

DENALI BOROUGH ASSEMBLY
SPECIAL MEETING
TRI-VALLEY COMMUNITY CENTER
December 14, 2016
6:00 – 6:15 PM

SPECIAL MEETING:

- A.) Call to Order
- B.) Roll Call
- C.) Approval of Agenda
- D.) Certification of the November 8, 2016 Denali Borough Regular Election
- E.) Public Comment (Limited to three minutes per person)
- F.) Assembly Comment
- G.) Adjournment

DENALI BOROUGH CANVASS COMMITTEE REPORT

The Denali Borough Canvass Committee met on Thursday, November 10, 2016 to canvass the regular election held on November 8, 2016. According to the Denali Borough Code of Ordinances, the Canvass Committee will submit a report of its findings.

Regular ballots cast:	623
Absentee ballots cast:	115
Questioned ballots cast:	6
Total number of ballots cast in the election: (Including absentee and questioned ballots)	744

ASSEMBLY CANDIDATES

Assembly Seat B, District 2

Kelly, Patrick	588
Bohanan, Bob	1
Chepoda, Daryl	1
Hempstead, Robert (Bob)	1
John, Alec T.	1
Lausen, Leroy	1
Palin, Sarah	1
Sanders, Bernie	1
Smith, Robert	1
Talerico, David C.	1
Thrupp, Donald	1
Usibelli, Teresa	1
Wallace, Joanne	1
Wiener, Martin	1
Williams, Jared	1
Zappone, Krista	1
Zimmerman, Jared	1
	604

Assembly Seat C, District 3

Shreeve, Tallon	606
Baysinger, Walker	1
Braun, Susan	1
Graham, William	1
Juhl, Liam	1
Lundgren, Terrie	1
Kellerher, John	1
Mayo, Adam	1
Menke, Mark	1
No Name	3
Ragland, Hannah	1
Ross, John	1
Sanders, Bernie	1
Shorey, Todd	1
Terry, Charles	1
Terry, Lorrie	1

Trump, Donald	1
Venechuk, Tim	1
Williams, Jared	1
Winkler, Laurence	1
Zappone, Krista	1
	628
Assembly Seat D, District 3	
Evans, David	618
Boelsma, Jill	1
Braun, Susan	1
Brease, Barbara	1
Byl, Kristine	1
Chepoda, Darryl	1
Davis, Robert (Bob)	1
Evans, Ray	2
Giannechini, Mike	1
Hays, Angel	1
Juhl, Joseph	1
Makiver, Tim	1
Menke, Mark	1
Nelson, Larry	1
Nicklie, Monson	1
No Name	4
Sanders, Bernie	1
Shreeve, Sterling	1
Shorey, Todd	1
Stainbrook, Katie	1
Talerico, David C.	2
Williams, Jared	1
Winkelman, John	1
Zappone, Krista	1
	646
Assembly Seat H, District 5	
DeBlauw, Donald	631
Brillhart, Jessica	1
Caress, Rayanne	1
Carlson, Gordon	1
Juhl, Logan	1
Mayer, Shayne	1
Nemec, William	1
No Name	2
Sanders, Bernie	1
Smith, Rodney S.	1
VanDyke, Paul	1
Wallace, Joanne	1
Williams, Jared	1
	644

SCHOOL BOARD CANDIDATES

School Board Seat A, District 1

Carlson, Vernon	640
Barney, Jake	1
Baysinger, Walker	1
Brooks, Janet	1
Carlson, Gordon	1
Frazier, Jim	1
Graham, William	1
Holum, Renee	1
Juhl, Erin	1
Mason, Justin	1
Nicklie, Rena	1
No Name	1
Raisis, Valerie	1
Ramos, Ricky	1
Sanders, Bernie	1
Travis, Gabriel	1
Williams, Dana	1
Williams, Jared	1
Zappone, Krista	1
	658

School Board Seat E, District 3

Davis, Trista	593
Barker, Anne	1
Chepoda, Darryl	1
Garner, Joseph	1
Gore, Bruce	1
Hempstead, Jayne	1
LeBel, Jim	1
MacMaster, Peter	1
Mayo, Danielle	1
No Name	1
Sanders, Bernie	1
Terry, Lorrie	1
Thornquest, Megan	1
Trump, Donald	1
Williams, Jared	1
Write-in	1
	608

School Board Seat I, District 5

Warner, Eric	568
Beavers, Elizabeth	1
Cook, Donna	1
DeBlauw, Dorothy	1
Halloran, Bering	1
Lake, Kathleen	1
Lausen, Leroy	1
Lausen, Willie	1

McGillacutty, Sam	1
Nicklie, David	1
No Name	1
Parsons, Carleas	1
Parsons, Chad	1
Sanders, Bernie	1
Talerico, David C.	1
Trump, Donald	1
Wagner, Dale	3
Wallace, Joanne	1
Williams, Jared	1
Yanuchi, Jeff	1
Zappone, Krista	1
	590

Jared Zimmerman, Chairman

Attest: _____

Gail Pieknik, Borough Clerk

November 10, 2016

Date

December 14, 2016
6:15 PM

Tri-Valley Community Center
Healy, Alaska

Jill Boelsma
Seat A
Term Expires 11/2017

Patrick Kelly
Seat B
Term Expires 11/2018

Tallon Shreeve
Seat C
Term Expires 11/2019

David Evans
Seat D
Term Expires 11/2019

Joe Chatfield
Seat E
Term Expires 11/2017

Krista Zappone
Deputy Presiding Officer
Seat F
Term Expires 11/2018

Jared Zimmerman
Presiding Officer
Seat G
Term Expires 11/2018

Don DeBlauw
Seat H
Term Expires 11/2019

Paddy Tatum
Seat I
Term Expires 11/2017

- 1.) ORDINANCE 16-12, Version A: An ordinance amending Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal
- 2.) ORDINANCE 16-13, Version B: An ordinance amending Denali Borough Code, Chapter 3.21, titled Management of Grants

**If you wish to testify on any of the items listed above,
please limit your testimony to three (3) minutes.**

*Mission Statement: The Denali Borough Assembly, in the service of the Borough citizens,
seeks to defend and sustain the spirit and will of the people.*

December 14, 2016 -
Following Public Hearing

Tri-Valley Community Center Regular Meeting
Healy, Alaska

Jill Boelsma
Seat A
Term Expires 11/2017

Patrick Kelly
Seat B
Term Expires 11/2018

Tallon Shreeve
Seat C
Term Expires 11/2019

David Evans
Seat D
Term Expires 11/2019

Joe Chatfield
Seat E
Term Expires 11/2017

Krista Zappone
Deputy Presiding Officer
Seat F
Term Expires 11/2018

Jared Zimmerman
Presiding Officer
Seat G
Term Expires 11/2018

Don DeBlauw
Seat H
Term Expires 11/2019

Paddy Tatum
Seat I
Term Expires 11/2017

- A. Pledge of Allegiance
- B. Roll Call
 - 1.) Oath of Office
 - 2.) Roll Call
 - 3.) Selection of Presiding Officer and Deputy Presiding Officer
- C. Public Comments (During this section of the agenda the Assembly listens to oral communications from audience members. When speaking during this section of the agenda, please state your name, and limit your testimony to approximately three minutes per person.)
- D. Approval of Agenda
- E. Minutes of Previous Meetings
 - 1.) November 02, 2016 Public Hearing and Regular Meeting
 - 2.) November 10, 2016 Canvass Committee Meeting
- F. Reports: Financial, Mayor's, School District Superintendent, Commissions, Boards, Committees, and Assembly Comments
 - 1.) Receive the October 2016 Financial Report
 - 2.) School District Report
 - 3.) Mayor's Report
 - 4.) Finance Committee Report
 - 5.) Planning Commission Report
 - 6.) Planning Commission Seat Appointments
 - Seat C: Kesslyn Tench
 - Seat D: Mark Menke
 - 7.) Assembly Comments
- G. Communication and Appearance Request
 - 1.) Rob Graham, Tri-Valley VFD Fire Chief, to discuss EMS Communications and Tri-Valley Community Center building
 - 2.) Garry Hutchison, CPA, Kohler, Schmitt & Hutchison, to review the Denali Borough Fiscal Year 2016 Financial Statement and annual audit
- H. Ordinances:
 - Pending Ordinances:
 - 1.) ORDINANCE 16-12, Version A: An ordinance amending Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal
 - 2.) ORDINANCE 16-13, Version B: An ordinance amending Denali Borough Code, Chapter 3.21, titled Management of Grants

Mission Statement: The Denali Borough Assembly, in the service of the Borough citizens, seeks to defend and sustain the spirit and will of the people.

