comment on the proposed transfer. The finance department shall act as the lead department in the case of foreclosures.

4.4 Upon completion of the "in-house" review, the initiating department drafts and forwards a recommendation to the borough manager regarding the advisability of accepting the real property.

The criteria to accept gifted/donated real property includes but may not be limited to:

(1) clear title, including taxes and assessments paid and no other encumbrances;

(2) acceptable environmental assessment;

(3) acceptable survey or legal description of property boundaries which complies with borough platting regulations;

(4) ability of the borough to market, sell, or manage the property in a reasonable manner.

5.1 Should the borough manager agree with the conveyance of property, the owner executes a warranty deed to the borough. A conformed copy of the recorded deed is forwarded to the land management division for filing in the geographical location filing system (TRS).

6.1 In case where the manager's acceptance is not indicated on any recorded deed received by a borough department, that department shall forward a copy of the deed to the community development[1] department. The community development department[1] will review the conveyance and recommend to the borough manager, after an "in-house" review is completed, whether or not, the property should be accepted or refused. In cases where the borough refuses to accept the deed, a notice of non-acceptance by the borough will be recorded.

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

OWNERSHIP: TAX FORECLOSURES	
PART 45	**Effective Date: 9-20-1994**

1.1 Authority: 2.38.020(4)
3.15
23.05.030(B)(6)
23.10.220
AS 29.45.290-500

2.1 Definitions:

Tax Lien Foreclosure: Delinquent real property taxes are a lien against the property. The Borough (municipality) enforces the tax lien by annual foreclosure.

Judgment and Decree of Foreclosure: The court clerk delivers a certified copy of the judgment and decree to the municipal clerk. The certified judgment and decree constitute a transfer to the municipality.

Right of Redemption: Properties transferred to the municipality are held by the municipality for at least one year. During the redemption period a party having an interest in the property may redeem it by paying the lien amount plus penalties, interest, and costs, including all costs incurred under AS 29.45.440(a). A certificate of redemption is issued and recorded.

Right of Repurchase: The record owner at the time of tax foreclosure of property acquired by a municipality, or the assigns of that record owner or lien holder who forecloses on their lien and assumes the position of the record owner, may, within ten years and before the sale or contract of the sale of the tax-foreclosed property by the municipality, repurchase of property.

Tax sale: The sale of a tax-foreclosed property to collect delinquent taxes from the proceeds of sale; conducted when the taxpayer has failed to redeem the property within the statutory period and the borough has been conveyed the property by clerk's deed.

Tax deed: A deed that conveys title to a property purchased at a tax sale; which may not convey absolute title, free and clear of all prior claims and liens.

3.1 The borough's purpose in selling tax foreclosed properties is to collect delinquent real property taxes and costs which are the combination of the real property tax, penalties, interest, and management costs. The borough does not seek to retain tax foreclosed property in its ownership, unless a specific and meaningful public purpose can be demonstrated.

4.1 The finance department is responsible for filing the tax lien foreclosure case, recording judgment, issuing redemption certificates and requesting and obtaining a clerk's deed as a result of a tax-lien foreclosure.

4.2 The land and resource management division is responsible for review of the properties not redeemed which are to go to clerk's deed, including site inspection prior to finance department requesting clerk's deed. The land management division will be given 60 days' notice in which to conduct site inspections. Recommendations will be forwarded to finance regarding improvements, hazardous building or materials, etc. The land and resource management division is responsible for the interim management of tax foreclosed properties between the time a Clerk's Deed is issued to the borough and the time the borough disposes of its interest in the tax foreclosed property; the sale of tax foreclosed properties; and determining which tax foreclosed properties, if any, should be retained in borough ownership for a public purpose.

5.1 Prior to the finance department receiving a Clerk's Deed the land and resource management division will inspect all properties on the foreclosure list to determine which properties are improved, which properties are occupied, and which properties may be contaminated or found to contain hazardous materials. Alaska Department of Environmental Conservation records will be checked for underground storage tanks, spills, complaints, etc.

5.2 In accordance with 3.15.250 (C) "the borough shall not foreclose against property determined by federal, state, or local agency to be contaminated or found to contain hazardous materials subject to regulation by a federal, state, or local government."

6.1 Upon the borough receiving a Clerk's Deed, the land and resource management division will proceed to develop and implement an interim management plan for the tax foreclosed property inventory. All costs associated with the interim management will be accounted for by parcel for adding to the sale price. AS 29.45.470(4) provides that costs of

maintaining and managing the property incurred by the municipality include insurance, repairs, association dues, and management fees, that exceed amounts received by the municipality for the use of the property.

7.2 The land and resource management division determines which tax foreclosed properties should be retained for a public purpose. The main retention criteria are if the property cannot be used productively by the private sector. Potential reasons for retention are:

- High water table prevent the use of the land for residential purposes.
- The property is an unusable remnant with no potential or purchase by an adjacent owner.
- The property is needed for a public facility site.

7.3 The land and resource management division submits a memorandum to the borough manager listing the tax foreclosed properties to be retained for a public purpose, and those to be sold and their values. The memorandum will also state whether the properties are to be sold by public outcry auction or sealed bid. Upon approval by the borough manager the land and resource management division will prepare an ordinance listing properties to be retained for a public purpose and those to be sold.

7.4 A notice of the public hearing on the tax foreclosure ordinance is prepared by the land and resource management division published in accordance with the borough clerk's requirements for public hearings for ordinances.

7.5 The clerk or the clerk's designee sends a copy of the published notice of hearing of the ordinance by certified mail to the former record owner of the property as listed on the assessment rolls within five days after the first publication of the notice of the public hearing.

8.1 Taxes, penalties, interest, and costs may be paid up to 5 p.m. of the day prior to the tax foreclosure sale.

9.1 See respective Policy and Procedures Manual, Part 60, on conducting a public outcry auction or sealed bid for tax foreclosed properties.

PART FIFTY:

PERMITS

Permits 50-1

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

PERMITS	
PART 50	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030(F)(3)
23.05.050
23.10.100

2.1 A" permit" is an authorization for the temporary use of borough land or the taking, for personal use only, of a specified borough owned resource in limited quantities. It conveys no right in the land and is essentially a guarantee that so long as the activity is conducted under the terms of the permit the holder of the permit is immune from prosecution for trespass. It does not constitute waiver of any federal, state, or borough laws or regulations. A permit does not convey any interest in land. A permit is, by its terms, revocable at will by the borough.

2.2 Permits will not be required to cross borough lands by use of historic or dedicated trail systems, public access or use easements and rights of way.

2.3 Some activities which can be permitted may also be conducted pursuant to a lease or easement. The question of a permit versus a lease or easement will generally be decided on the basis of the applicant's stated intentions. If the individual wants the certainty of occupancy or use due to expenditures for construction or improvements a request should not be made for a permit. On the other hand, where the activity is of short duration and/or involves a minimum of expenditures on the part of the applicant, a permit is an appropriate document.

2.4 A permit conveys no interest in the land. It is the borough's policy that a permit, except as provided by MSB [23.10.070(B)][1] code, may not exceed five years in length. The permit will not be renewed, but it may be reissued upon application by the permit holder. All permits are revocable immediately with cause. Permits are revocable without cause upon a thirty day notice. Permits are not transferable. A written permit is issued on a permit form and covers activities or time requested by the applicant.

[1] Note: Reference is not correct – no match in context located.

2.5 "Cause" as stated in paragraph 2.4 means any violation of applicable statutes, regulations or permit stipulations, or a situation in which a continuance of the activity poses a threat to public health, safety, or welfare.

2.6 "Special use" is a designation indicating that certain surface uses are prohibited or limited. For instance, even though snow machining can be a generally permitted activity, it may be necessary to restrict the activity in certain areas. This can be done by designating the conditions of a use area. The designation must be published and is not effective until 30 days after notice of the designation has been published. Other actions may serve to restrict permits. For instance, a commercial salvage timber sale would serve to close the area to generally permitted activities for the duration of the sale. A classification action could restrain a number of otherwise permitted activities.

2.7 All applicants for permits must meet the qualified applicant requirements of MSB 23.10.090.

2.8 Personal intermittent use permits may be issued to a parent of legal guardian, for the benefit of a minor child, provided the individual assumes all risks and responsibilities for the activities of the minor, accompanies the minor during activities on borough lands, pays the scheduled fee, and also holds an individual permit.

3.1 Permits, authorized by MSB 23.10.070(A)[2] may be issued for use of borough real property for a period not to exceed five (5) years under the following categories and the accordance with adopted procedures for each.

A. PERSONAL INTERMITTENT USE, which is defined as uses of a non-commercial, non-exclusive nature of short duration, is authorized only on unimproved borough lands lying outside of special use or management areas not needing permits.

1. The conduct of any such personal intermittent use activity brings with it several responsibilities on the person undertaking the activity including assumption of all liability for their actions and acquisition of all other permits or authorizations required by law or regulation.

[2] Note: Reference is not correct – no match in context located.

2. The use must be of an occasional, infrequent, or intermittent nature, and at no time exceeding 7 consecutive days or 21 total days in a 12 month period.

3. The following constitutes the list of “generally permitted” activities:

   a. Hiking and backpacking, horse, pack animal and dog team travel, cross-country skiing, transport by all terrain vehicles, snow machining, camping, berry picking, warming fires, hunting, and mountain climbing.

   b. Landing, loading, or portaging of water equipment such as boats, rafts, canoes, and kayaks.

   c. Non-commercial fishing from the banks of borough owned land.

   d. Other non-exclusive recreation uses that are temporary and have no noticeable effect on vegetation, drainage, soil stability, nor involves the harassment or taking of wildlife other than lawful non-commercial fishing from the banks of borough owned land.

B. PUBLIC USE CABIN PERMITS may be issued for the use of designated cabins located on borough owned land. The cabins may or may not be located within special use or management areas.

1. The permits may be issued only to a person 18 years or older for a specific period of time.

2. The permittee shall disclose the total number of persons in the group using the cabin. Cabins may be restricted to a maximum number of occupants.

3. An individual will be permitted to use a particular cabin no more than 7 consecutive days or 21 total days in a 12 month

period.

4. Permits will authorize use from 12 noon of the check-in date to 12 noon of the check-out date.

5. The permit fee will be charged in accordance with the scheduled rate for the particular cabin. Rates may vary based ion location, amenities, desirability, size, and season.

6. The permittee may exchange the date of use, to another available date, if done so at least 5 days in advance.

7. Reservations for cabin use will not be made without the completed application and full fee.

8. The permit fee will be refundable only in the event more than one permit for the same cabin, at the same time, was issued in error by the borough. The person holding a permit who used the cabin will not be eligible for a refund under these circumstances.

C. DESIGNATED SPECIAL USE AND MANAGEMENT AREA PERMITS may be issued for the use of borough land within a special use or management area in accordance with the adopted procedures for the specific area.

1. Special use/management areas include:

a. borough park system lands
b. fish and game sanctuaries
c. refuges
d. critical habitat areas
e. Deshka River area
f. Palmer Hay Flats area
g. forest management units
h. Hatcher Pass
i. capitol site
j. any other lands designated by federal, state, or borough as special use/management areas

D. LAND USE PERMITS may be issued for either commercial or non-

commercial purposes when it is found to be in the best interest of the borough to do so. In general, an application for a land use permit may be submitted when the use of activity can not be authorized under another category of permit provided for in this section or MSB 11.10.010 through 11.10.110 (encroachment permits, including construction).

1. All land use permits are subject to the following provisions unless inapplicable by the type of use or activity or by additional restrictions required in the permit issued.

   a. Permitted activities employing wheeled or tracked vehicles shall be conducted in such a manner as to minimize surface damage.

   b. Existing roads and trails shall be used wherever possible. Existing trail widths shall be kept to the minimum necessary. Trail surface may be cleared of down and dead timber, stumps, and snags. Due care shall be used to avoid excessive scarring or removal of ground vegetation cover.

   c. All activities shall be conducted in a manner that will minimize disturbance of drainage systems, changing the character, polluting, or silting of streams, lakes, ponds, waterholes, seeps, and marshes, or disturbance of fish or wildlife resources. Cuts, fills, and other activities causing any of the above disturbances, if not restored immediately, are subject to any corrective action as may be required by the director.

   d. The manager may prohibit the disturbance of vegetation within 300 feet of any waters located in specially designated areas except at designated stream crossings.

   e. All activities shall be undertaken in a manner which causes the least possible interference with other authorized uses of borough land.

f. Trails and campsites shall be kept clean. All garbage and foreign debris shall be eliminated by removal and complete burning unless otherwise authorized.

g. All survey monuments, witness corners, reference monuments, mining claim posts, and bearing trees shall be protected against destruction, obliteration, or damage. Any damage or obliterated markers shall be re-established in accordance with accepted survey practices of the division at the expense of the party causing the damage or obliteration, if known.

h. Every reasonable effort shall be made to prevent, control, or suppress any fire in the permitted area. Uncontrolled fires shall be immediately reported.

i. Holes, pits, and excavations shall be filled, plugged, or repaired. Holes, pits, and excavations necessary to verify discovery on prospecting sites, mining claims, and mining leasehold locations may be left open, but shall be maintained so as to minimize erosion and siltation, and shall be consistent with public safety and welfare.

j. No person may engage in mineral exploration activity on land open to such use, the surface of which has been granted or leased to third parties by the borough, or on land in which the borough has received the reserved interest of the state of Alaska, until good faith attempts have been made to agree with the surface owner or surface lessee on a settlement for damages which may caused by such activity. If agreement cannot be reached or the surface lessee or surface owner cannot be located within a reasonable time, operations may be commenced on the land only after specific approval of the manager, and after making adequate provisions for full payment of any damages which the surface owner or lessee may suffer.

k. Entry on all lands under prospecting permit, lease, or

claim by other than the holder of the permit, lease or claim, or an authorized representative, shall be made in a manner which will prevent unnecessary or reasonable interference with the rights of the permittee, lessee, or claimant.