I. Resolutions:

- 1.) RESOLUTION 16-18: A resolution extending appreciation and gratitude to Teri Lewis for the time and energy she dedicated to the Denali Borough
- 2.) RESOLUTION 16-19: A resolution establishing Denali Borough State of Alaska Capital Budget Requests for Fiscal Year 2018
- 3.) RESOLUTION 16-20: A resolution authorizing the mayor to work toward a land exchange with the City of Anderson in order to facilitate the continued operation of the Denali Borough Regional Septage Facility

J. Other Business:

- 1.) Liquor License Renewal Approval:
Business Name: Skyline Lodge
License Number: 5155
Location: Mile 91 Denali Park Road
Designated Licensee: Gregory Lahaie, President
- 2.) Feedback from the planning commission regarding next steps for land use planning
- 3.) Clear View Monofill application to Alaska Department of Environmental Conservation (ADEC)
- 4.) Healy Transfer Station Best Estimate Fiscal Impact Statement per Resolution 15-06
- 5.) Public Comments (Please limit comments to three minutes per person)

K. Assembly Comments (*Please limit comments to three minutes per person.*)**L. Time and Place of next meeting:**

- 1.) The next regular meeting will be held on Wednesday, January 11, 2017 in Cantwell at the Cantwell School; Public Hearing 6:00 PM with the Regular Meeting following the public hearing.

M. Adjournment

**Minutes of the Public Hearing
Denali Borough Assembly
Anderson School
November 02, 2016**

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CALL TO ORDER: The public hearing was called to order by Presiding Officer Jared Zimmerman at 6:07 p.m.

ROLL CALL: Assembly members present: Jared ZIMMERMAN, Paddy TATUM, Don DEBLAUW, Tallon SHREEVE, Joe CHATFIELD and David EVANS. Absent: Jill BOELSMA and Krista ZAPPONE.

ORDINANCE 16-12, Version A: An ordinance amending Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal

There were no public comments.

ORDINANCE 16-13, Version A: An ordinance amending Denali Borough Code, Chapter 3.21, titled Management of Grants

There were no public comments.

ADJOURNMENT: The public hearing was adjourned at 6:10 p.m.

APPROVED: _____
Jared Zimmerman, Presiding Officer

ATTEST: _____ Date Approved: _____
Gail Pieknik, Borough Clerk

**Minutes of the Regular Meeting
Denali Borough Assembly
Anderson School
November 02, 2016**

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7 CALL TO ORDER: Presiding Officer Jared Zimmerman called the regular meeting to order at 6:10
8 PM. Mayor Clay Walker led those present in the Pledge of Allegiance.
9

10 Roll Call

11 Assembly members present: Don DEBLAUW, Tallon SHREEVE, Joe CHATFIELD, Paddy TATUM,
12 David EVANS and Jared ZIMMERMAN. Absent: Jill BOELSMA and Krista ZAPPONE. Mayor Clay
13 Walker was also present.
14

15 David EVANS MOVED to excuse Ms. Boelsma and Ms. Zappone. The motion was seconded. The
16 vote by show of hands was unanimous.
17

18 PUBLIC COMMENTS

19 Sid Michaels, Mile 280 Parks Highway, asked the assembly to consider allowing public comment
20 when discussing agenda item H.2. Clear View Monofill application.
21

22 Shirley Speer, Healy resident, spoke in opposition to zoning in the Denali Borough.
23

24 Joe Garner, Healy resident, spoke in opposition to zoning in the Denali Borough.
25

26 AGENDA

27 David EVANS MOVED to approve the meeting agenda as presented. The motion was seconded.
28 The VOTE by show of hands to approve the agenda was unanimous.
29

30 MINUTES

31 October 12, 2016 Denali Borough Assembly Public Hearing and Regular Meeting
32

33 Joe CHATFIELD MOVED to approve the minutes of the October 12, 2016 public hearing and regular
34 meeting as presented. The motion was seconded. The VOTE by show of hands was unanimous.
35

36 REPORTS

37 September 2016 Financial Report
38

39 Tallon SHREEVE MOVED to receive the September 2016 financial report. The motion was
40 seconded. The VOTE by show of hands was unanimous.
41

42 SCHOOL DISTRICT REPORT

43 Denali Borough School District (DBSD) Superintendent Dan Polta

44 Superintendent Polta highlighted events included in a written report, specifically drawing attention to
45 the DBSD's draft Strategic Plan, which is currently under consideration by the school board.
46

- 47 • DBSD administration is putting together action committees to carry out the strategies
48 identified in the Strategic Plan.

- The Cantwell Sprinkler project is close to being completed, with tank monitoring equipment holding up final completion. A Request for Proposals is being developed for the Cantwell roof project. The small school bus owned by DBSD is not operational, and research is being done to buy a full size school bus. Moose lights are being added to vehicles. A leak in the Anderson School boiler has been sealed, and the boiler has been switched to serve as a secondary source of heat. If additional leaks occur, an expensive boiler replacement may be needed.
- A draft of the annual audit was received that contained significant errors on the part of the auditor, and it is hoped a corrected document will be ready soon.
- A revised budget is being developed for Fiscal Year (FY) 2017 based upon October student count numbers. Work will soon begin on the FY2018 budget, which will be created under two separate assumptions; 1) Implementation of the Strategic Plan with status quo programming, and 2) Implementation of the Strategic Plan with a reduction of 10 percent in programming.
- Superintendent Polta noted that the recent Fair Market Value Determination will result in budget limitations due to the shifting of expenses from the state to local municipalities.

MAYOR REPORT

Mayor Clay Walker verbally highlighted activity included in a written report, including the following:

- The Nenana Canyon Fire Service Well grant is nearly closed out. The Tri-Valley School Elementary Wing Energy Efficiency Upgrade grant has been completed. The Cantwell Sprinkler Installation and Fire Alarm Upgrade grant is nearly complete. The Landfill Shop Extension is the only grant project remaining of current grants.
- Mayor Walker will bring a resolution to the next meeting with legislative requests for FY2018.
- In May 2015, the assembly requested that the administration prepare a report showing site location and a best estimate fiscal impact statement for building and operating a Healy Transfer Station. This project is on the Capital Improvement Program for FY2018, and a report will be presented at the next meeting.
- Resolution 16-16 requesting turn lane marking at the Parks Highway and Healy Spur Road intersection was forwarded to the Department of Transportation, and has already been acted upon.
- Mayor Walker visited with classrooms in all three schools to discuss borough government.
- The rock slope mitigation project is wrapping up, and there are some concerns about fracturing that may be addressed in the spring. The larger project is set for completion next summer.
- Mayor Walker reported that many municipalities in Alaska, including those larger than the Denali Borough, have municipal bodies with less members than the Denali Borough.

PLANNING COMMISSION SEAT I APPOINTMENT

Mayor Clay Walker appointed Dorothy Leake to Planning Commission Seat I.