2. A permit may authorize the exclusive use. However, since such exclusive use is revocable upon 30 days' notice, it is rare that an applicant would request a permit for an exclusive use unless the use was of short duration and did not involve extensive improvements. The exclusive use authorization may be revoked independently of the permit: that is, the permit may be non-exclusive during its remaining life.

3. Permanent structures are prohibited by a permit. Thus, any structure placed by a permittee must be readily removable. The permittee must be aware that no right nor title to the land is gained by placing an improvement on the land. A permit holder usually will be required to remove any improvements and restore the area upon termination of the permit.

4. Review by non-borough agencies of permit applications is not required except for areas under jurisdiction share with other agencies. If the activity requested is of a nature as to have substantial impact on the resources of the area or presents a possibility of interference with another agencies' responsibilities, then the issuing office is responsible for contacting that agency for its comments prior to issuance of the permit.

5. It is the policy of the borough to periodically field inspect permits, especially prior to term expiration; however, such inspections are limited depending on the necessity, permit location and availability of personnel and fiscal resources to adequately perform the inspection. Inspection priority will be given to those permits with the greatest potential for creating management problems or where misuse of the permit may result in the greatest environmental damage. For these, regular inspections shall be scheduled. The expertise of

other agencies will be requested in all field inspections, when necessary.

6. In cases where the activity may alter the land surface, such as the removal of trees or other materials for a campsite, the borough may require a bond or damage deposit prior to issuance of the permit which will insure proper restoration after use of the land is no longer needed. The bond amounts will carry depending on the type of activity. The permittee's liability will be released and the permit processed for closure only after the land has been restored to the borough's satisfaction.

7. It is the policy of the borough that the permittee agrees to indemnify, save harmless and defend the borough, its assembly members, officer, agents and employees from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages or economic loss sustained by any person or property arising directly or indirectly as a result of any error, omission, or anyone directly or indirectly employed by them, arising from the permittee's use, occupancy or the performance under the permit.

   a. Without limiting permittee's indemnification, the permittee shall purchase at its own expense and maintain in force at all times during the term of the permit, the following policies of insurance based on the use and activities permitted: Worker's Compensation Insurance, and Comprehensive General Liability Insurance, and if alcohol is sold, liquor liability insurance (all policies more particularly described below).

      Where specific limits are shown, it is understood that they shall be the minimum acceptable limits unless risk allocation assessments performed by an insurance company proves otherwise. If permittees policies contain higher limits, the borough shall be entitled to coverage to the extent of such higher limits.

b. Worker's Compensation Insurance:

Permittee shall provide and maintain, for all employees engaged in work under the permit, Worker's Compensation Insurance as required under AS 23.30.045 and all supplemental statutes. The permittee shall be responsible for Worker's Compensation Insurance for any subcontractor who directly or indirectly provides services under the permit. Employers Liability protection shall not be less than $100,000 per person, $100,000 per occurrence. Where applicable, coverage for all federal acts must be included as well.

c. Comprehensive General Liability Insurance:

With coverage limits not less than $250,000 combined single limit per occurrence and annual aggregate where generally applicable and shall include premises-operations, independent contractors, products/completed operations, independent contractors, products/completed operations, broad form property damage, blanket contractual, and personal injury endorsements.

Certificates of insurance must be furnished to the borough prior to the start of use, and must provide for a 30 day prior notice of cancellation, nonrenewal or other material change. Failure to furnish certificates of insurance or notice of lapse or any policy constitutes a material breach and grounds for cancellation of the permit.

With the exception of worker's Compensation Insurance, the borough shall be named as an additional insured party.

4.1 Permits, authorized under paragraph 2.4, may be issued for public utility facilities within public ways or across borough real property for a period not to exceed 50 years when it is in the best interest of the borough to do so.

The applicant must demonstrate that it is in the best interest of the borough to issue a permit instead of an easement.

5.1 Permits, authorized under MSB [23.10.100(A)(2)][3] code may be issued for a period not to exceed one year for personal use of cordwood, small quantities of gravel or other earth materials, garden plots, harvesting natural vegetation, or other similar activity in designated areas based on the established fee schedule.

A. The permits will be non-assignable.
B. Cordwood is limited to ten cords per household.
C. Gravel and other earth material is limited to ten cubic yards per household.
D. Harvesting other natural vegetation will be limited per household based on the type of vegetation and local availability.
E. Garden plots will be limited to one per household.

6.1 Following is the procedure for issuance of permits:

A. The application on a form issued by the borough and required fee (if any) is received at the borough and reviewed for accuracy and completeness.

B. If the application is for a personal intermittent use or public use cabin permit, a determination will be made that the applicants meet qualified applicant status, the lands available for personal intermittent use or public use cabin will be identified to the permittee, the fee will be accepted and the permit issued.

C. All other permits will be processed as follows:

1. Land status is checked for borough ownership and for any reservations or prohibited uses and to determine if the area is subject to coastal zone regulations. The application will be rejected if the existing classification is inconsistent with the proposed use. The land need not be classified, if it is unclassified at the time of application.

2. If the application is for use of lands under the jurisdiction of

[3] Note: Reference is not correct – no match in context located.

another agency (i.e. parks, sanctuaries, or ILMA's) it is forwarded to the appropriate agency for action and the applicant is notified.

3. The application if proper is accepted by the manager and is then given a MSB case number. It is then filed in a permit file which is kept by township, range, and section with a cross index to the name of the applicant.

   A request for interdepartmental review of the application will be prepared and routed for the purpose of identifying problems or conflicting plans which other borough departments may have with the proposed permit and area of use. If the property is located within a community council area, a request for review similar to the interdepartmental review package will be prepared and mailed to the council.

4. Any proposed use which will be potentially damaging to the environment or hazardous to the health, safety or welfare of the public must be carefully reviewed. Discretion should be used when coordinating with other agencies which, by law or other authority, share jurisdiction over the use. Examples of these types of activities include storage of flammable or explosive materials, activities in zones of suspected geological hazards, use of a material site for target practice, and activities which may significantly affect anadromous fish habitat.

   Review and approval by the appropriate agency is mandatory when the activity applied for is within a game refuge, critical habitat area, coastal management zone, or other area designated "special use."

   In cases where the application is sent to other agencies, the applicant is notified that additional review time will be required. The applications forwarded to the appropriate agency for review with a request for response within 15 working days. If agency review is mandatory, no permit will be issued without concurrence and failure of the agency to respond must be deemed non-concurrence. Where a review is elective, the notice will give the agency 15 calendar days

to respond, and a non-response will be deemed a non-objection. Comments are reviewed and appropriate special conditions added to the permit.

5. Where applicable, a finding of consistency with the coastal management program must be made for each permit issued. The consistency determination will be made by the authorized officer.

6. The permit is either issued, denied or the review period extended within a 30 day period. The permit or application denial is signed by the manager or his designee with any necessary stipulations or conditions.

7. If the application is denied, the applicant must be informed of the reason for denial. He then has the right to appeal such denial according to MSB 23.05.090.

8. If approved, the permit is accepted by the applicant in writing if presented or mailed to him by certified mail. The user fee is collected or the bill is mailed with permit. It is not effective until signed by the applicant and returned to the office issuing the permit, with the user fee and bond or other security if required, and signed by the authorized officer. The applicant's failure to sign and return the permit within 30 days of receipt constitutes their rejection of the conditions of the permit.

9. A copy of the issued and signed permit will be filed in the TRS file.

10. A tickler file will be established by the issuing office to give advance warning of scheduled monitoring and the expiration date of all permits.

11. A permit may be revoked or altered by serving notice directly upon the permittee. If the revocation is pursuant to a special use designation per paragraph 2.6 above, the revocation is not effective until 30 days after notice of the designation has been published.

12. A notice revoking a permit under paragraph 2.5 of this section shall be signed by the manager. The notice shall be sent by certified mail, return receipt, and shall be considered delivered when postmarked or when receipted by permittee if delivered by hand.

13. Normally, a field inspection must be conducted as a condition of releasing a bond or security deposit. If the inspection indicates that the activity violated the stipulations of the permit, the permittee shall be given an appropriate length of time to take corrective action. If subsequent inspections indicate that the permittee remains in violation, the bond shall be revoked and the monies used to minimize adverse effects.

14. A permittee may be given up to 30 days to remove any improvements and do site restoration work. At his discretion, the manager may extend this time period due to adverse weather conditions or any extenuating circumstances. Failure to remove any improvements or to restore the site may result in filing a civil or criminal complaint or both by the borough attorney.

PART FIFTY-FIVE:

QUALIFIED APPLICANT AND BIDDER

Qualified Applicant and Bidder 55-1

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

QUALIFIED APPLICANT AND BIDDER	
PART 55	**Effective Date: 09-20-1994**

1.1 Authority: 23.10.090

2.1 Only a qualified applicant or bidder may participate in any of the borough's real property programs.

3.1 In order for an applicant or bidder to obtain qualified status the individual must complete a qualified applicant/bidder statement which attests to and meets the criteria required by MSB 23.10.090.

3.2 The qualified applicant/bidder statement submitted will be reviewed by the finance and planning departments and verified by research of borough records. Each department will sign-off regarding the determination.

3.3 Any applicant or bidder whose qualification statement conflicts with the Matanuska-Susitna Borough records will be notified and given an opportunity to supply additional information to clear up misunderstandings or misidentifications.

PART SIXTY:

REAL PROPERTY

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REAL PROPERTY DISPOSALS: ADL LEASES {PRE-TITLE 23 PURCHASE APPLICATIONS}	
PART 60	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.010(A)
23.10.180(B)

2.1 This section applies to a number of outstanding applications by lessees to purchase the borough lands which are subject to their Alaska Division of Lands (ADL) leases.

2.2 These procedures will be used to close the existing applications to purchase received prior to the date of approval of Title 23.

2.3 Any such applications to purchase received after the date of approval of Title 23 will be processed and subject to the terms and conditions of a sale by application per Title 23.

3.1 The settlement agreement dated December 10, 1992 between the State of Alaska and the Matanuska-Susitna Borough (MSB) releases covenants in borough patents and now allows sales to proceed.

4.1 Some leases are affected by the Lis Pendens resulting from the Mental Health Trust lawsuit. Until the Lis Pendens is released, only those parcels in "direct need" to close will be processed. A lengthy application procedure which can take up to six months to complete, can be used to request releases for individual leases.

5.1 Original leases and subsequent assignments must be recorded, providing constructive notice of the lessee's interest in the parcel.

6.1 Based on the existing applications, a complete review of the status of each file will take place and a summary of outstanding issues will be developed.

6.2 The following are the general contract requirements:

a. Conveyance by quitclaim deed will be subject to all reservations, exceptions, covenants, conditions and restrictions, easements, rights

of way of record and such other additional easements and rights of way and trails as deemed reasonable and necessary for public access or required by law which shall be created at the time of conveyance.

b. It shall be the responsibility of the purchaser to have properly located improvements on the lands. An as-built survey, meeting borough instructions, will be required if improvements exist and to verify there are no encroachments. The as-built survey should show all improvements and their distances from lot lines and waterbodies. The purchaser will bear the expense of the as-built survey and the costs required to remedy any set-back violations or encroachments disclosed.

c. In the event the purchaser chooses to use borough financing, the following will be required:

1. down payment of at least 10 percent of the appraised value; and

2. buyer will provide a title policy at buyer's cost insuring the deed of trust in a first lien position.

d. The buyer will be responsible for closing costs and recording fees.

7.1 Based on the file review a letter will be sent to the applicant outlining the remaining requirements with a request that the applicant confirm they are also prepared to proceed. A response time of no greater than 30 days will be required. Credits do not accrue during periods in which an applicant fails to respond in a timely manner.

8.1 Upon receipt of the applicant's affirmative response the following will be done.

a. Appraisal instructions will be prepared to:

1. identify the date for which the property should be appraised;

2. request for a value for cash and a value for terms;

3. request that the property rights be appraised as the fee simple estate;

4. request the parcel be appraised as unimproved, subject to matters of record and easements required by the sale;

5. request verification of the appraisal cost;

6. conform to the criteria set forth in the Uniform Standards of Professional Appraisal Practices as published by the Appraisal Foundation.

8.2 A letter of transmittal and instruction will be prepared and mailed to the applicant by certified mail. The instructions for appraisal and as-built survey will be enclosed. The applicant will select a state of Alaska licensed appraiser and a registered land surveyor from a list provided by the borough and make arrangements for the work to be accomplished. The applicant will be requested to provide a preliminary commitment for title insurance if borough financing is requested, or if the purchaser desires an owner's title policy upon closing. A completion time of no more than 60 days will be required. Credits do not accrue during periods in which an applicant has failed to have work completed in a timely manner.

9.1 Upon the borough's receipt of the appraisal the borough assessor may be asked to review and make comments on the appraisal. The applicant receives credits during this review period.

10.1 Upon the borough's receipt of the as-built survey the code compliance division is asked to review and comment as to conformance with borough code. If improvements require platting, encroachment permits, shore-line set-back exceptions, or variances, it is the applicant's responsibility to comply with code. The applicant receives credits during the review period. Credits do not accrue while the applicant brings the parcel into compliance with borough code.

11.1 The borough prepares a good faith estimate and purchase agreement based upon the applicant's request to purchase by cash or by terms. The documents are sent to the applicant by certified mail. Response deadline is set and credits do not accrue following the deadline.

12.1 Upon the borough's receipt of the signed purchase agreement and the down payment, documents necessary for a closing are prepared and a closing is arranged.

13.1 Following closing, contract collection is set up if the borough has financed the sale.

14.1 A photocopy of the recorded documents is placed in the case file and the township, range, files.

15.1 The land and resource management division is responsible for enforcement of the contract stipulations.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: ACQUISITION AND EXCHANGE	
PART 60	Effective Date: 5-18-2004

1.1 Authority: 23.10.270

2.1 Introduction. This section describes the borough policy and procedure to provide guidance in acquiring real property interest for public purpose. This section does not encompass the planning and engineering process leading to the determination to proceed with an acquisition or exchange, but is limited to the real property function of ownership identification, appraisal, real property solicitation, negotiation and condemnation. These procedures apply to all real property acquisitions and land exchanges by the borough excepting road right-of way easement and public access and shall comply with MSB 3.08 Purchasing Procedures.

2.2 Policy. It is the policy of the borough that all property owners shall be dealt with fairly and equitably in the acquisition or exchange of land or interests therein. Only a willing seller, and willing buyer relationship shall be used to acquire or exchange land under this chapter unless another method such as condemnation, eminent domain, or prescriptive rights is approved in advance by the assembly. Settlements shall be based on the concept of fair market value supported by current appraisal practices as provided by MSB 23.10.060(B), unless otherwise provided. Negotiations with prospective sellers will continue in good faith as long as reasonable hope of a settlement exists.

2.3 Implementation. Once a need is identified for acquisition or exchange of real property, the community development department shall prepare a scope of work for a proposal to be solicited through the purchasing division. Notwithstanding MSB 3.08.320, all acquisitions or exchanges must be offered through a formal public solicitation except as provided in MSB 23.10.270(F).

A. The public solicitation of work shall contain at a minimum:

1. intended use of the property and desired location proximity;

2. desired development characteristics, such as size of property, physical needs, proximity to utilities and condition

of access; and

3. identify source of funding, including amount available, or pool of appraised land for exchange.

B. Solicitation within a minimum area within a radius of one mile must be used in any proposal seeking acquisition or exchange of property under this procedure. The advertised period for the request for proposal shall not be less than 30 calendar days. Notwithstanding public notice requirements as adopted in Title 23.05.025, community development shall, in conjunction with the advertising period, provide public notice of the offering for not less than 30 calendar days to a mailing area as described in public notice procedures.

C. In addition to the requirements of MSB 23.10.090 and MSB 3.08, to have a responsible, responsive proposal, a proposer is required to include in the proposal document:

1. the property owner's willingness to sell;

2. the proposed offer submitted shall be effective for a period of 120 days from date of acceptance by the borough;

3. the submission of a current title report;

4. authorization of entry by the owner to inspect and assess the site for utilization; and

5. verification of property ownership.

D. Evaluation of responsible and responsive proposals received shall be weighed at on the following minimum criteria;

1. location of the property offered with additional weight placed on properties located closer to the desired location;

2. the developability of the property offered;

3. a title report showing the ability to deliver marketable title,

free and clear of liens and encumbrances, including only covenants, restrictions, reservations, and easements acceptable to the borough; and

4. environmental and physical characteristics of the property offered.

E. If less than two qualified and responsive proposals are received by the borough through the request for proposals, a best interest finding must accompany any recommendation to acquire or exchange a single property. In the best interest finding it must be stated how the offering could be presently improved to obtain more than one responsive and qualified proposal.

2.4 Environmental Assessment.

A. Once a property has been approved in accordance with MSB 3.08, the community development department shall commence a phase one environmental assessment.

B. The borough shall select the contractor to conduct the environmental assessment. The environmental assessment shall be performed in conformance with the scope and limitations of the American Society for Testing and Materials Practice E1527.

2.5 Appraisal. Once a property has been approved in accordance with MSB 3.08 the community development department shall contract for a third party appraisal. The appraiser shall be selected by the borough based on the appraiser being able to meet borough qualifications and Uniform Standards of Professional Appraisal Practice (USPAP) standards. The borough shall submit payment for the appraisal directly and provide appraisal instructions to the appraiser. If the appraised value of the property is expected to exceed $50,000 the appraisal must be done by a Member of the Appraisal Institute (MAI) certified appraiser.

A. Owners shall be advised of the commencement of the appraisal and shall be afforded the opportunity to present any evidence, through the borough, deemed pertinent to their property and such evidence shall be duly considered by the appraiser. A borough representative shall be present during the appraiser's site visit.

B. The appraiser shall employ recognized appraisal techniques to insure that the valuation is unbiased and is fair and equitable to both parties.

2.6 The borough government may waive the requirements of MSB 23.10.270(B)(2) and (3) of this section, when acquiring property within one-quarter mile of existing borough real property or facility, when the purpose is to improve, make more feasible, or expand an existing facility. The valuation of such transactions may be conducted as contained within MSB 23.10.060(B) or as determined by a broker's opinion of value.

2.7 Purchase Offer. Upon completion of the appraisal and environmental assessment, the borough shall provide the property owners with the information upon its receipt. The borough's offer at first contact shall be the full estimate of the market value supported by the appraisal with no further concession. The desired result will be to produce a settlement based on market value.

2.8 Negotiation. Negotiations shall continue until either a settlement is effected or an impasse is reached and in an effort to achieve the former, any information which may come to light that was not known or considered by the appraiser shall be examined to determine its effect on the fairness of the appraisal. If justified, adjustments in the appraisal shall be made.

2.9 Exclusions. This section does not apply to acquisitions or land exchanges where the other party to the transaction is a public agency, such as federal, state, or local governments.

TITLE
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

DISPOSAL OF UNPATENTED BOROUGH LANDS	
PART 60	**Effective Date: 07-07-1998**

1.1 Authority: 23.10.040

2.1 Title 23 provides for the borough to enter into agreements to sell, lease, or otherwise dispose of municipal entitlement lands after receiving final decisions and before receiving patent. In many cases, however, accepting an application to purchase property that is not patented raises many issues that cannot be addressed until after the property is surveyed. Some of these issues include:

A. Before patents may be requested for Municipal Entitlement Lands a survey must first be completed. Without first completing a survey the location of easements and trails, parcel size, access, and property boundaries are all uncertain.

B. Funds to complete survey work and obtain patent may not be available. When the lack of funds does not allow survey work to be completed the borough is therefore not able to convey title to the purchaser.

C. Survey requirements to obtain patent do not consider existing contracts the borough may have entered into, so additional surveying and platting work is often required to comply with all applicable ordinances.

D. Obtaining a current market price or closing date is impractical without the ability to obtain a patent and clear title.

E. Platting and other land use regulations may change during the period of time it may take to obtain patent from the state of Alaska. Changes in regulations often impact the costs to finalize obligations contracted years earlier on tentatively approved lands.

F. In previous cases where the borough has sold unpatented lands it has resulted in the need to refund dollars to the purchaser when it has been discovered, by survey, that the actual lands available are less than identified in the state of Alaska's Final Decision.

3.1 Due to the potential liability of selling unpatented lands, any application to purchase unpatented lands will be rejected.

4.1 An applicant whose application to purchase unpatented lands has been rejected may appeal the decision to the Manager in accordance with 23.05.090.

5.1 Applications to lease, manage, or obtain a permit to use unpatented borough lands are authorized.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: GAMING LOTTERY	
PART 60	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030 (E)(4)
23.10.040
23.10.200

2.1 This section applies to the disposal of borough land by gaming lottery. The gaming land lottery shall be conducted in accordance with AS 05.15 and 15 ACC 105.

2.2 A gaming land lottery winner is given a parcel of land as a prize. The property is subject to the conditions of patent, reservations of record, and payment of appropriate taxes.

2.3 Parcels chosen for disposal by gaming lottery will be selected from the borough's inventory of properties available for disposal. No more than five parcels shall be offered as prizes at one time.

2.4 Participants in the gaming land lottery must be 18 years of age or older and meet the qualified applicant criteria as defined by MSB 23.10.065. The members of the borough assembly, borough manager, borough mayor, community development director [1], and staff directly involved in the land lottery are not eligible to participate.

3.1 Official rules governing the gaming land lottery shall be made available for each participant. The official rules shall state eligibility requirements; when, where, and how the drawing will take place; how the borough will convey the property; and what the winners of the gaming land lottery are responsible for.

4.1 The following procedures apply to the conduct of the gaming land lottery.

A. A budget that outlines the estimated costs for the project and the assessed land values is drafted to assist in establishing criteria for the disposal of property.

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

B. An account is established for the deposit of ticket sale receipts.

C. A Gaming Permit is obtained from the State of Alaska, Department of Revenue.

D. State and federal regulations pertaining to lotteries and gambling activities are reviewed for compliance. This should include postal regulations, IRS requirements, FCC requirements, and state gaming regulations.

E. Parcels of land chosen as prizes are from the borough's inventory of properties available for disposal. Photographs of each parcel should be taken for advertising purposes. The parcels are subject to interdepartmental review and comment from the appropriate commission, and final approval for disposal by the assembly.

F. A schedule for the sale of land lottery tickets and the date of the drawing are established.

G. The official rules for the lottery are drafted and approved by the borough attorney.

H. A booth space is reserved at the Alaska State Fair. A time and place for the lottery drawing is also reserved.

I. Arrangements are made to sell tickets in various locations such as community festivals, community booths at malls, and other areas around the borough.

J. Locations for tickets sales are secured. An informational letter that outlines the lottery program and important dates is mailed to each ticket seller.

K. A marketing strategy is completed to determine where and when advertising is needed. Designs and information for advertisements are prepared. Arrangements are made with the printers, newspapers, magazines, and other outlets that include dates and size for advertisements. Deadlines are established for each phase of advertising; camera ready copy, printing, delivery to agency and publication. All printed material, including the lottery tickets must

include the state of Alaska gaming permit number.

L. Tickets are printed on color stock paper in sequential order. Each portion of the stub must contain the state of Alaska gaming permit number. The tickets are color coded one color for each parcel. An affidavit stating the number of tickets printed must be signed by the printer.

M. Advertising begins two to three weeks prior to the sale of tickets. Advertising includes the dates for ticket sales, the drawing date information on the lottery parcels, and ticket sale locations. All advertising must include eligibility requirements and the state of Alaska gaming permit number.

N. Procedures for the ticket sales are established which address cash management, lost tickets, lost cash, courier schedule, and responsibilities.

O. A courier is selected to perform the weekly pick-up of receipts from the ticket sales from remote ticket sellers.

P. Tickets are delivered to the ticket sellers and each location is given an information notebook that outlines the step by step procedure for sales and cash management. The supervisor of each location is given an orientation and signs a form that they have received the information and the tickets. Posters advertising the sale of tickets in these locations are put up in doorways and other highly visible areas.

Q. A press release is prepared and faxed or mailed to every newspaper and broadcasting station is Alaska, including the Associated Press.

R. The sales of tickets begin. Weekly pick up of cash and checks begins a week later.

S. Items for the lottery drawing are purchased or rented. A table, drums, back drop and chairs are needed. Staff or volunteers to work the event are chosen or called upon for assistance. This includes an emcee, drummer, and stage crew. Staff needed include: one person to locate matching ticket stub with the winners

name and address, one person to record names, and one person to assist the mayor and take photographs.

T. Advertising is scheduled and checked during the time the ticket sales are occurring. Advertising may need to be re-directed, increased, decreased, or revamped depending upon the results. Careful attention to phone calls and how the sales are progressing assist in advertising needs.

U. The fair booth is prepared. Photos are printed and display items made. Arrangements for the transport of the booth to and from the fair are made.

V. A schedule for the fair booth staffing is prepared using department employees who volunteer for specific dates and times. The courier is scheduled on a regular basis to maintain consistency during high volume days (weekends). Staff members from land and resource management open and close the booth for consistency in handling the large volume of cash.

W. The fair booth is moved into place three days prior to the fair opening. The booth is cleansed and painted. Display items are put up and readied for opening night.

X. Fair ticket sellers are briefed on the rules and procedures of fair ticket sales. An information packet is provided to each seller that includes property information, location of the fair booth, a fair booth staffing schedule and a vendor ticket for admittance into the fair.

Y. Ticket sales begin at the fair. The booth must remain open for ten consecutive hours each day. Daily fair schedules advertise the lottery and the booth location on the fair grounds.

Z. The mayor (or ticket drawer) and staff are briefed on the fair schedule and drawing procedures.

AA. A press release is faxed to all the local newspapers and broadcasting stations informing them of the drawing time and location. The fax is followed up with phone calls.

BB. Tickets sales at the outlying tickets sales locations are stopped one

day prior to the drawing. All cash receipts and tickets are tallied and prepared for the drawing. Ticket sales at the fair must cease an hour before the drawing in order to count tickets and prepare for the drawing.