David EVANS MOVED to confirm the appointment of Dorothy Leake to Planning Commission Seat I. The motion was seconded. The VOTE by show of hands was unanimous.

FINANCE COMMITTEE REPORT

Finance committee chair David Evans reported that the finance committee met on October 24, and that language regarding the establishment of a solid waste fund was discussed. The next finance

1 committee meeting will be on December 14, where the solid waste fund language is expected to be
2 finalized, and Garry Hutchison will be in attendance to discuss finance committee roles and
3 responsibilities.

4
5 ASSEMBLY COMMENTS

6 Assembly members thanked those in the audience for attending the meeting. Other comments
7 include the following:

8
9 Joe CHATFIELD urged the public to provide comment expressing their concerns to the assembly
10 regarding zoning and landfill issues.

11
12 Jared ZIMMERMAN commented that an in depth discussion of land use planning is needed, and
13 that members of the public have requested the assembly adopt a more developed ordinance
14 than is currently in Code. The borough is currently zoned as largely unrestricted. Mr. Zimmerman
15 further commented that costs no longer funded by the State have been passed on to local
16 municipalities, and are starting to accumulate.

17
18 David EVANS thanked Dorothy Leake for stepping up to fill the vacant seat on the planning
19 commission.

20
21 Don DEBLAUW commented that land use planning will be done in a way that will take into
22 account what communities would like to have in their area.

23
24 COMMUNICATION AND APPEARANCES

25 No communication or appearance requests.

26
27 PENDING ORDINANCES

28 ORDINANCE 16-12, Version A: An ordinance amending Denali Borough Code of Ordinances Title
29 4, Real Property Acquisition, Management and Disposal

30
31 Borough Clerk Gail Pieknik notified the assembly that staff expects to have completed revisions to
32 Ordinance 16-12 at the December meeting.

33
34 David EVANS MOVED to postpone Ordinance 16-12 to the next meeting. The motion was
35 seconded. The VOTE by show of hands was unanimous.

36
37 ORDINANCE 16-13, Version A: An ordinance amending Denali Borough Code, Chapter 3.21, titled
38 Management of Grants

39
40 David EVANS MOVED to adopt Ordinance 16-13. The motion was seconded. A focus of discussion
41 that followed was language stating that programs requiring exposure, adherence or conversion to
42 any doctrine will not be supported. Joe CHATFIELD MOVED to amend Ordinance 16-13 by striking
43 the words "encouraged or" from the last paragraph of DBC 3.21.030. The VOTE by show of hands
44 on the amendment was 4-2 as follows: Yes – Joe CHATFIELD, Don DEBLAUW, Paddy TATUM,
45 Tallon SHREEVE; No – Jared ZIMMERMAN, David EVANS. The motion to amend Ordinance 16-13
46 passed.

1 David EVANS MOVED to postpone Ordinance 16-13 to the next meeting. The motion was
2 seconded. The VOTE by show of hands was unanimous.

3
4 Presiding Officer Jared Zimmerman called for a ten minute recess at 7:31 PM. The meeting
5 resumed at 7:41 PM.

6
7 RESOLUTIONS

8 There were no resolutions presented for consideration.

9
10 OTHER BUSINESS

11 Land Use Planning

12 Discussion centered around a letter to the planning commission and the assembly from Chris Beck
13 of Agnew::Beck, regarding suggested next steps for the borough to follow to facilitate land planning.
14 A number of residents have requested that the borough look into some type of residential
15 protections due to heightened conflict between commercial and residential interests. The borough
16 currently does not have a land use plan, but one is required by the Denali Borough Comprehensive
17 Plan. At a recent work session, Chris Beck attended by phone to discuss his letter. Steps for a
18 ground up approach to land planning are laid out in the letter, which is not a proposal, but does give
19 ideas for action. A discussion of zoning may not take place until there is a land use plan. People
20 need to be involved in the development of a land use plan, and public outreach is an essential piece
21 of the process. The assembly would like feedback from the planning commission regarding next
22 steps for land planning.

23
24 Joe CHATFIELD MOVED to postpone discussion of land use planning to the next meeting. The
25 motion was seconded. The VOTE by show of hands was unanimous.

26
27 Clear View Monofill application to Alaska Department of Environmental Conservation (ADEC)

28
29 Presiding Officer Jared Zimmerman invited public comment regarding the Clear View Monofill.

30
31 Sid Michaels, Anderson resident commented that not all those living within two aerial miles of the
32 affected area had been notified of the proposed landfill application, and urged borough staff to be
33 sure the list of addresses is correct. Mr. Michaels further commented that there are about 17
34 drinking water wells within two miles of the Clear View site, not two as reported in the application
35 submitted to Alaska Department of Environmental Conservation. Finally, if the area had been zoned
36 rural residential, this project would not have been an issue.

37
38 Robert Smith, Anderson resident, spoke in opposition to the Clear Monofill project. Twice in the past,
39 an application has been considered for a landfill, and public outcry made it go away.

40
41 Shirley Speer, Healy resident, spoke in opposition to the Clear View Monofill project. Ms. Speer
42 commented that the public needs more information, and further commented that the borough should
43 set aside areas where businesses can grow that will not affect residential areas.

44
45 Dorothy DeBlauw, Anderson resident, commented that she appreciated information at last month's
46 meeting regarding Central Monofill not having been awarded a contract for the Clear Air Force
47 Station demolition project.

1 Presiding Officer Jared Zimmerman declared public comment closed.

2
3 Points of discussion that followed include the borough's annual tonnage allocation, the type of waste
4 that is currently accepted at the borough's landfill, the potential for a certain quantity of construction
5 and demolition waste to be accepted at the borough landfill, the need to operate within the confines
6 of the current solid waste operating plan, the expected lifespan and maximum usage of the borough
7 landfill, and the potential to adjust the height of the cell walls to extend the life of the landfill.

8
9 PUBLIC COMMENTS

10 Sid Michaels, Anderson resident, commented that Central Monofill must provide full information in
11 their landfill application, and urged the assembly to seek the advice of legal counsel before taking
12 action on the Clear View Monofill.

13
14 Linda Chatfield, Healy resident, commented that a good use of land is to grow and produce quality
15 food, and encouraged the assembly to keep this in mind when planning.

16
17 Mayor Clay Walker commented that the Department of Environmental Conservation has not
18 received requested clarifications from Central Monofill that the Alaska Railroad Corporation Board
19 has not had the proposed Clear View Monofill lease on its agenda, the borough has not received a
20 final landfill application and has not heard from Donna Mears, Design Engineer for the Clear View
21 Monofill project.

22
23 ASSEMBLY COMMENTS

24 Assembly members thanked those in the audience for their attendance.

25
26 Don DEBLAUW commented that information regarding borough actions are posted in each
27 community, and are available for the public to inform themselves.

28
29 Dave EVANS wished all a Happy Thanksgiving, and invited the public to attend the December
30 meeting, where there will be a potluck.

31
32 Joe CHATFIELD commented that the absence of information from Central Monofill could be a
33 positive thing for those opposed to the landfill project. Mr. Chatfield further commented that
34 public input is absolutely essential as part of the land planning process, and encouraged the
35 public to educate themselves about issues, to provide public comment, and attend community
36 meetings.

37
38 Tallon SHREEVE commented that the assembly wishes to be good stewards of borough land,
39 and wants public comment. Mr. Shreeve noted that he will be unable to attend the December
40 and January meetings.

41
42 NEXT ASSEMBLY MEETING

43 The Canvass Committee meeting and Assembly Special Meeting to certify the Denali Borough
44 Election will be held at the Tri-Valley Community Center, Healy, Alaska on Thursday, November 10,
45 2016 at 6:00 PM.

1 The next regular meeting will be held on Wednesday, December 14, 2016 at the Tri-Valley
2 Community Center; Public Hearing 6:00 PM with the Regular Meeting following the public
3 hearing.

4
5 ADJOURN: The meeting was adjourned at 8:39 PM.
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10 APPROVED: _____
11 Jared Zimmerman, Presiding Officer
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14
15

16 ATTEST: _____ Date Approved: _____
17 Gail Pieknik, Borough Clerk

**Minutes of the Denali Borough
Canvass Committee Meeting
Tri-Valley Community Center
November 10, 2016**

CALL TO ORDER

The Denali Borough Canvass Committee meeting was called to order by Chairman Jared Zimmerman at 6:17 PM.

ROLL CALL

Staff appointed by Denali Borough Clerk Gail Pieknik to the canvass committee were Annette Ziegman and Connie MacMaster to make a quorum.

A quorum was established with Krista Zappone, Tallon Shreeve, Annette Ziegman, Connie MacMaster and Jared Zimmerman. Absent were Don DeBlauw, David Evans, Paddy Tatum, Jill Boelsma and Joe Chatfield. Mayor Clay Walker was also in attendance.

Tallon SHREEVE MOVED to excuse Paddy Tatum, Jill Boelsma, David Evans and Joe Chatfield. The motion was seconded. The VOTE by show of hands was unanimous.

David Evans arrived at 6:56 PM.

APPROVAL OF AGENDA

Krista ZAPPONE MOVED to approve the agenda. The motion was seconded. The VOTE by show of hands was unanimous.

PUBLIC COMMENTS

There were no public in attendance.

COMMITTEE COMMENTS

Chairman Jared Zimmerman and committee members thanked the staff and election boards for their hard work on the election.

REVIEW PRELIMINARY ELECTION RESULTS

The canvassing committee reviewed and compared the mailed in preliminary election results with the hand carried results received by the five precincts along with the preliminary report as prepared by staff.

Tallon SHREEVE MOVED to approve the preliminary results of the election. The motion was seconded. The VOTE by show of hands was unanimous.

The preliminary election results were as follows:

PART I: ELECTIVE OFFICES

ASSEMBLY CANDIDATES

Assembly Seat B, District 2

Kelly, Patrick	495
Bohanan, Bob	1
Chepoda, Daryl	1
Hempstead, Robert (Bob)	1
John, Alec T.	1
Lausen, Leroy	1
Palin, Sarah	1
Sanders, Bernie	1
Talerico, David C.	1
Thrump, Donald	1
Usibelli, Teresa	1
Williams, Jared	1
Zappone, Krista	1
TOTAL	507

Assembly Seat C, District 3

Shreeve, Tallon	510
Baysinger, Walker	1
Graham, William	1
Juhl, Liam	1
Lundgren, Terrie	1
Mayo, Adam	1
Menke, Mark	1
No Name	3

Ross, John	1
Sanders, Bernie	1
Shorey, Todd	1
Terry, Charles	1
Terry, Lorrie	1
Trump, Donald	1
Venechuk, Tim	1
Williams, Jared	1
Winkler, Laurence	1
Zappone, Krista	1
TOTAL	529

Assembly Seat D, District 3

Evans, David	519
Boelsma, Jill	1
Braun, Susan	1
Brease, Barbara	1
Chepoda, Darryl	1
Davis, Robert (Bob)	1
Evans, Ray	1
Evans, Raymond	1
Hays, Angel	1
Juhl, Joseph	1
Makiver, Tim	1
Menke, Mark	1
Nicklie, Monson	1
No Name	4
Sanders, Bernie	1
Shorey, Todd	1
Stainbrook, Katie	1
Talerico, David C.	1
Talerico, David Jr.	1

Williams, Jared	1
Winkelman, John	1
Zappone, Krista	1
TOTAL	543

Assembly Seat H, District 5

DeBlauw, Donald	525
Caress, Rayanne	1
Carlson, Gordon	1
Juhl, Logan	1
Mayer, Shayne	1
Nemec, William	1
No Name	2
Sanders, Bernie	1
Smith, Rodney S.	1
VanDyke, Paul	1
Williams, Jared	1
TOTAL	536

SCHOOL BOARD CANDIDATES

School Board Seat A, District 1

Carlson, Vernon	536
Barney, Jake	1
Baysinger, Walker	1
Brooks, Janet	1
Frazier, Jim	1
Graham, William	1
Holum, Renee	1
Juhl, Erin	1
Mason, Justin	1

Nicklie, Rena	1
No Name	1
Raisis, Valerie	1
Ramos, Ricky	1
Sanders, Bernie	1
Williams, Dana	1
Williams, Jared	1
Zappone, Krista	1
TOTAL	552

School Board Seat E, District 3

Davis, Trista	499
Barker, Anne	1
Chepoda, Darryl	1
Gore, Bruce	1
Hempstead, Jayne	1
MacMaster, Peter	1
No Name	1
Sanders, Bernie	1
Terry, Lorrie	1
Trump, Donald	1
Williams, Jared	1
Write-in	1
TOTAL	510

School Board Seat I, District 5

Warner, Eric	478
Cook, Donna	1
Halloran, Bering	1
Lake, Kathleen	1
Lausen, Leroy	1
Lausen, Willie	1

McGillacutty, Sam	1
Nicklie, David	1
No Name	1
Parsons, Carleas	1
Parsons, Chad	1
Sanders, Bernie	1
Talerico, David C.	1
Trump, Donald	2
Wagner, Dale	1
Williams, Jared	1
Yanuchi, Jeff	1
Zappone, Krista	1
TOTAL	496

TALLY QUESTIONED BALLOTS

The canvass committee reviewed the questioned ballot list which included 13 ballots cast.

Krista ZAPPONE MOVED to not count numbers 1, 7, 11 and 12 because they are not registered to vote in the Denali Borough and 2, 3 and 8 because they did not register in time for this election. The motion was seconded. The VOTE by show of hands was unanimous.

Tallon SHREEVE MOVED to count numbers 4, 5, 6, 9, 10 and 13 on the questioned ballot list. The motion was seconded. The VOTE by show of hands was unanimous.

The accepted ballots which totaled 6 were opened and placed in the ballot box to be tallied with the absentee ballots.

TALLY ABSENTEE BALLOTS

The committee reviewed the absentee ballot list provided by the borough clerk. The clerk explained that one of the absent ballot voters were not registered to vote in the Denali Borough.

Annette ZIEGMAN MOVED to not count ballot number 46 because they were not registered to vote in the Denali Borough. The motion was seconded. The VOTE by show of hands was unanimous.

The absentee ballots were opened by the committee members and placed in the ballot box with their respective secrecy sleeve. The ballots were then removed from the secrecy

sleeves, placed in the ballot box with the questioned ballots as listed above. There were a total of 115 absentee ballots and 6 questioned ballots for a total of 121 ballots to tally. The clerk ran the 121 ballots through the optic-scan which produced a tally.

The committee tallied the write-in votes from the questioned and absentee ballots.

COMBINE CANDIDATE NAMES

Krista ZAPPONE MOVED to combine the following:

Assembly Seat D:

Ray Evans and Raymond Evans to Ray Evans to total 2

David C Talerico and David Jr. Talerico to David C Talerico to total 2

School Board Seat I:

Dale Wagner received 1 write-in to total 3

The motion was seconded. The VOTE by show of hands was unanimous.