CC. The stage is set up for the drawing. Sound equipment, a sound technician and a table are provided by the fair. Drums are set on the table with a label identifying which tickets they contain. An area near the stage is set aside for reporters and ENG equipment. A staff member is assigned to answer questions and arrange for interviews with the mayor or other borough officials.

DD. The emcee announces the event and provides the audience with some background on the lottery then introduces the mayor. The mayor then spins the drums and picks one a ticket from the first drum; the stub is then matched with the main stub that contains the winners name and address. This process is repeated until all the winners have been announced. The mayor then informs the audience that he/she will draw five other tickets for each parcel as back-up in case the winner is not eligible.

EE. Once the drawing is completed a staff member telephones the winners of each of the lottery parcels (if they were not present at the drawing). A certified letter signed by the borough manager is also mailed to each winner notifying them of their prize.

FF. A press release is prepared that notifies the media of the winner of each lottery parcel and briefly describes the number of tickets sold. The press release is faxed to all Alaska newspapers and broadcasting stations.

4.2 Participants in the gaming land lottery need not be present to win. Winners of the gaming land lottery will be notifies by certified mail. Winners must sign an acceptance agreement and return it to the borough within fourteen days of notification.

5.1 The property will be deeded to the winner subject to the conditions of the patent and reservations of record. The borough will pay for all closing costs.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: HOMESTEADS	
PART 60	Effective Date: 9-20-1994

1.1 Authority: 23.10.240

2.1 This section addressed the conveyance of land pursuant to the homestead program.

3.1 A homestead is a parcel where an entry permit is awarded to an eligible person selected by non-gaming lottery or sealed bid and where title to the parcel is acquired after compliance with the homestead program. Homesteads by lottery remain homesteads, not lottery parcels.

When offering homestead parcels, a 30 day application period will occur. At the close of the 30 day period all parcels receiving only 1 application will be sold to the applicant utilizing the purchase by application procedure. Those parcels receiving 2 or more applications will be sold by either the non-gaming lottery or sealed bid procedures. The determination for using either the non-gaming lottery or the sealed bid procedures will be made by the assembly by resolution.

3.2 It is the general policy of the borough to place the homestead parcels closest to the available subdivision access and on borough patented lands whenever possible. However, other factors, such as poor soils, topography, and the availability of utilities, may influence the location of homestead parcels within the subdivision. As the homestead program requires successful applicants to live on the land and make improvements while other types of disposals do not, homesteads parcels should have the highest overall suitability for immediate residential use in the subdivision.

3.3 It is conceivable that some areas of the borough, because of their recreational, industrial, agriculture nature will have no homesteads. Others, because of their overall suitability, might contain a very high percentage of homesteads.

4.1 Homesteads parcels shall be no greater than 160 acres.

4.2 All successful applicants are given a letter at the lottery and must sign a receipt for the letter. The letter may include the following:

A. A list of the kinds of proof acceptable for the verification of their

qualifications to receive a homestead entry permit which may include, but not be limited to that information requested under the qualified applicant and bidder procedure.

B. An explanation that the applicant has 60 days from the lottery date (a date which may be identified and specified) to submit the necessary proof of residency. It should be clearly stated that if the applicant fails to respond within that 60 day period, his case file will be closed automatically (unless appealed) and the parcel will be offered over the counter. Extensions of time may be granted for a good cause and requests must be submitted in writing.

C. The address and name of the office with which the applicant should correspond.

4.3 The policy of the land and resource management division on granting extensions of time to meet homestead construction and/or occupancy requirements is as follows:

(1) Except as provided in paragraph 3 below no extension of either requirement is granted unless both the substantially completed dwelling and progress requirements are met. All requested for extensions must contain reasonable evidence (such as photographs, witness's statements, affidavits, inspection reports, etc.) showing the construction status at the time of the request. Information such as foundation type, construction method, insulation, heating and cooking facilities, and sewage facilities is helpful to the director in making his determination.

(2) Providing the requirements of paragraph one above are met:

(A) Extensions to complete construction requirements are granted for one construction season with the total extension not to exceed one year. The length of extensions is determined as follows:

Permits that expire during the period of July 1 through November 1 are extended for one year. Permits that expire during the period from November 2 through June 30 are extended until November 1.

(B) Extensions to meet occupancy requirements are granted for one

year, provided that the occupancy requirement is capable of being satisfied within that extended period. In addition to the information required in paragraph one, all requests for occupancy extensions shall contain an affidavit attesting to the occupancy accumulated up to the time of application.

(C) If extensions under both (A) and (B) are granted, they will run concurrently.

(3) If the holder of an entry permit dies during the permit period, the interval between the death and the settlement of the estate, or two years, whichever is less, shall be added to the permit period. Additional extensions may be granted upon a showing of justifiable delay in the estate settlement.

4.4 Title to the homestead parcel will be conveyed upon compliance with:

(1) occupancy of the land for at least 5 months of each calendar year but a cumulative total of 35 months within the 7 year period following issuance of the homestead entry permit;

(2) erection of habitable, permanent, single-family dwelling on the homestead, which meets all applicable state and local regulations, within five years of the date of issuance of the homestead entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

and:

(1) the permit holder pays the total survey and platting costs due, as determined by the platting division;

(2) the permit holder present proof that a habitable, permanent single-family dwelling has been constructed, evidenced by a certificate of inspection from an appropriate borough official or proof that the permit holder has requested an appropriate borough official to make such an inspection; “habitable, permanent, single-family dwelling” means a structure or mobile home, suitable for year round occupancy with at least 200 square feet of space built or placed on a permanent masonry or treated wood foundation with sanitary facilities meeting Department of Environmental Conservation (DEC)

requirements, and meeting the local building codes, if applicable; and

(3) the permit holder presents proof that the parcel has been occupied by the permit holder or members of his household for accumulative total of 35 months; or

(4) occupancy of the land for at least 14 consecutive months and payment for the parcel, or the permittee may claim a non-financial credit for any work completed and may request to purchase the parcel. The non-financial credits shall be awarded if the permittee has made substantial efforts to comply with the development requirement of the program when substantial is defined to be at least 50 percent completion of a habitable, permanent single family structure suitable for year-round occupancy.

4.5 Terms of payment will conform to installment payments as provided by the land and resource management division. The purchase price of each homestead parcel is the total of its prorated surveying and platting costs as described below.

All costs of surveying and platting are assessed against the homestead parcel and will include all costs incident to the design of the subdivision as well as the cost of field survey and monumentation of the lots. These costs will be prorated among the lots on the basis of acreage in each lot or on the basis of road or water frontage whichever is more equitable.

A person purchasing borough land under this program may make installment payments to the principal sum remaining after 5 percent cash down payment if the principal sum to be paid exceeds $5,000.00 The principal sum is computed, for the purpose of this section, on each individual tract. If the principal sum is $5,000.00 or less the purchase price must be paid in full.

A person holding a homestead permit may enter into an installment contract for payment of survey and platting costs if those costs are greater than $5,000.00. If the survey and platting costs are $5,000.00 or less, the purchaser must pay the costs in full.

The division will provide for a monthly installment payment schedule if the initial principal sum exceeds $5,000.00.

Principal and interest payments will be set on a level-payment basis over a period of not more than ten years.

4.6 When the permittee believes he has complied with and satisfied the occupancy and dwelling construction requirements, he contacts the appropriate borough office and the following procedures are followed:

A. The land and resource management division sends the permittee a homestead packet. This packet includes a Request for Deed form, the Homestead Entryman's Affidavit of Occupancy form, and a minimum of three Witnesses' Affidavit of Occupancy forms (see sample pages 2-5). Witness affidavits should be executed by disinterested and unrelated parties who reside in the area and can support the permittee's claim.

B. After all the appropriate forms are executed and returned; the land and resource management division schedules and conducts a field inspection of the homestead. Following the field inspection, a recommendation for approval or denial is made on a Report of Inspection form. Either recommendation is accompanied by a completed explanation. The land and resource management chief[1] reviews the recommendation and case file, and countersigns the recommendation to verify this review.

A copy of the field inspection report shall be mailed by certified mail to the permittee. The permittee shall have 30 days, from the receipt of the report to respond to the inspection report.

C. The completed case file, recommendation, permittee's comments, and cover letter is then reviewed and either approved or denied by the community development director [2].

D. If approved, the file is forwarded for processing. The land and resource management division notifies the permitee of his purchase options and after receiving a response, prepares the documents to convey title to the permittee.

[1] land management officer changed to land and resource management chief effective 5/21/2001
[2] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

E. If denied by the community development director[3], a written response is prepared and mailed by certified mail to the permittee. The permittee may appeal the decision of the community development director[2] per the adopted appeal procedure.

[3] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

REAL PROPERTY DISPOSALS: LANDS AVAILABLE FOR DISPOSAL	
PART 60	Effective Date: 9-20-1994

1.1 Authority: 23.05.030(E)
23.10.010(A)

2.1 This section addresses the method to be used by the land and resource management division to develop a pool of borough owned lands for disposal, which may or may not require further approval by the assembly depending on the parcel value and method of disposal. (e.g., over $25,000 fair market value; disposal by lottery and others would require further approval by the assembly.)

2.2 This section does not apply to the sale, lease, or management of resources, such as minerals, earth materials or timber, when the borough will continue to own the land or has reserved the resource from a previous conveyance.

3.1 The land and resource management division shall complete preliminary condition of title analysis, or update existing analysis, ensuring parcel is borough owned land.

4.1 The land and resource management division shall determine if the land classification, previously classified, is consistent for a disposal. Review of existing classifications older than five years may be in order due to changing conditions or surrounding use patterns.

5.1 The land and resource management division shall complete a highest and best use analysis of each parcel. The analysis will be used to indicate if a parcel should be considered for either classification or reclassification to a use consistent for a disposal.

6.1 If the recommended classification is not consistent with the existing classification, or no classification exists, the classification must be a use as defined in MSB 23.05.100 and processed as required by MSB 23.05.030(E).

7.1 Based on the highest and best use analysis and the classification, an estimated present value will be made.

8.1 The estimated present value and the method of disposal will determine the additional approvals necessary.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: LESS THAN FAIR MARKET VALUE	
PART 60	**Effective Date: 11-02-1999**

1.1 Authority: 23.05.030(G)
23.10.060

2.1 This section describes the borough policy towards the sale or lease of borough-owned property at less than fair market value.

3.1 Fair market value, as defined under 23.05.005, shall be the basis for establishing the property value within this title except when one of the three following purposes may permit the use of less than FMV

1. Economic, through a beneficial industrial or commercial enterprise; or

2. Public health and welfare purposes.

3. Non-profit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, educational, youth encampment, or other public purposes.

4.1 Economic. As it is the intent of this policy to encourage economic growth the borough may offer, as an incentive, borough-owned property for sale or lease or otherwise convey for less than fair market value for a beneficial industrial or commercial enterprise, as defined within 23.05.005. In order to receive this consideration, an industrial or commercial enterprise must also meet the best interest requirements of 23.05.030(G).

5.1 Public Health and Welfare. Less than FMV's may be available when the purpose of an application for borough property is in furtherance of the public's health, safety, and welfare, as defined within MSB 23.05.005, which the borough would otherwise be required to perform by local ordinance or state law. Public Health and Welfare purposes must also meet the best interest requirements of 23.05.030(G).

5.2 Non-profit corporations, associations, clubs and societies, or community service organizations. Less than FMV's may be available when the purpose of an application for borough property is to provide for charitable, religious, scientific, educational, youth encampment, or other public purposes as defined within MSB 23.05.005. Charitable, religious, scientific, educational,

youth encampment, or other public purposes must meet the best interest requirements of MSB 23.05.030(G).

6.1 In order to make a less than FMV determination a best interest finding must be completed (see MSB 23.05.030(G).

7.1 For all disposals at less than FMV, the borough shall retain the right to have the title revert to the borough or the lease terminated in the event the property is no longer used for the purpose applied for and approved, subject to environmental assessment and clean-up.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: NON-GAMING LOTTERY	
PART 60	Effective Date: 9-20-1994

1.1 Authority: 23.05.030 (E) (4)
23.10.040
23.10.200

2.1 This section applies to the sale of borough land by non-gaming lottery. A non-gaming lottery winner obtains only the right to purchase the parcel of land under the stated price, terms, and conditions of the sale.

2.2 Parcels for disposal by non-gaming lottery shall be selected from the pool of properties available for disposal.

2.3 Participants in the non-gaming lottery program must be 18 years of age or older and meet the qualified applicant criteria as defined by MSB 23.10.090.

3.1 Official rules governing the non-gaming land lottery shall be made available for each participant. The official rules shall state the eligibility requirements; when, where, and how the drawing will take place; how the borough will convey the property; and what the winners are responsible for.

3.2 The non-gaming lottery disposal application fee is non-refundable except when an application is accepted on properties which are withdrawn from the lottery after the printing of the brochure. This information is provided to the prospective applicant through the regulations governing such sales, the brochure, and the application itself.

4.1 Applicants for a non-gaming lottery sale need not be present to win. Upon notification of their winning, applicants who are not present to win must mail their acceptance by U.S. certified mail within ten days after receipt of notification letter to the borough purchasing agent at the address shown on the application.

5.1 A land sale by non-gaming lottery will proceed as follows:

A. The time frames for filing applications and holding the actual lottery are established.

B. A brochure is made available for the public which contains information pertinent to the land being sold, terms of the sale, and any conditions or restrictions which are applicable.