CANVASS COMMITTEE REPORT

The final tally was as follows:

**DENALI BOROUGH
CANVASS COMMITTEE REPORT**

Regular ballots cast:	623
Absentee ballots cast:	115
Questioned ballots cast:	6
Total number of ballots cast in the election: (Including absentee and questioned ballots)	744

PART I: ELECTIVE OFFICES

ASSEMBLY CANDIDATES

Assembly Seat B, District 2

Kelly, Patrick	588
Bohanan, Bob	1
Chepoda, Daryl	1
Hempstead, Robert (Bob)	1

John, Alec T.	1
Lausen, Leroy	1
Palin, Sarah	1
Sanders, Bernie	1
Smith, Robert	1
Talerico, David C.	1
Thrupp, Donald	1
Usibelli, Teresa	1
Wallace, Joanne	1
Wiener, Martin	1
Williams, Jared	1
Zappone, Krista	1
Zimmerman, Jared	1
	604

Assembly Seat C, District 3

Shreeve, Tallon	606
Baysinger, Walker	1
Braun, Susan	1
Graham, William	1
Juhl, Liam	1
Lundgren, Terrie	1
Kellerher, John	1
Mayo, Adam	1
Menke, Mark	1
No Name	1
Ragland, Hannah	1
Ross, John	3
Sanders, Bernie	1
Shorey, Todd	1
Terry, Charles	1
Terry, Lorrie	1

Trump, Donald	1
Venechuk, Tim	1
Williams, Jared	1
Winkler, Laurence	1
Zappone, Krista	1
TOTAL	628

Assembly Seat D, District 3

Evans, David	618
Boelsma, Jill	1
Braun, Susan	1
Brease, Barbara	1
Byl, Kristine	1
Chepoda, Darryl	1
Davis, Robert (Bob)	1
Evans, Ray	2
Giannechini, Mike	1
Hays, Angel	1
Juhl, Joseph	1
Makiver, Tim	1
Menke, Mark	1
Nelson, Larry	1
Nicklie, Monson	1
No Name	4
Sanders, Bernie	1
Shreeve, Sterling	1
Shorey, Todd	1
Stainbrook, Katie	1
Talerico, David C.	2
Williams, Jared	1
Winkelman, John	1

Zappone, Krista	1
TOTAL	646

Assembly Seat H, District 5

DeBlauw, Donald	631
Brillhart, Jessica	1
Caress, Rayanne	1
Carlson, Gordon	1
Juhl, Logan	1
Mayer, Shayne	1
Nemec, William	1
No Name	2
Sanders, Bernie	1
Smith, Rodney S.	1
VanDyke, Paul	1
Wallace, Joanne	1
Williams, Jared	1
	644

SCHOOL BOARD CANDIDATES

School Board Seat A, District 1

Carlson, Vernon	640
Barney, Jake	1
Baysinger, Walker	1
Brooks, Janet	1
Carlson, Gordon	1
Frazier, Jim	1
Graham, William	1
Holum, Renee	1
Juhl, Erin	1
Mason, Justin	1
Nicklie, Rena	1

No Name	1
Raisis, Valerie	1
Ramos, Ricky	1
Sanders, Bernie	1
Travis, Gabriel	1
Williams, Dana	1
Williams, Jared	1
Zappone, Krista	1
TOTAL	658

School Board Seat E, District 3

Davis, Trista	593
Barker, Anne	1
Chepoda, Darryl	1
Garner, Joseph	1
Gore, Bruce	1
Hempstead, Jayne	1
LeBel, Jim	1
MacMaster, Peter	1
Mayo, Danielle	1
No Name	1
Sanders, Bernie	1
Terry, Lorrie	1
Thornquest, Megan	1
Trump, Donald	1
Williams, Jared	1
Write-in	1
	608

School Board Seat I, District 5

Warner, Eric	568
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Beavers, Elizabeth	1
Cook, Donna	1
DeBlauw, Dorothy	1
Halloran, Bering	1
Lake, Kathleen	1
Lausen, Leroy	1
Lausen, Willie	1
McGillacutty, Sam	1
Nicklie, David	1
No Name	1
Parsons, Carleas	1
Parsons, Chad	1
Sanders, Bernie	1
Talerico, David C.	1
Trump, Donald	1
Wagner, Dale	3
Wallace, Joanne	1
Williams, Jared	1
Yanuchi, Jeff	1
Zappone, Krista	1
TOTAL	590

APPROVE CANVASS COMMITTEE REPORT

Annette Ziegman MOVED to approve the canvass committee report and send the report to the Denali Borough Assembly. The motion was seconded. The VOTE by show of hands was unanimous.

PUBLIC COMMENTS

There were no public present.

COMMITTEE COMMENTS

Krista ZAPPONE thanked everyone for their hard work.

ADJOURNMENT

Krista ZAPPONE MOVED to adjourn the meeting at 8:27 PM. The motion was seconded. The VOTE by show of hands was unanimous.

APPROVED: _____
Jared Zimmerman, Committee Chairman

ATTEST: _____
Gail Pieknik, Borough Clerk

Date Approved: _____

Denali Borough Financial Report
October 2016

Balance Sheet

	<u>Oct 31, 16</u>	<u>Oct 31, 15</u>
ASSETS		
Current Assets		
Checking/Savings		
1010 · Petty Cash	200.00	200.00
1011 · Landfill Petty Cash	500.00	300.00
1012 · CTS Petty Cash	200.00	200.00
1031 · FNB General Fund	1,260,949.01	585,569.70
1032 · FNB Savings General Fund	2,451,572.59	2,924,353.73
1038 · FNB Perm Inv Fund	25,686.34	5,972.43
1041 · AMLIP		
1044 · Capital Improvements Fund	0.00	289,382.38
1046 · Disaster Contingency Fund	122,282.56	121,051.28
Total 1041 · AMLIP	<u>122,282.56</u>	<u>410,433.66</u>
1054 · FNB Savings Land Management	40,154.82	110,115.73
1056 · FNB Land Management Fund	41,801.57	36,031.38
1057 · FNB Land Sales Account	36,580.88	62,328.22
1058 · *FNB Land Enterprise	304,542.87	325,133.27
1061 · FNB Solid Waste Fund	201,956.66	111,877.50
1062 · Equipment Reserve Fund	52,376.47	172,172.90
1063 · FNB Solid Waste Savings	545,484.68	635,095.10
1064 · FNB Landfill Closure Fund	38,377.31	38,358.08
1067 · FNB Maj. School Maint. Reserve	129,329.60	24,252.25
1068 · FNB Savings MSMRF	391,445.98	651,031.64
1081 · FNB Capital Improvements Fund	843,195.02	387,990.34
Total Checking/Savings	<u>6,486,636.36</u>	<u>6,481,415.93</u>
Accounts Receivable		
1110 · O/A Tax Receivable	46,496.29	379,671.12
1111 · Severance Tax Receivable	603.24	14,806.14
1200 · Accounts Receivable		
1201 · Solid Waste	96,639.23	12,452.90
1200 · Accounts Receivable - Other	177,381.72	4,323.38
Total 1200 · Accounts Receivable	<u>274,020.95</u>	<u>16,776.28</u>
1300 · Land Sales Receivable	122,881.79	145,522.95
Total Accounts Receivable	<u>444,002.27</u>	<u>556,776.49</u>
Other Current Assets		
1499 · Undeposited Funds	488,094.01	527,358.59
Total Other Current Assets	<u>488,094.01</u>	<u>527,358.59</u>
Total Current Assets	<u>7,418,732.64</u>	<u>7,565,551.01</u>
Fixed Assets		
1510 · Solid Waste Landfill	894,062.42	894,062.42
1515 · Accumulated Depreciation	-1,516,867.53	-1,493,678.40
1520 · Solid Waste Equipment	1,039,730.68	1,142,985.55
1525 · Land Enterprise Fund Assets	48,588.85	48,588.85
1530 · Solid Waste Building	281,584.68	281,584.68
1540 · Cantwell Transfer Station	278,397.14	278,397.14
1631 · Building Renovations - Gen Fund	9,110.20	9,110.20
1671 · Equipment - General Fund	193,744.72	190,833.91
1692 · School Buildings	30,901,206.22	30,901,206.22
1699 · Accum Deprec Gov't	-12,498,478.05	-12,066,040.35
Total Fixed Assets	<u>19,631,079.33</u>	<u>20,187,050.22</u>
Other Assets		
1910 · PIF - Morgan Stanley		
1913 · Money Market Funds	0.00	26,745.18
1914 · Stocks	154,845.75	150,406.85
1915 · Government Securities	5,635.07	6,644.77
1916 · Certificates of Deposit	1,215,000.00	1,063,000.00
1917 · Cash	3,425.35	0.00
1921 · Investments - Market Value ADJ	97,495.67	90,606.26
1931 · Mutual Fund	1,018,405.47	750,720.65
Total 1910 · PIF - Morgan Stanley	<u>2,494,807.31</u>	<u>2,088,123.71</u>
1912 · PIF - Vanguard		
1918 · Investments - Market Value ADJ	265,175.26	198,862.01
1925 · Vanguard Index Fund	317,376.78	305,983.80
Total 1912 · PIF - Vanguard	<u>582,552.04</u>	<u>504,845.81</u>
1926 · PIF - Wells Fargo		
1924 · Stocks, Options, ETFs	0.00	149,540.55
1928 · Cash	0.00	248,764.57
1929 · Investments - Market Value ADJ	0.00	-4,380.35
Total 1926 · PIF - Wells Fargo	<u>0.00</u>	<u>393,924.77</u>

Denali Borough Financial Report
October 2016

Balance Sheet

1935 - First National Bank Alaska		
1935A - Land Enterprise CD	100,000.00	0.00
1935B - Solid Waste CD	150,000.00	0.00
1935C - SW Equip Reserve CD	150,000.00	0.00
Total 1935 - First National Bank Alaska	400,000.00	0.00
1940 - TVI/ProEquities		
1943 - Accrued Int	9,842.75	11,254.30
1944 - Market Value Adj	20,435.33	-4,924.67
1945 - Cash	-227,789.93	14,165.90
1946 - Landfill Closure Fund CD	247,000.00	247,000.00
1947 - General Fund CD	2,727,000.00	2,476,000.00
Total 1940 - TVI/ProEquities	2,776,488.15	2,743,495.53
1960 - Deferred Outflow-PERS Employer	167,088.19	98,861.49
Total Other Assets	6,420,935.69	5,829,251.31
TOTAL ASSETS	33,470,747.66	33,581,852.54
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
Credit Cards		
1096 - FNB Credit Cards		
1097 - Solid Waste FNBCC	197.73	160.35
1098 - Land Enterprise FNBCC	1,000.00	452.00
1099 - General Fund FNBCC	2,755.50	1,177.33
Total 1096 - FNB Credit Cards	3,953.23	1,789.68
Total Credit Cards	3,953.23	1,789.68
Other Current Liabilities		
2100 - Payroll Liabilities		
2105 - FWT, FICA, Medicare	-416.08	-832.16
2106 - Primerica Payable	0.00	16.13
2107 - SBS Payable	7,282.30	4,513.46
Total 2100 - Payroll Liabilities	6,866.22	3,697.43
2101 - Payroll Liab	-342.68	0.00
2140 - PERS Payable	16.25	0.00
2240 - Encumbrance	0.00	0.23
2340 - Accrued Vacation Leave	52,294.63	19,198.98
2350 - Accrued Sick Leave	0.00	15,387.05
2360 - Accrued Wages	0.00	17,174.58
2400 - Deferred Revenue	259,523.06	56,472.50
Total Other Current Liabilities	318,357.48	111,930.77
Total Current Liabilities	322,310.71	113,720.45
Long Term Liabilities		
2020 - Est. Liab. for Landfill Closure	254,900.00	252,900.00
2030 - PERS Pension Liability-Employer	627,705.00	447,123.00
2031 - Deferred Inflows-PERS Employer	13,329.00	40,959.00
Total Long Term Liabilities	895,934.00	740,982.00
Total Liabilities	1,218,244.71	854,702.45
Equity		
2510 - Invmt in Acct Group - Gen Fund	19,016,557.55	19,012,699.01
2515 - Investment in Acct Group - Land	6,602.79	6,602.79
2520 - Invmt in Acct Group - Landfill	1,144,199.98	1,143,679.99
2740 - Fund Balance		
2650 - Resv for subs exp	5,222,729.00	5,222,729.00
2741 - Permanent Fund	3,028,951.00	3,028,951.00
2742 - School Maintenance	523,372.85	523,372.85
2743 - Capital Projects	389,223.56	389,223.56
2744 - Landfill	716,735.00	716,735.00
2746 - Land	543,408.00	543,408.00
2748 - Legislative Grants	96,914.94	96,914.94
2750 - 2750 Capital Improvements	169,374.18	169,374.18
2751 - 2751 Spendable PIF	25,302.00	25,302.00
2752 - 2752 Disaster Contingency	120,047.53	120,047.53
2740 - Fund Balance - Other	890,846.93	890,846.93
Total 2740 - Fund Balance	11,726,904.99	11,726,904.99
2745 - Retained Earnings	570,774.75	524,467.07
2747 - Enterprise Equipment Expenses	0.00	1,657.46
Net Income	-212,537.11	311,138.78
Total Equity	32,252,502.95	32,727,150.09
TOTAL LIABILITIES & EQUITY	33,470,747.66	33,581,852.54