C. Applications are made on the forms available at the borough purchasing division. All applications will be completed in triplicate and must be accompanied by a notarized certificate of eligibility and the application fee. The application, the application fee, and the certification must be submitted together unless a certification is already on fie in the same lottery for that person.

D. Two copies of the application are retained by the purchasing agent, (one is for the barrel drawing, one for generating lists and file control) and the third copy will be stamped "received by MSB date-time" initialed by MSB employee and returned to applicant.

E. Lists will be generated prior to the lottery drawing to include the following:

1. an alphabetical listing of all applicants;

2. an alphabetical listing of all applicants and all parcels for which an applicant applied. This list is posted for public review at the non-gaming lottery prior to the drawing;

3. a listing of all parcels, in numerical order, with the applicants listed alphabetically by parcel;

4. a listing of all parcels in drawing order with respective number of applicants for each.

5. a listing of all parcels in drawing order with the respective number of applicants for each.

F. A non-gaming lottery may need the following staff support. Common sense is used to determine the staff support needed, and the duties are combined accordingly.

1. One person to load and unloaded each drawing drum;

2. A person to draw, if there are no disinterested volunteers, a

borough employee from the purchasing office who has not filed on any of the parcels being drawn may perform the drawing;

3. A person to take the applications from the person drawing, and to read off the winners' names;

4. Personnel to record applicants, parcel number, drawing order and winners on the appropriate lists and to place applications in the MSB files;

5. A public information person to answer questions and communicate with the media;

6. Administrative personnel (accounting) to receipt deposits.

G. If, prior to the start of the non-gaming lottery, a member of the public complains that they applied for a particular parcel but their name does not appear on the appropriate list, proceed as follows:

1. Re-check envelope to see if it is still there.

2. Allow the person enough time to provide proof of their application. The times will vary according to the circumstances.

3. Delay the drawing on the protested parcel by dropping it to the end of the non-gaming lottery. If the person has not provided proof by the time the parcel is to be drawn, you may recess the non-gaming lottery for a reasonable period of time.

4. If the person cannot provide the necessary proof, proceed with the drawing. An aggrieved non-gaming lottery participant may appeal to the manager under MSB 23.05.090.

H. Prior to the beginning of the non-gaming lottery the land and resource management division representative in charge presents a complete explanation of the procedures, policies, and rules to be followed. Any errata information is presented at this time as well.

I. Parcels are drawn first in the order of popularity, the parcel

receiving the highest number of applications being drawn first. In the event of a tie, the parcel with the lowest parcel number is drawn first. Disputed parcels dropped from the regular order due to protest are drawn last, or at the end of their section, if the problem has been resolved.

J. When an application is drawn and handed to the announcer, the announcer reads off the name and parcel number and passes it to the persons preparing the list. The list prepared under 4.1E is checked off first to see if the winner has previously been drawn. The number of the parcel is written next to the winner's name. The other lists are marked appropriately and the application is finally put in the MSB file. Five applications are to be drawn in the event an applicant cannot complete the real property transaction. In the event the first applicant does not complete the transaction, the second application will be provided this opportunity and then the third, fourth, and fifth.

K. Provisions must be made for local press coverage if the non-gaming lottery generates a high degree of public interest. Identify an area for reporters and their equipment; Assign an information person to the press area. The information person answers general questions and explains the lottery procedures.

L. At the end of the lottery an announcement is made that any parcels not receiving applications are available by over-the-counter sales.

5.1 The winners will be notified of their selection and sent a purchase agreement by certified mail.

5.2 The winner will execute the purchase agreement to indicate acceptance of the price, terms and conditions of the sale and return to the borough by certified mail within ten days with the appropriate deposit.

5.3 The sale will be closed based on the price, terms, and conditions of the purchase agreement.

6.1 Any parcels which have selected winners, but the winner fails to execute the purchase agreement, may be added to any over the counter sale in progress.

REAL PROPERTY DISPOSALS: OUTCRY AUCTION	
PART 60	Effective Date: 09-20-1994

1.1 Authority: 23.05.030 (E) (1)

2.1 This section addresses the lease or sale of borough land, or an interest in borough land, by outcry auction.

3.1 A bidder must meet the criteria the qualified bidder requirements set out in MSB 23.10.090.

3.2 A bidder must meet any special requirements of the particular auction being bid.

4.1 Should the high bidder not qualify, the sale or lease may be offered and awarded to the next highest of the bidders who is qualified and willing to accept the contract. The sale or lease price will be their high bid. This process continues until a deposit is received. If there are no willing and qualified bidders, the parcel may be offered over-the-counter.

4.2 The land management division will maintain a master auction file for each auction, with duplicates made as necessary.

Each auction file should, in a minimum, contain:

a) Successful bidder's list with sale prices;
b) Auction brochure with all property information and maps as necessary;
c) Bidder's list (sign-in sheet);
d) Certification that auction was held
e) Delegation of authority to hold auction'
f) Decisions and findings;
g) Planning reports, classification orders and other enabling actions;
h) Soil data or soil survey, if agricultural;
i) Copies of complaints, appeals advertising copy, public comments and media reports;
j) Minutes of public hearings and meetings.

Especially critical is documentation for any and all decisions and changes concerning the auction, and memoranda discussing the auction.

5.1 Parcels for this chapter, shall be selected from lands and resources approved for disposal.

6.1 Procedure for conducting a disposal of land, or an interest in land, by auction:

A. Upon approval by the manager or assembly, as the case may be, an auction brochure is prepared which presents pertinent information about the sale to any interest party. The brochure is made available to the public a minimum of four weeks prior to the auction date. A sample brochure is available and copies may be obtained by contacting the borough purchasing division. Information contained in the brochure may include, but need not be limited to, the following:

1. Auction title and number, date, time and location including specific times for pre-qualification session (if appropriate), registration, and briefing;

2. Type of disposal, requirements, and restriction;

3. The terms of the sale including the required down payment, how interest rate will be determined, qualified applicant status;

4. Statutory and regulatory eligibility requirements;

5. General description of lands involved, including the number of parcels and the approximate size of each;

6. Sketch maps or plat reproductions, which should be of sufficient scale to locate the parcel, access to the parcel reserved easements, right-of-way, and any other dedications;

7. A statement explaining the order that the parcels will be up for bid (it may be by parcel number in ascending or descending order).

B. An auction sale notice is prepared. The notice shall contain, but

need not be limited to, the following:

1. A statement concerning consistency with coastal zone management program with an invitation to comment;

2. A note explaining the availability of the brochure, and its purpose;

3. A statement on the right to postpone, adjourn, or annul the auction in part or in whole;

4. A reservation of the right to waive technical defects in the publication;

5. Who to contact for further information.

C. The land and resource management division will coordinate the following with the purchasing division;

1. Locate a facility and prepare it for auction with arrangements made well in advance of the scheduled disposal date;

2. Provide adequate seating, based on anticipated and/or past participation, but including provisions for overflow;

3. Provide support personnel; including the auctioneer, one or two bid spotters, bid recorder, minimum of two clerks, notary, and one runner. Arrangements to handle the press may include designation of a specific area for their equipment, and if necessary, a personnel briefing. An information officer is assigned to answer questions from the press and general public;

4. Provide a public address system; the auctioneer's voice should be clear and sufficiently loud to reach all the people in the room;

6. Locate equipment; including adding machines, typewriter, calculators, auction bid cards, registration sheets, extension cords, tables and chairs, assorted office supplies and a large chalk board;

7. Prepared in advance, disposal documents such as bid cards, deposit receipts, some contracts, etc.;

8. If participation of other divisions or agencies is appropriate, notify the agency well in advance and obtain a list of names of those expected to participate.

D. A delegation of authority is necessary if the auction is to be conducted by anyone other than the borough manager; a predisposal briefing with the community development[1] director's office is held at least two weeks prior to the auction date. A step-by-step review of the disposal is conducted. This allows for a review of sale procedures and an opportunity to resolve any last minute problems.

E. Bidder registration starts at least an hour prior to the beginning of the bidding. Bidders must register to be eligible to participate, but registration should be kept open for the duration of the auction. After they have proven their eligibility to participate, bidder are assigned a bid number and given a card at least 4" x 6" with the assigned number with at least 3" high numerals.

F. If any person is purchasing as an agent, the name of the principal being represented must be noted and the power of attorney (POA) document is inspected as to form and content; if determined proper, the POA is held for the duration of the auction. The POA document is retained if the person is a successful bidder; and become part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

Persons representing entities such as, partnerships, corporations, trusts, estates, joint ventures, must present proof that they are authorized to conduct the business on behalf of the entity. For example: the corporation must be authorized to conduct business under the laws of the state of Alaska, a corporate resolution affixed with the corporate seal authorizing the individual to bid and sign on behalf of the corporation and proof of good standing with the

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

Department of Commerce and Economic Development at or before registration. The partnership agreement, either general or limited, must authorize the person to bid and sign on behalf of the partnership and the purchase of real estate must be an act authorized by the partnership agreement. Upon acceptance, the documents are held for the duration of the auction and are retained if the entity is a successful bidder becoming part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

G. The auctioneer must be plainly visible and audible. The recording sheet is displayed in the auctioneer's eyesight. There should be at least one spotter to catch any bids the auctioneer might miss. The auctioneer gives a brief introduction, explains the registration and auction procedure reads any errata sheets, and answers any questions. The auction proceeds in the order as listed in the disposal brochure. It is important that the auctioneer explain clearly how the auction is to proceed. The bidding increments to be used must be explained, as it is a discretionary power of the auctioneer to adjust the increments.

H. When conducting the auction, the auctioneer has broad discretion to control the auction, and must exercise that authority. The auctioneer may call a recess at any time. The auctioneer initiates the bidding by calling for an offer. A bid is made by raising the bidder number card in response to the call. The auctioneer calls out the bidder's number, if possible, and asks for a higher bid. A call by the auctioneer for a specific bid does not preclude any bidder form offering any amount greater than the last bid, Such a bid is recognized by the auctioneer by repeating the offer and the bidder's number, When bidding is stopped and there are no more bids made, the auctioneer makes a final call ("going once, going twice"). The auctioneer concludes the bidding by dropping the gavel, and saying "Sold to bidder #___ for $___."

I. After the final bid, the runner takes the recording sheet, and immediately escorts the apparent successful bidder to the area designated for processing the conditional bid receipt. The successful bidder turns in the bidder registration card (to be retained in the case file), completes the purchase agreement, pays the required deposit, and receives a conditional bid receipt.

J. If a successful bidder fails to make the required deposit, the parcel is reopened for bidding along with any parcel on which there is no offer. This process continues until a deposit is reviewed on all parcels, or there are no bids.

K. When the apparent successful bidder finishes the necessary paperwork, the bidder leaves the auction with a copy of the bid receipt. The original is retained for the file. A third copy is made for the finance department for processing of the deposit.

L. The auctioneer may eject any spectator or bidder whose conduct interferes with the orderly proceeding of the auction, and may withdraw parcels from the auction.

M. Any aggrieved bidder must file an appeal with the borough manager in writing. The appeal must be received in accordance with MSB 23.05.090.

N. The documents necessary to close will be prepared and closing set-up in accordance with the terms and conditions of the purchase agreement.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

Real Property Disposals: OVER-THE-COUNTER	
PART 60	**Effective Date: 08-04-1998**

1.1 Authority: 23.05.010(A)
23.05.030(E)(3)
23.10.210
23.10.220(B)

2.1 Over-the-counter – A parcel offered to the general public on a first-come, first-serve basis at a date later than the original competitive offering.

2.2 Competitive sale refers in general to any sale by bid, i.e., sealed bid auction, outcry auction, or competitive request for proposal.

2.3 A parcel is considered to be available over-the-counter if it has been offered at an approved competitive sale and a bid has not been accepted, or if accepted, the transaction failed to close.

2.4 Public notice provided for in the previous competitive sale will satisfy the notice requirement for over-the-counter sales.

2.5 This section addresses the offering of a parcel by over-the-counter sale method and the procedures for handling the sale itself.

3.1 All parcels not sold in a competitive sale are eligible for purchase in a subsequent over-the-counter sale. The parcels are offered under the terms and conditions outlined in the over-the-counter sale brochure:

A. Parcels are made available on a first-come, first-serve basis on a purchase request form described in the sale brochure.

B. The purchase price is defined as;

1. the minimum bid price offered in a competitive sale held within the previous 12 months; or

2. if the parcel was offered on a competitive sale more than 12 months earlier, the fair market value (FMV) is established by the borough assessor as if the parcel were assessed for the certified tax roll; or

3. the FMV determined by a fee appraisal ordered by the borough.

C. Parcels for sale may be purchased for cash or terms described in the sale brochure.

D. A list of all parcels to be available, showing the legal description, tax parcel number, purchase price, and the information for acquiring a brochure will be mailed to all community councils at least twenty days prior to the opening day of the sale. A notice of the over-the-counter sale will also be published in the newspaper at least ten days prior to opening day.

E. Parcels will be available for purchase over-the-counter throughout the year except for two 45 calendar day periods that may be scheduled by land and resource management to update purchase prices, delete sold parcels, add new parcels, prepare an updated brochure and notice the community councils. No purchase requests will be accepted during the 45 calendar day periods the sale is closed.