**Denali Borough Financial Report
October 2016**

Budget vs Actual
GF:Assembly, Matching Grants,
DBSD, Fund Transfers

	Oct 16	Jul - Oct 16	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense					
Income					
3110 · Overnight Accommodation Tax	0.00	2,350,011.06	3,350,000.00	-999,988.94	70.15%
3120 · Severance Tax	0.00	15,651.04	60,000.00	-44,348.96	26.09%
3210 · PILT Act	0.00	335,986.00	320,755.00	15,231.00	104.75%
3310 · Revenue Sharing	0.00	317,755.00	291,868.00	25,887.00	108.87%
3320 · PERS On Behalf Payments	0.00	0.00	20,000.00	-20,000.00	0.0%
3330 · Electric/Telephone Co-op Tax	0.00		50,000.00	-50,000.00	0.0%
3410 · Interest Income	2,890.57	11,838.84	25,000.00	-13,161.16	47.36%
3420 · Unrecognized Gain (Loss) on Inv	383.34	-1,794.03	0.00	-1,794.03	100.0%
3910 · Miscellaneous Income	163.05	991.65	3,500.00	-2,508.35	28.33%
3920 · Penalties/Interest	0.00	1,194.39	0.00	1,194.39	100.0%
Total Income	3,436.96	3,031,633.95	4,121,123.00	-1,089,489.05	73.56%
Gross Profit	3,436.96	3,031,633.95	4,121,123.00	-1,089,489.05	73.56%
Expense					
4001 · Nonstaff Stipends	1,650.00	5,150.00	22,800.00	-17,650.00	22.59%
4006 · Staff Salaries	18,466.17	50,241.90	163,500.00	-113,258.10	30.73%
4009 · Staff Leave Replacement	0.00	0.00	1,500.00	-1,500.00	0.0%
4011 · Staff Benefits	20,138.71	58,935.28	254,000.00	-195,064.72	23.2%
4012 · Nonstaff Benefits	44.00	132.00	3,000.00	-2,868.00	4.4%
4014 · Workmen's Compensation	0.00	724.28	1,000.00	-275.72	72.43%
4021 · Nonstaff Travel	53.10	53.10	8,000.00	-7,946.90	0.66%
4022 · Staff Travel	976.57	1,509.02	7,000.00	-5,490.98	21.56%
4025 · Staff Training	0.00	1,214.00	4,000.00	-2,786.00	30.35%
4026 · Nonstaff Training	0.00	0.00	3,000.00	-3,000.00	0.0%
4030 · Rent	2,147.76	10,738.80	30,000.00	-19,261.20	35.8%
4031 · Utilities	396.18	1,249.64	6,000.00	-4,750.36	20.83%
4035 · IT Services	260.00	1,426.49	4,500.00	-3,073.51	31.7%
4038 · Janitorial Services	216.00	684.00	1,500.00	-816.00	45.6%
4040 · Elections	7,819.71	8,959.16	13,000.00	-4,040.84	68.92%
4041 · Codification of Municipal Code	253.18	453.28	3,000.00	-2,546.72	15.11%
4050 · Equipment	0.00	0.00	16,500.00	-16,500.00	0.0%
4052 · Repairs and Maintenance	0.00	0.00	2,500.00	-2,500.00	0.0%
4055 · Equipment Rental	0.00	288.00	2,000.00	-1,712.00	14.4%
4060 · Supplies	575.18	1,824.54	3,000.00	-1,175.46	60.82%
4061 · Dues/Subscriptions/Advertising	382.50	4,034.03	9,000.00	-4,965.97	44.82%
4062 · Postage	0.00	737.12	2,200.00	-1,462.88	33.51%
4064 · Bank Fees	517.07	2,546.74	8,000.00	-5,453.26	31.83%
4070 · Vehicle Insurance	0.00	702.00	400.00	302.00	175.5%
4071 · Property Insurance	0.00	0.00	200.00	-200.00	0.0%
4073 · Bonding & Insurance	0.00	0.00	6,250.00	-6,250.00	0.0%
4080 · Consultant Fees	2,000.00	2,000.00	18,000.00	-16,000.00	11.11%
4081 · Attorney Fees	0.00	900.00	9,000.00	-8,100.00	10.0%
4082 · Audit Fees	8,500.00	13,000.00	30,000.00	-17,000.00	43.33%
4083 · Overnight Accom Audit Fees	0.00	0.00	10,000.00	-10,000.00	0.0%
4300 · Budgetary Reserve	0.00	0.00	1,004,283.00	-1,004,283.00	0.0%
4310 · Contingency	50.59	50.59	4,000.00	-3,949.41	1.27%
1046 · Disaster Contingency	0.00	0.00	1,000.00	-1,000.00	0.0%
6000 · Matching Grants					
Denali Education Center	5,782.59	5,782.59	20,000.00	-14,217.41	28.91%
McKinley Community Club	0.00	0.00	20,000.00	-20,000.00	0.0%
McKinley Volunteer Fire Departm	0.00	0.00	16,000.00	-16,000.00	0.0%
Total 6000 · Matching Grants	5,782.59	5,782.59	56,000.00	-50,217.41	10.33%
7010 · DBSD Mandatory Contribution	0.00	655,159.00	655,159.00	0.00	100.0%
7020 · DBSD Additional Allowable Cont	0.00	1,727,862.00	1,727,862.00	0.00	100.0%
Total Expense	70,229.31	2,556,357.56	4,091,154.00	-1,534,796.44	62.49%
Net Ordinary Income	-66,792.35	475,276.39	29,969.00	445,307.39	1,585.89%
Other Income/Expense					
Other Expense					
TRANSFERS OUT					
9120 · To Special Revenue Fund	0.00	0.00	12,000.00	-12,000.00	0.0%
9130 · To Capital Projects	0.00	140,000.00	140,000.00	0.00	100.0%
9150 · To MSMRF	0.00	200,000.00	200,000.00	0.00	100.0%
9160 · To Land Enter. Fund	0.00	0.00	124,500.00	-124,500.00	0.0%
9170 · To Solid Waste Enterprise Fund	0.00	0.00	0.00	0.00	0.0%
Total TRANSFERS OUT	0.00	340,000.00	476,500.00	-136,500.00	71.35%
Total Other Expense	0.00	340,000.00	476,500.00	-136,500.00	71.35%
Net Other Income	0.00	-340,000.00	-476,500.00	136,500.00	71.35%
Net Income	-66,792.35	135,276.39	-446,531.00	581,807.39	-30.3%

**Denali Borough Financial Report
October 2016**

Budget vs Actual
GF: Mayor

	<u>Oct 16</u>	<u>Jul - Oct 16</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Ordinary Income/Expense					
Expense					
4005 · Mayor Salary	8,899.38	23,731.68	77,128.00	-53,396.32	30.77%
4006 · Staff Salaries	7,306.97	13,176.82	81,500.00	-68,323.18	16.17%
4009 · Staff Leave Replacement	0.00	0.00	1,500.00	-1,500.00	0.0%
4010 · Mayor Benefits	7,723.62	22,336.40	90,200.00	-67,863.60	24.76%
4011 · Staff Benefits	11,496.40	27,556.88	145,000.00	-117,443.12	19.01%
4014 · Workmen's Compensation	0.00	724.28	1,025.00	-300.72	70.66%
4022 · Staff Travel	0.00	533.62	3,500.00	-2,966.38	15.25%
4023 · Mayor Travel	371.31	1,315.76	8,000.00	-6,684.24	16.45%
4025 · Staff Training	550.00	550.00	2,000.00	-1,450.00	27.5%
4031 · Utilities	8.58	224.02	4,800.00	-4,575.98	4.67%
4035 · IT Services	260.00	1,563.98	4,500.00	-2,936.02	34.76%
4038 · Janitorial Services	0.00	216.00	1,500.00	-1,284.00	14.4%
4050 · Equipment	0.00	0.00	5,000.00	-5,000.00	0.0%
4052 · Repairs and Maintenance	0.00	0.00	2,500.00	-2,500.00	0.0%
4060 · Supplies	0.00	82.96	3,000.00	-2,917.04	2.77%
4061 · Dues/Subscriptions/Advertising	40.00	530.80	1,500.00	-969.20	35.39%
4070 · Vehicle Insurance	0.00	0.00	400.00	-400.00	0.0%
4071 · Property Insurance	0.00	378.00	200.00	178.00	189.0%
4073 · Bonding & Insurance	0.00	8,907.65	6,250.00	2,657.65	142.52%
4080 · Consultant Fees	0.00	500.00	7,000.00	-6,500.00	7.14%
4081 · Attorney Fees	0.00	900.00	9,000.00	-8,100.00	10.0%
4310 · Contingency	575.00	760.43	4,000.00	-3,239.57	19.01%
5110 · Public Safety Per Capita					
Cantwell Volunteer Fire Dept	0.00	4,818.00	4,818.00	0.00	100.0%
McKinley Volunteer Fire Dept	0.00	3,700.00	1,850.00	1,850.00	200.0%
Tri-Valley Volunteer Fire Dept	0.00	27,762.00	27,762.00	0.00	100.0%
Total 5110 · Public Safety Per Capita	0.00	36,280.00	34,430.00	1,850.00	105.37%
5200 · Nonprofit Contributions					
Cantwell Community Library	1,897.41	1,897.41	4,321.00	-2,423.59	43.91%
Community of Cantwell	2,918.44	2,918.44	26,866.00	-23,947.56	10.86%
Denali Chamber of Commerce	1,036.31	1,036.31	10,307.00	-9,270.69	10.05%
Denali Emergency Services Assn	4,748.16	49,268.16	57,379.00	-8,110.84	85.86%
Denali Preschool and Lrning Cnt	2,245.34	2,245.34	8,600.00	-6,354.66	26.11%
Healy Hockey Association	1,218.25	1,218.25	15,000.00	-13,781.75	8.12%
McKinley Park Community Club	550.56	550.56	18,300.00	-17,749.44	3.01%
McKinley Volunteer Fire Dept	9,342.22	9,342.22	20,159.00	-10,816.78	46.34%
Panguingue Creek Homeowners Ass	4,112.66	4,112.66	12,800.00	-8,687.34	32.13%
Railbelt Mental Health and Addi	3,264.31	3,264.31	9,500.00	-6,235.69	34.36%
Tri-Valley Community Library	3,146.69	3,146.69	10,000.00	-6,853.31	31.47%
Tri-Valley Volunteer Fire Dept	114,142.18	114,142.18	189,400.00	-75,257.82	60.27%
Total 5200 · Nonprofit Contributions	148,622.53	193,142.53	382,632.00	-189,489.47	50.48%
5300 · Revenue Sharing Distribution	0.00	25,800.00	0.00	25,800.00	100.0%
5310 · Municipal Assistance	0.00	42,500.00	42,500.00	0.00	100.0%
5400 · Community Events (Winterfest)	313.83	1,903.10	5,000.00	-3,096.90	38.06%
Total Expense	186,167.62	403,614.91	924,065.00	-520,450.09	43.68%
Net Ordinary Income	-186,167.62	-403,614.91	-924,065.00	520,450.09	43.68%
Net Income	<u>-186,167.62</u>	<u>-403,614.91</u>	<u>-924,065.00</u>	<u>520,450.09</u>	<u>43.68%</u>