F. Purchase request forms are submitted to the borough directly. No real estate commissions will be paid by the borough.

3.2 The dates for the over-the-counter sale will be listed in all advertisements and the sales brochure.

4.1 General procedures for over-the-counter sales:

A. At least ten working days prior to the opening of an over-the-counter sale, the land and resource management division provides a brochure of the lots offered over-the-counter to the purchasing division.

B. The dates and times for acceptance of the over-the-counter registration and purchase request forms are stated in the brochure.

C. All parcels will be sold on a first-come, first-serve basis to a purchaser qualified pursuant to MSB 23.10.090.

D. Prospective purchasers must submit a completed purchase request form, a non-refundable purchase request fee, the qualification statement, and any other documents required by the sales brochure.

E. Any applicants in the purchasing division at the beginning of the workday (8 a.m.) will be registered and issued a priority number. If more than one

person is waiting prior to 8 a.m., a drawing will be held to determine priority. All persons must remain on the premises until their priority is determined.

F. The priority number will determine the sequence in which more than one application for the same parcel will be processed.

G. Mail applications are acceptable. The date and time of receipt by the purchasing agent shall determine priority order. All applications by mail are required to include the same complete package and fees as someone applying in person. An incomplete package will be returned to the applicant. A new priority number will be issued when the completed package is resubmitted.

H. Upon verification of qualified applicant status under MSB 23.10.090, a purchase agreement will be prepared by the land and resource management division according to the conditions stated within the over-the-counter sale brochure.

I. If an applicant is deemed to be non-qualified under the qualified applicant and bidder procedure, the purchasing officer shall place the parcel back on the “available to purchase” list for the remaining time in the sale period.

J. Upon notice of qualified status a prospective purchaser has five days to submit the executed purchase agreement and the appropriate down payment.

K. A parcel is not considered awarded until qualified status is verified, the purchase agreement is fully executed, and the appropriate down payment is made.

L. A parcel may continue to be included in subsequent over-the-counter sales until one of the following occurs:

1. The parcel is sold and the transaction closed.

2. The parcel has been included in three or more over-the-counter sales in the previous five years and has not sold. The parcel must then be reviewed under the same procedures for a competitive sale and be included in a competitive sale before it can be placed again in an over-the-counter sale.

3. The parcel is withdrawn by the manager:

   a. due to a request to dedicate to public purpose;

   b. to include the parcel in a competitive sale;

   c. for any other reason deemed to be in the borough's best interest.

M. If a parcel has been withdrawn, the manager may again include the parcel in a subsequent over-the-counter sale if the reason for withdrawal is no longer valid.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

PURCHASE OF THE FEE SIMPLE ESTATE, FOR LANDS 10 ACRES IN SIZE OR SMALLER, BY ADL LESSEES.	
PART 60	**Effective Date: 8-18-1998**

1.1 Authority: 23.05.030 (E) (6)
23.10.010 (A)
23.10.020 (D)
23.10.030 (A)
23.10.070
23.10.080
23.10.090

2.1 This section applies to borough lands, ten acres in size or smaller, which are subject to pre-existing Alaska Division of Lands (ADL) leases where the lessee wishes to extinguish the lease and purchase the fee simple estate at fair market value (FMV).

2.2 These procedures give existing ADL lessees an abbreviated process to purchase.

A. Lessee must comply with all steps outlined in the “Applications: Filing & Acceptance” policy and procedure.

B. The land shall be classified general purpose at the time of conveyance.

C. According to the ADL lease, the applicant is responsible for properly locating improvements on the leasehold. A survey will be required showing all improvements on the property and their distances from lot lines and waterbodies. Improvements may include, but are not limited to, structures, wells, septic systems, fences, and driveways. Applicants shall bear the expense of survey and costs required to remedy any violations of Title 17 Zoning and meet Title 27 Platting requirements.

1. Applicants may request the borough waive the as-built survey requirement only under the following conditions:

a. the borough will not be financing the sale; and

b. the parcel is an unimproved island; or

c. the parcel is unimproved land that is adjacent to other unimproved land; or

d. the parcel is unimproved land that is adjacent to other improved lands that have current as-built surveys and the applicant provides copies of said as-built surveys to the borough; and

e. the applicant is willing to sign an acknowledgement at closing, accepting the property without providing an as-built survey.

D. The applicant shall order, and pay the cost of, a fee appraisal from a list of borough approved appraisers. The borough will prepare a list of borough approved appraisers. The borough will prepare appraisal instructions as follows:

1. The date of valuation will be the date the application is accepted for processing; a value will be requested for a sale for cash and a sale for terms;

2. The property rights to be appraised are the fee simple unimproved estate.

E. The borough assessor may review and comment on the appraisal. The applicant or the borough may appeal the value according to the land and resource management appraisal appeal procedure.

F. The appraised value, subject to the appeal process, shall be the purchase price of the property.

G. The borough prepares a good faith estimate and purchase agreement based upon the applicant's request to purchase by cash or by terms. The documents are sent to the applicant by certified mail.

H. In the event the applicant requests borough financing, at a minimum the following will be required.

1. the applicant shall demonstrate an ability to repay the amount financed according to borough lending practices;

2. the applicant shall submit with the purchase agreement a down payment of at least 10 percent of the purchase price;

3. the applicant shall pay all costs necessary for a title policy insuring the borough's deed of trust in a first lien position. This may include bank or other fees to subordinate existing loans or liens to the borough's deed of trust.

I. The applicant shall be responsible for all closing costs and recording fees.

J. Should the applicant decide not to complete the purchase, the applicant may continue to lease under the terms and conditions of the existing lease.

K. The application may be terminated by the borough by written notice to the applicant for delays caused by the applicant.

L. Conveyance will be by quitclaim deed.

Section 4. Land classification. The Matanuska-Susitna Borough Assembly, upon conveyance of the fee simple estate in accordance with the above-referenced policy and procedure, does hereby classify borough-owned lands, ten acres in size or smaller, encumbered by an Alaska Division of Lands (ADL) lease as general purpose land.

Section 5. Approval of sale. The Matanuska-Susitna Borough Assembly does hereby approve the sale of the fee simple estate, at FMV, where the ADL lessee has met the requirements of the policy and procedure entitled "Purchase of The Fee Simple Estate, For Lands Ten Acres in Size or Smaller, by ADL Lessees."

NOTE: The previous two sections are part of MSB non-code Ordinance 98-107 that adopted this Policy.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: REAL ESTATE BROKERS	
PART 60	**Effective Date: 6-16-1998**

1.1 Authority: 23.05.030(E)(9)

2.1 Definitions: A **real estate broker** is currently licensed by the state of Alaska as a real estate broker in accordance with Alaska state law, as defined under AS 8.88.171.

2.2 A **real estate sales agent** is currently licensed by the state of Alaska in accordance with Alaska state law, as defined under AS 8.88.171, as a real estate sales person, is employed by and operates under the direction and authority of a real estate broker.

2.3 **Listing agreement** means an exclusive right to sell contract between the borough and a real estate broker to dispose of specified borough real properties during a specified period.

2.4 **Professional services agreement** (PSA) means a contract specifying the services to be performed by a broker having a listing agreement with the borough and the method of compensation for those services.

3.1 The services of real estate brokers may be used for the disposal or acquisition of borough property. All professional services will be coordinated through the borough purchasing division, pursuant to MSB 3.08.260 and 3.08.300.

3.2 Annually, borough purchasing will publish a request for information from real estate brokers and provide interested brokers an information packet.

3.3 Brokers may register, with the borough purchasing department, their interest in submitting purchase agreements for prospective purchasers of borough property.

3.4 Registered brokers will be mailed notices of all properties selected to be sold through real estate brokers. Registered brokers may request sales packets, to include but not limited to property specifications, real estate commission, legal description, map, and appropriate purchase agreement forms, sales price and terms, the scheduled bid opening date and time for each property

offered for sale, and the procedure for presenting offers to purchase borough property.

3.5 Registered brokers will bring completed purchase or lease agreements, signed by the prospective buyer or lessee, to borough purchasing on or before the scheduled bid opening date and time.

4.1 Land and resource management division may request broker services though a listing agreement to dispose of one or more parcels of borough real property. A request for proposal shall provide a scope of services, the evaluation criteria, broker's insurance requirements, and the parcel(s) with legal description(s).

(a) Proposals will be evaluated by a review committee selected by borough purchasing.

(b) The selected broker will sign a professional services agreement (PSA) and a listing agreement. The PSA will also identify any forms, contracts, or procedures which the broker agrees to use in providing services specified by the agreement.

(c) The PSA will specify compensation as either a negotiated percentage of the sales price or as a fixed payment schedule per parcel.

(d) Land and resource management division will provide maps and property specifications and monitor performance on the listing agreement with the selected broker(s).

5.1 Payment for broker services is approved by the land management officer and due after the property purchase/lease transaction has closed and been recorded.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: REMOTE PARCEL	
PART 60	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.170

2.1 This section addresses the remote parcel program.

2.2 Land for the remote parcel program may be classified as general purpose, private recreation, or residential only after the classification has been approved after a public hearing or hearings conducted by the borough planning commission and assembly.

3.1 The land and resource management division shall prepare a concept development plan of the parent parcel illustrating all of the proposed remote parcels.

3.2 The platting division shall prepare a cost estimate for surveying and platting according to the requirements of the borough subdivision code. The cost shall be pro-rated on a per lot basis as illustrated in the concept development plan.

3.1 Remote parcels shall be surveyed in compliance with the staking instructions of the platting division. All boundary adjustments in the field survey shall be in accordance with survey instructions issued by the platting division.

4.1 An applicant must be a qualified bidder/applicant per MSB 23.10.090 to be eligible for the remote parcel program.

4.2 Applicants shall apply per the over-the-counter disposal procedures.

4.3 Applicants shall pay a $500.00 non-refundable application fee and shall be required to pay the prorated share of the subdivision costs at the time of closing.

4.4 The sale period shall be opened for 60 days. A minimum of 80 percent of all remote parcels offered must receive qualifying applications within the 60 day period in order to proceed with the sale. In the case where less than 100 percent but more than 80 percent of the parcels offered receive qualifying applications, the borough will pay the prorated share of subdivision costs for

any remaining lots without qualified applicants.

5.2 No person may acquire more than one parcel of land from the borough under the provisions of this section.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: SALES & LEASES BY APPLICATION	
PART 60	**Effective Date: 2-18-2003**

1.1 Authority: 23.05.025
23.05.030 (E) (6)
23.10.230

2.1 This section applies to sale or lease of borough land by application without competitive bid.

2.2 This section applies only to the sale or lease of borough-owned real property as described in MSB 23.10.230 (A) (1).

2.3 This section does not apply to applications for permits (MSB 23.10.100) or easements and rights-of-way (MSB 23.10.110) for which separate policies and procedures have been adopted.

2.4 This section would apply when a public utility or public agency needed to purchase or lease borough land for other uses, such as substations, plant facilities, or right-of-way.

3.1 Parcels for sale or lease by application shall be selected from the pool of borough-owned lands available for disposal, or requested for sale or lease by the application.

3.2 Parcels requested for disposal will meet the requirements of the adopted policies and procedures for “Classification” and “Lands Available for Disposal.”

3.3 Parcels proposed for sale or lease at less than fair market value (FMV) must meet the requirements for “less than FMV,” “best interest finding,” and “public notice “procedures.

4.1 A purchaser must be a qualified applicant as described in MSB 23.10.090.

4.2 Once an application is accepted for processing, no additional applications will be accepted and processed for the same property.

5.1 The following procedures should be followed in general when preparing for the sale or lease of borough lands by application under the authorities cited in paragraph 1.1 of this chapter prior to acceptance of the application for processing.

A. The application:

1. is assigned an MSB number;

2. has a case file created, which contains the original application and any pertinent enclosures or inclusions;

3. a more comprehensive review of the property status is made and the land is checked for any current uses, reservation, or prohibited uses and to determine if the area is subject to the coastal management program and/or an existing area plan.

4. The nature of the proposed use shall be considered. If the lands were acquired by deed, the proposed use must be consistent with any restrictions contained therein.

5. Interdepartmental review is initiated.

6. In the event a field inspection is necessary, and the parcel is in a remote area or accessible only by air, the applicant will be required to pay for the inspection. This requirement may be waived if other borough work in the area justifies the expense and budgeted funds are available.

B. Where an application is submitted under MSB 23.10.230 (A) (I) (F), the applicant must also submit to Land Management a letter addressed to the manager.

1. The letter will state:

(1) The proposed use for the property;

(2) How the borough will benefit from the disposal beyond receiving revenue; and

(3) Why the applicant does not wish to purchase through a competitive sale.

2. The manager has 30 days to, recommend rejection or recommend accepting an application for processing.

3. The criteria for rejecting a land purchase application shall be based on one or more of the following:

   (1) The application is not eligible for processing as required under MSB 23.10.230 (A) (1).

   (2) The applicant is not a public agency or utility for facilities serving the general public, or the application's not for a beneficial new industry or commercial enterprise; or

   (3) The application is not for a public health or welfare purpose; or

   (4) The applicant is not a non-profit corporation, association, club, or society organized and operated exclusively for charitable, religious, scientific, educational, or youth encampment.

   (5) The application is not submitted to remedy problems associated with an adjoining parcel which is substandard or has an unusable lot condition or for access;

   (6) The application provides insufficient information for processing and the deficiency is not remedied within 30 days of receiving the application.

4. Within two weeks of the manager's recommendation to deny the application, an assembly memorandum shall be forwarded to the assembly for their consideration.

5. Within two weeks of the manager's recommendation to process the application, an assembly memorandum is prepared for the assembly requesting the application be accepted for processing.

6. If the application is denied, the applicant is provided the reason for denial. The applicant may nominate the property for a competitive sale.

C. Upon assembly acceptance of the application for processing, an application conference may be held to present to the applicant findings

from the interdepartmental review and:

1. the application processing steps are discussed with the applicant;

2. applicant's costs are estimated;

3. any other conditions or borough code considerations are discussed with the applicant; and

4. the applicant pays the processing fee.

D. If classification or reclassification is deemed necessary, the land and resource management division will follow the adopted policies and procedures for classification. Classification can be processed concurrently with other application matters which require assembly approval.

E. A departmental recommendation is prepared, sent by certified letter to the applicant, and forwarded to the manager or the assembly, as required by MSB 23.10.020, Assembly Approval of Disposal.

F. The manager's or assembly's approval should contain the terms of the disposal , any costs or requirements which the applicant will be required to meet and any restrictions or conditions to be placed on the transaction.

G. Based on the outcome of the decision, the land and resource management division will prepare a package to the applicant as follows:

1. If approved, a purchase agreement or contract for lease, as appropriate, will be prepared. It will incorporate the terms and conditions as approved, and set out the remaining steps and monies required to close. The original document will be mailed to the applicant, with a transmittal letter which requests that the applicant execute and return the original, along with any monies required.

2. If denied, the applicant will be notified by certified mail with a summary of the reason for denial and a copy of MSB 23.05.090, Reconsideration and Appeals.

H. Upon the receipt of the signed agreement/contact and monies, the

document will be reviewed to ensure no unauthorized changes have been made and it will be forwarded for the manager's signature.

I. Notification is provided to the applicant that a title report is to be prepared at the expense of the applicant. Upon receipt of the payment a title report is requested.

J. Closing of the sale or lease will take place in accordance with the agreement/contract.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: SEALED BID AUCTION	
PART 60	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.030 (E) (1)
23.10.040

2.1 This section addresses the lease or sale of borough land, or an interest in borough land, by sealed bid auction.

3.1 A bidder must meet the criteria and qualified bidder requirements set out in MSB 23.10.090.

3.2 A bidder must meet any special requirements of the particular auction being bid.

4.1 Should the high bidder not qualify, the sale or lease may be offered and awarded to the next highest of the bidders who is qualified and willing to accept the contract. The sale or lease price will be their high bid. This process continues until a deposit is received. If there are no willing and qualified bidders, the parcels may be offered over-the counter.

4.2 The land and resource management division will maintain a master auction file for each auction, with duplicates made as necessary.

Each auction file should, at a minimum, contain:

a) successful bidder's list with sale prices;
b) auction brochure with all property information and maps as necessary;
c) list of bid envelopes received;
d) certification that auction was held;
e) delegation of authority to hold auction;
f) decisions and findings;
g) planning reports, classification orders and other enabling actions;
h) soil data or soil survey, if agricultural;
i) copies of complaints, appeals, advertising copy, public comments and media reports;
j) minutes of public hearings and meetings.

Especially critical is documentation for any and all decisions and changes concerning the auction, and memoranda discussing the action.

5.1 Parcels for this chapter, shall be selected from land and resources approved for disposal.

6.1 Procedure for conducting a disposal of land, or an interest in land, by auction is as follows:

A. Upon approval by the manager or assembly, as appropriate, an auction brochure is prepared which presents pertinent information about the sale or lease to any interested party. The brochure is made available to the public a minimum of four weeks prior to the auction date. Copies may be obtained by contracting the borough purchasing division. Information contained in the brochure may include, but need not be limited to, the following:

1. auction title and number, date, time, and location including specific times for pre-qualification session (if appropriate), bid registration and deadline, and bid opening;

2. type of disposal, requirements, and restrictions;

3. the terms of the sale or lease including the required down payment, how interest rate will be determined, qualified applicant status;

4. statutory and regulatory eligibility requirements;

5. general description of land involved, including the number of parcels and the approximate size of each;

6. sketch maps or plat reproductions, which should be of sufficient scale to locate the parcel, access to the parcel, reserved easement, right of way, and any other dedications.

B. An auction sale notice is prepared. The notice shall contain, but need not be limited to, the following:

1. a statement concerning consistency with coastal zone management program with an invitation to comment;

2. a note explaining the availability of the brochure, and its purpose;

3. a statement on the right to postpone, adjourn, or annul the auction in part or in whole;

4. a reservation of the right to waive technical defects in the publication;

5. who to contact for further information.

C. The land and resource management division will coordinate the following with the purchasing division:

1. locate a facility and prepare it for auction with arrangements made well in advance of the scheduled disposal date;

2. provide adequate seating; based on anticipated and/or past participation, but including provisions for overflow;

3. provide support personnel; including the manager of designee, the purchasing agent, land and resource management chief[2], and bid recorder. Arrangements to handle the press may include designating of a specific area for their equipment, and if necessary, a personnel briefing. An information officer is assigned to answer questions from the press and general public;

4. provide a public address system if a large group is expected;

5. locate equipment; including adding machines, typewriters, calculators, registration sheets, extension cords, tables and chairs, assorted office supplies and a large chalk board;

6. provide security; a security guard or state trooper is necessary at any auction when deposits and/or receipts are collected off the borough premises;

[2] land management officer changed to land and resource management chief effective 5/21/2001

7. prepare in advance disposal documents such as deposit receipts, purchase agreements, sample closing documents, etc.;

8. if participation of other divisions or agencies is appropriate, notify the agency well in advance and obtain a list of names of those expected to participate.

D. A delegation of authority is necessary if the auction is to be conducted by anyone other than the borough manager. A predisposal briefing with community development[3] director's office is held at least two weeks prior to the auction date. A step-by-step review of the disposal is conducted. This allows for a review of sale procedures and an opportunity to resolve any last minute problems.

E. The bid envelopes will be dated and time stamped by the purchasing division when received and registered in that day/time sequence.

F. If any person is purchasing as an agent, the name of the principal being represented must be noted on the bid form and the power of attorney (POA) document is inspected as to form and content, if determined proper, the POA is held for the duration of the auction. The POA document is retained if the person is a successful bidder; and becomes part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

Persons representing entities such as, corporations, trusts, estates, joint ventures, must present proof that they are authorized to conduct the business on behalf of the entity. For example: The corporation must be authorized to conduct business under the laws of the state of Alaska, a corporate resolution affixed with the corporate seal authorizing the individual to bid and sign on behalf of the corporation, and proof of good standing with the Department of Commerce and Economic Development at or before registration. The partnership agreement, either general or limited, must authorize the person to bid and sign on behalf of the partnership and the purchase of real estate must be an act authorized by the partnership agreement. Upon acceptance, the documents are held

[3] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

for the duration of the auction and are retained if the entity is a successful bidder, becoming part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

G. The purchasing agent opening bids must be plainly visible and audible. The recording sheet is prepared by the bid recorder. The purchasing agent gives a brief introduction, explains the registration and auction procedures and answers any questions. The auction proceeds by opening the bids in parcel number order.

H. After the final bid for a parcel is opened the purchasing agent will announce the apparent high bid and proceed to the next parcel.

I. Following opening of the final bids the purchasing agent will announce that all bids are being taken under advisement and the checks will be deposited for all bids. Copies of the deposit receipts will be given or mailed to all bidders.

J. If a successful bidder fails to make the required deposit, or does not otherwise meet the bid requirements, the parcel bidding is reopened and the next highest bid reviewed. This process continues until a bid is accepted on all parcels, or there are no bids remaining.

K. The apparent successful bidder will be sent the purchase agreement and given a specified deadline to return it to the borough.

L. Any aggrieved bidder must file an appeal with the borough manager in writing. The appeal must be reviewed in accordance with MSB 23.05.090.

M. The documents necessary to close will be prepared and a closing set-up in accordance with the terms and conditions of the purchase agreement.

N. Upon receipt of the executed purchase agreement, all other bid deposits being held for that parcel will be released to the unsuccessful bidders.

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LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY DISPOSALS: TAX FORECLOSED PROPERTIES WHERE REPURCHASE RIGHTS HAVE BEEN EXTINGUISHED	
PART 60	**Effective Date: 08-04-1998**

1.1 Authority: 23.10.220

2.1 This section addresses parcels where the borough has acquired clerk's deed through tax foreclosure and the right of repurchase has been extinguished. Land and resource management's objective is to put these properties back onto the tax rolls as quickly as possible.

2.2 Annually land and resource management identifies all parcels where the statutory right of repurchase has been extinguished.

A. Condition of title is reviewed and where feasible, exceptions are cleared.

B. Delinquent taxes, special assessments, and any other costs or fees are cleared according to borough policy and Alaska Statutes.

C. Departmental review is initiated to determine if:

1. The parcel is a substandard or a non-conforming division of land by today's standards, is in violation of federal, state, or borough laws or regulations, or reflects any other conditions where it may not be in the best interest of the borough or the public to offer the parcel for sale in its current state or without providing for special conditions or disclosure in the sale;

2. Additional reservations for trails, easements, roads, or other public purposes should be made when the parcel is sold and conveyed;

3. The parcel should be retained for a specific public purpose;

4. The soils, access, and parcel size suggest that agricultural use may be appropriate.

D. Where issues are raised in the departmental review, land and

resource management may recommend special conditions for any single parcel or adjacent parcels such as replatting to combine two or more adjacent parcels, subdividing a larger parcel, or offering only to adjacent property owners.

2.3 Parcels acquired through tax foreclosure do not require classification prior to sale because borough classification may conflict with covenants and existing private property uses.

2.4 Public notice requirements have been met through prior tax foreclosure and sale procedures (AS 29.45.330-470.)

2.5 The minimum bid price is the fair market value requested from the borough assessor and approved by the manager.

2.6 Land and resource management prepares a recommended list of parcels, based on follow-up to the departmental review, to offer for competitive sale and submits the list to the manager for approval.

2.7 Upon approval by the manager, the sale brochure is prepared and the parcels are offered according to the appropriate competitive sale PPM. Parcels unsold at the completion of the sale may be offered in subsequent over-the-counter sales.

PART SIXTY-FIVE:

RESOURCES – FOREST

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TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

FOREST MANAGEMENT AGREEMENTS	
PART 65	**Effective Date: 9-20-1994**

1.1 Authority: 23.20
23.10.160

2.1 This section applies to the management of forest resources by use of management agreements.

3.1 Criteria for forest management agreements may include, but need not be limited to:

A. relieve the borough of some of the financial burden of developing and managing a timber sale;

B. provide for the long-term management of borough forest management lands, creating the stability for the forest products industry and incentives for the responsible use of borough timber;

C. provide an operator with a stable source of timber from a designated area on the basis of successive renewals of contractual rights;

D. provide for equal consideration of other beneficial uses of forest land.

4.1 Requirements of forest management agreements are:

A. the term of the initial agreement, not to exceed twenty years, and conditions for an extension of the term;

B. the stumpage prices to be charged for the timber and a periodic review and, if appropriate, adjustment of the stumpage prices;

C. penalties for violation of the terms of the agreement and termination of the agreement;

D. the update of the operating plan each five years'

E. the update of the annual harvesting plan;

F. public use of borough land involved in the agreement, except that the contractor may limit access in an area that is being harvested, reforested or where hazardous conditions exist;

G. the protection of compatible and noncompliant uses, such as mining, recreation, and fish and wildlife habitat and harvest;

H. a bond from the purchaser to protect the interest of the borough;

I. the preparation of reports required by the manager; and

J. other terms, conditions, and limitations determined to be in the public interest by the manager.

5.1 Forest management agreements may also:

A. compensate the borough for monitoring and enforcement of the terms and conditions of the agreement and applicable state and borough laws;

B. compensate the borough for the scaling services required to account for the timber sold;

C. construct and maintain access roads necessary to the harvest of the timber;

D. designate a percentage of the timber volume to be subcontracted to independent operators; the manager shall make the final designation from areas included in the borough operating plan.

6.1 A forest management agreement may be extended at any time between the fifth and tenth year, if the following applies:

A. the term of the extension does not exceed a term of years equal to the term of the initial agreement;

B. the contractor submits a proposed operating plan for the next five years of operation and amends the management plan for the forest management agreement, as the manager considers necessary.

7.1 The most qualified proposal for a forest management agreement shall be

determined by considering the following:

A. the stumpage payments proposed;

B. the amount of the investment in plant and facilities proposed;

C. the utilization standards proposed;

D. the number of jobs to be provided;

E. road construction, reforestation, and recreation improvements requested by the borough;

F. measures posed to maintain, enhance, or mitigate the effects on other beneficial uses or resources of forest land; and

G. other items requested by the borough or offered by the proposer

8.1 The manager may establish maximum and minimum development requirements and the maximum annual allowable cut.

9.1 The manager shall require the selected proposer to submit a management plan for the land that is or may be subject to a forest management agreement. The management plan must include:

A. an inventory of renewable and nonrenewable resources present, their human uses and their economic value as measured by net present value;

B location, type, and duration of access;

C. operable timber base areas to be harvested;

D. annual allowable cut;

E. silvicultural prescriptions;

F. facility development;

G. area specific management practices or prescriptions needed to protect or enhance fish and wildlife habitat and harvest, public

recreation, and other significant public or private resources and uses of the area. In addition the operation shall submit a five year operating plan and annual harvesting plan for the first two years of operation; and

H. reforestation methods and techniques.

10.1 Solicitation Process. The manager shall solicit requests for proposals from interested parties for any forest management agreement. The solicitation procedure shall be developed by the manager or his designee.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

FOREST MANAGEMENT: BY APPLICATION PROCESS	
PART 65	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.010
23.10.060(B)(4)
23.20

2.1 Timber sales offered under the application process shall be issued for a period not to exceed one year and may not be extended. The primary purpose of this sale method is to maintain a steady supply of timber between scheduled timber resource disposals.

3.1 The land and resource management division standard application process and forms shall be used. The following shall be provided to the applicant: application form, forest management brochure, sample contract, Title 23, timber sale procedures, fee schedule, and forest practices act & regulations.

4.1 A pre-application meeting shall be held to discuss contract requirements, state of Alaska forest practices requirements, harvesting and scarification techniques.

5.1 A field inspection will be conducted to assess the following: existing roads and trails, topography, presence of waterway or wetland areas, evidence of fish & wildlife, representative sample plot and stand age, tree species, timber stand composition & under story vegetation, recommended silvicultural prescription, proposed plan of operation, reforestation problems and recommendations, environmental protection measures, and adjacent land uses. Inspections may be postponed due to weather or heavy snow conditions.

6.1 Notification of operation is prepared and forwarded to state of Alaska Division of Forestry.

7.1 A property profile and highest and best use analysis shall be developed and a departmental and community council review completed.

8.1 A request for approval is forwarded to the manager which consists of a

summary of comments, recommendations, and signatory approval form.

9.1 The applicant is notified by certified mail of preliminary findings and the estimated fair market value of the timber and the manager's decision. The estimated fair market value of the timber shall be determined as described within Title 23.10.060 (A) (4).

10.1 Performance bond, proof of insurance, and 10 percent of the total estimated value shall be posted with the borough within a 30 day period from the date the applicant is notified of the preliminary findings. The 10 percent deposit will be credited toward the stumpage payment(s). Failure to provide the requirements within 30 days will void the application.

11.1 A contract is prepared and the purchaser's signature is obtained.

12.1 The contract becomes active upon the manager's signature.

13.1 Harvesting boundary layout and seed tree marking is performed and plan of operation is prepared on-site with purchaser.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

FOREST MANAGEMENT: DISPOSAL	
PART 65	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.010
23.20

2.1 Classification. Timber resource lands may first be classified per classification procedures.

3.1 Sale Notice. Before offering a borough timber resource disposal, the land and resource management division will notify the community council in which the timber sale will occur with the following information:

(1) The date, time and place of disposal;

(2) A statement of terms and conditions of disposal including the terms of payment and length of contract, purchaser qualifications, contract performance requirements, and any other special conditions or limitations; and

(3) For each parcel:

(A) size;
(B) volume of timber;
(C) State of Alaska Forest Practices provisions.

4.1 Sale Method. Timber resource disposals may be by auction, by lottery, or by application or letter of interest where the harvest period is less than one year, or any other method prescribed by law. The disposals will be conducted according to the relevant procedure for the particular disposal method.

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LAND AND RESOURCE MANAGEMENT DIVISION
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FOREST MANAGEMENT: LETTERS OF INTEREST	
PART 65	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.010
23.20

2.1 Timber sales by letter of interest shall be issued for a period not to exceed one year. The primary purpose of this sale method is the salvage of small quantities of timber due to blow down, right-of-way and land clearings, and insect and disease infestation. Letters of interest sales may also be applied to the harvest of small quantities of timber which require a proven special ability or equipment for the protection of the environment, fish and wildlife habitat, or a high-value residual stand.

3.1 The Matanuska-Susitna Borough will advertise for letters of interest once a year in locally distributed newspaper. Respondents to the advertisement will be mailed a questionnaire requesting a summary of special skills and qualifications, list of equipment, equipment rental and labor rate schedule, and prioritize areas the contractor prefers to operate within the borough.

4.1 Bids will be requested via telephone to a minimum of three operators for the area where harvesting will occur. The highest bidder will be contacted and will have ten days to supply the necessary bonds and insurance for the operation.

5.1 A standard timber sale contract will be used

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FOREST MANAGEMENT: TIMBER FAIR MARKET VALUE DETERMINATION	
PART 65	**Effective Date: 9-20-1994**

1.1 Authority: 23.05.060
23.10.060 (B) (4)

2.1 The fair market value of timber resources can be established using the adopted fee schedule or market price trends.

3.1 Market price trends are determine by an analysis of past timber sale prices with comparable conditions within the area of the proposed sale, present demand and market prices for the product(s) desired. Justification for the recommended sale prices shall be provided to the manager for approval.

PART SEVENTY:

RESOURCES – MATERIAL

Resource Sales 70-1

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

RESOURCE SALES: Material Sales	
PART 70	**Effective Date: 9-20-1994**

1.1 Authority: 23.10.010
23.10.090
23.10.120

2.1 This section applies to sale of borough materials.

2.2 "Materials" include, but are not limited to, the common varieties of sand, gravel, rock, peat, pumice, pumicite, cinders, clay, and sod.

2.3 "Competitive interest" in general is considered to exist where two or more applications are filed for materials from a limited source area.

2.4 "Public auction" is a method of selling or disposing of materials, either by public outcry or by sealed bid.

2.5 "Competitive material sales" are those material sales which, in the best interests of the borough, are open to competitive bidding at the public auction.

2.6 Content of the mining and reclamation plans are determined by the division and may consist of: cross-sectional survey of upland sites, and methodology for site clearing, stripping and stockpiling of overburden, development of improvements (if necessary), site restoration, provisions for drainage ditching, and development of access.

2.7 "New Pit": A pit is considered to be a new pit when the source point for the materials has not yet been developed.

2.8 "Active/Inactive Pits": A pit is considered active if materials have been removed from it within the past three years. If no recent removal activity is obvious, or has not been documented for the past three years, the pit is considered inactive.

3.1 Procedures for processing a request for a material site(s) from a single applicant.

A. One material sale application is submitted for each proposed site. Each material site is identified by legal description and a sketch map or survey plat showing location and limits is submitted. Mining and reclamation plans will be requested at this time if a new pit is to be developed.

B. Land and resource management division assigns an MSB number to each site.

C. Land and resource management division may group sites by geographic location, valuation statement, specially designated areas (i.e., university grant, wildlife refuge, state parks, etc.) or other logical criteria. Optimally, there are not more than ten sites in each group.

D. An auction or sealed bid may be held for each group of sites, but a separate contract is written for each site. Individual sites may also be auctioned or sealed bid as they are processed and determined to be ready, if it is determined to be in the borough's best interest to do so.

E. Procedures outlined in 4.1 below apply for each site.

3.2 Performance bonds are determined for each prospective site. The purpose of the bond is to ensure that the terms and conditions of the contract are fulfilled and to provide the funds needed to remedy damage resulting from failure to meet contract conditions. It is the policy of the borough that the community development director[1] upon recommendation of the land management chief [2], decides whether a bond is needed, and that he/she determine the amount of the bond based on the following considerations (this is not meant to be an all-inclusive list):

1. the potential for hazard to the environment;

2. the timing of the operation;

3. the cost of performing restoration work in the area;

[1] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.
[2] land management officer changed to land & resources management chief effective 5/21/2001.

4. the method of extraction of material, stipulated in the contract;

5. any unusual aspects of the operation or other factors they believe significant.

In determining whether a bond is required for a sale the identity and past performance of the purchaser is considered in addition to factors one through five above. The requirement for a bond may be waived if the purchaser has performed other contracts in a satisfactory manner and hazard potential is low.

The necessity for and the amount of a bond for competitive sale is set without regard to the identity of the prospective bidders. The requirement for a bond is a significant condition of the contract. In a competitive sale, the requirement for a bond of a certain amount affects the bidding.

4.1 The chart summarizes the steps necessary for competitive material sales. A short narrative on each step follows.

Competitive Material Sales Guideline Chart X = Required O = Not Required A = As Appropriate	A. Application	B. Fee	C. MSB Number	D. Status plat notation	E. Classification	F. Agency Review	G. Notice	H. Other 3rd Parties	I. Field Inspection	J. Appraisal	K. Plg. Comm. Approval (if contract > $25,000)	L. Assembly approval (if contract > $25,000)
1. Any application requiring the establishment of a new pit	X	X	X	X	A	X	X	A	A	X	X	X
2. Any application from an existing/ active pit	X	X	X	X	A	A	A	A	A	X	X	X

4.2

A. Application is presented at land and resource management division.

B. Application fee is applied in accordance with the division's fee schedule.

C. MSB number is assigned to all applications which are accepted.

D. Status plat notation is necessary for each material sale.

E. Classification procedures shall apply.

F. Agency review when establishing a new pit, is conducted, prior to a request for planning commission/assembly approvals.

G. When a proposed sale is from an existing site, a decision may be made from the information obtained during the initial review. This decision also analyzes the current proposal as it relates to nearby existing uses, zoning restrictions if any, management plan established for the site, as well as the availability of an adequate amount of material.

H. Notice is provided in conjunction to the request for planning commission approval. The purpose of this notice is to solicit comments on the proposal to establish the site, and to announce that an application to purchase materials for the proposed site is being processed. The notice may include questions specifically designed to elicit responses which will aid in evaluating the questions under "M" below, see notice procedures. Applications for the purchase of materials from an existing site do not require a notice.

I. Other third parties are notified as appropriate and may include adjacent interests as well as other users of the site.

J. Field inspections are conducted as appropriate and are conditioned upon available funding and staffing levels.

K. Appraisal materials are priced for sale in accordance with current regulations.

L. A contract is drafted by the division, leaving the applicant's name and sale price blank. The standard contract contains the majority of the stipulations necessary to protect the borough's interest. Other aspects may warrant consideration. These may include recontouring of the site upon completion of the contract to alleviate potentially hazardous slopes, vegetative screening of the activities from adjacent public roads, site cleanup at end of contract, reasonable stipulations required by another state agency, or any conditions required by the classification of the land. Contract stipulations are simply written and emphasize the effects of activities, not specific directions on how activities must be done. We should not require other agency approval or permit prior to the issuance of a contract; however, we may require that all other necessary permits or non-objections be acquired prior to commencement of extraction.

The following are sample stipulations which may, or may not be incorporated.

1. The user will be responsible for all aspects of gravel extraction and transport. Material previously ripped, stockpiled, screened or otherwise processed by other users of the pit will not be available or used without written authorization. Survey stakes and markers, if removed by the user, shall be replaced at its expense.

2. The use of this pit shall not interfere with the operation of existing users.

3. The user is responsible for maintaining records of the amount of material extracted.

4. The user shall coordinate with existing users as to the location

of extraction and the timing of extraction.

5. Haul roads, inside and outside the borrow area, shall be maintained in an approved manner at the minimum rate of one equipment hour for each 500 cubic yards of all gravel extracted when total quantities exceeding 5,000 cubic yards are extracted during one consecutive period.

6. The user shall leave the used area of the pit in a graded, clean and tidy condition. Support facilities such as portable toilets, light plants, maintenance trucks, etc., shall be provided by the user. Access to other areas of the pit shall not be blocked or impeded.

7. The user shall provide this office with copies of all agreements reached with other permit holders prior to the start of work.

Mining and reclamation plans are required which need not be extremely detailed, but should indicate the manner in which the contract stipulations will be met. A survey is not necessary, but a large scale map or an air photo tracing may be the appropriate method of portrayal. Contract stipulations should be as simple as possible and consistent with the best interest of the borough.

M. The division holds the auction (public outcry or sealed bid) and prepares the contract. The purchaser and the borough manager execute the completed contract. After execution, the division forwards a copy of the contract to the applicant. The bond, if required, and deposits are collected. The division sends deposits (and bond) to the finance department.

N. Material sale contracts are maintained and administered by the land and resource management division. The division is responsible for maintaining a log sheet noting the location of material sale contracts. The log sheet references the MSB number, applicant name, and location in which the file is found.

O. File closure/sale termination. Completion of the following steps must

take place before closure of a file:

1. A final accounting voucher, accompanied by any payment due, which indicates how much material (if any) was extracted in the period preceding the sale expiration date, is acquired from the contractor.

2. When necessary a field inspection is conducted in order to ascertain the final condition of the site after completion of extraction. Removal from an existing pit may not warrant an inspection, whereas a new site in a sensitive area may. A determination as to status of the performance bond is made at this time, i.e., forfeiture or release.

3. A notice, indicating the expiration of the sale and explaining any necessary actions on the contractor's part is sent by certified mail to the contractor.

4. A supplemental accounting voucher is completed indicating the disposition of any deposits, money or other unearned money.

5. The community development director [3] closes the case file, and notifies the finance department.

6. Upon completion of the above, the original file is sent to the clerk's office for storage in archives.

5.1 A material sale under 23.10.120(A) may be negotiated by the borough manager or his/her delegate, under terms that are in the best interests of the borough. Such sales require approval by the assembly by resolution. However, the sale volume must not exceed 25,000 cubic yards or have a value exceeding $25,000, and not more than 25,000 cubic yards of material may be sold by negotiated sale to the same purchaser within a one year period. Included in this category is a personal use contract which may be negotiated with individuals for up to 100 cubic yards of materials.

[3] planning director responsibilities regarding Title 23 changed to community development director effective 7/7/1998.

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