**Denali Borough Financial Report
October 2016**

Solid Waste
Budget vs Actual

	<u>Oct 16</u>	<u>Jul - Oct 16</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% of Budget</u>
Ordinary Income/Expense					
Income					
3320 · PERS On Behalf Payments	0.00	0.00	6,000.00	-6,000.00	0.0%
3410 · Interest Income	467.22	1,901.40	8,500.00	-6,598.60	22.37%
3420 · Unrecognized Gain (Loss) on Inv	-517.72	-1,633.95	0.00	-1,633.95	100.0%
3710 · Tipping Fees	57,540.50	191,497.30	360,000.00	-168,502.70	53.19%
3720 · Ash Cover	0.00	119,198.14	1,500.00	117,698.14	7,946.54%
Total Income	<u>57,490.00</u>	<u>310,962.89</u>	<u>376,000.00</u>	<u>-65,037.11</u>	<u>82.7%</u>
Gross Profit	57,490.00	310,962.89	376,000.00	-65,037.11	82.7%
Expense					
4006 · Staff Salaries	17,980.85	54,061.72	158,398.00	-104,336.28	34.13%
4011 · Staff Benefits	10,348.13	30,446.03	138,312.00	-107,865.97	22.01%
4014 · Workmen's Compensation	0.00	7,677.64	10,000.00	-2,322.36	76.78%
4022 · Staff Travel	9.58	190.12	3,000.00	-2,809.88	6.34%
4025 · Staff Training	0.00	0.00	2,000.00	-2,000.00	0.0%
4030 · Rent	301.44	1,507.20	3,620.00	-2,112.80	41.64%
4031 · Utilities	539.95	1,766.73	9,000.00	-7,233.27	19.63%
4033 · Heating Fuel	0.00	0.00	8,000.00	-8,000.00	0.0%
4035 · IT Services	260.00	1,563.98	4,500.00	-2,936.02	34.76%
4050 · Equipment	0.00	2,933.26	18,000.00	-15,066.74	16.3%
4051 · Safety Equipment	0.00	287.03	3,000.00	-2,712.97	9.57%
4052 · Repairs and Maintenance	3,517.04	10,965.71	65,000.00	-54,034.29	16.87%
4053 · Equipment Fuel (Diesel)	2,829.00	7,459.14	30,000.00	-22,540.86	24.86%
4054 · Equipment Fuel (Gas)	0.00	0.00	1,500.00	-1,500.00	0.0%
4056 · Snow Plowing	0.00	0.00	4,000.00	-4,000.00	0.0%
4057 · Tools	65.30	83.48	2,500.00	-2,416.52	3.34%
4060 · Supplies	120.73	556.73	8,000.00	-7,443.27	6.96%
4061 · Dues/Subscriptions/Advertising	100.00	2,510.00	2,000.00	510.00	125.5%
4062 · Postage	0.00	8.84	250.00	-241.16	3.54%
4064 · Bank Fees	56.89	392.03	1,500.00	-1,107.97	26.14%
4070 · Vehicle Insurance	0.00	1,264.00	2,500.00	-1,236.00	50.56%
4071 · Property Insurance	0.00	1,316.00	1,400.00	-84.00	94.0%
4072 · Equipment Insurance	0.00	2,573.00	3,000.00	-427.00	85.77%
4080 · Consultant Fees	0.00	0.00	20,000.00	-20,000.00	0.0%
4100 · Survey Fees	0.00	0.00	8,000.00	-8,000.00	0.0%
4101 · CTS Hauling Fees	2,743.38	7,544.35	20,000.00	-12,455.65	37.72%
4102 · Cover and Cell Maintenance	0.00	3,684.43	2,500.00	1,184.43	147.38%
4103 · Well Monitoring	5,209.37	13,788.82	35,000.00	-21,211.18	39.4%
4105 · HHW Disposal	0.00	0.00	10,000.00	-10,000.00	0.0%
4107 · DEC Inspections	0.00	210.00	6,000.00	-5,790.00	3.5%
4310 · Contingency	0.00	555.50	3,000.00	-2,444.50	18.52%
Total Expense	<u>44,081.66</u>	<u>153,345.74</u>	<u>583,980.00</u>	<u>-430,634.26</u>	<u>26.26%</u>
Net Ordinary Income	13,408.34	157,617.15	-207,980.00	365,597.15	-75.79%
Other Income/Expense					
Other Income					
TRANSFERS TO FUND ACCOUNTS					
To Landfill Closure Fund	0.00	0.00	2,000.00	-2,000.00	0.0%
To Solid Waste Equipment Reserve Fund	0.00	0.00	75,000.00	-75,000.00	0.0%
Total TRANSFERS TO FUND ACCOUNTS	<u>0.00</u>	<u>0.00</u>	<u>77,000.00</u>	<u>-77,000.00</u>	<u>0.0%</u>
Total Other Income	<u>0.00</u>	<u>0.00</u>	<u>77,000.00</u>	<u>-77,000.00</u>	<u>0.0%</u>
Net Other Income	0.00	0.00	77,000.00	-77,000.00	0.0%
Net Income	<u>13,408.34</u>	<u>157,617.15</u>	<u>-130,980.00</u>	<u>365,597.15</u>	<u>-120.34%</u>

**Denali Borough Financial Report
October 2016**

Land Management
Budget vs Actual

	Oct 16	Jul - Oct 16	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense					
Income					
3320 - PERS On Behalf Payments	0.00	0.00	4,000.00	-4,000.00	0.0%
3410 - Interest Income	165.60	172.95	100.00	72.95	172.95%
3500 - Land Lease		0.00	0.00	0.00 #	
3930 - Application Fee	50.00	50.00	0.00		
Total Income	215.60	222.95	4,100.00	-4,100.00	0.0%
Gross Profit	215.60	222.95	4,100.00	-3,877.05	5.44%
Expense					
4001 - Nonstaff Stipends	825.00	2,575.00	11,400.00	-8,825.00	22.59%
4006 - Staff Salaries	4,784.08	12,757.54	42,000.00	-29,242.46	30.38%
4011 - Staff Benefits	1,599.56	5,977.62	43,000.00	-37,022.38	13.9%
4012 - Nonstaff Benefits	0.00	0.00	872.00	-872.00	0.0%
4014 - Workmen's Compensation	0.00	240.82	375.00	-134.18	64.22%
4021 - Nonstaff Travel	0.00	123.90	5,000.00	-4,876.10	2.48%
4022 - Staff Travel	0.00	403.08	5,000.00	-4,596.92	8.06%
4025 - Staff Training	0.00	350.00	4,000.00	-3,650.00	8.75%
4026 - Nonstaff Training	1,000.00	1,000.00	4,000.00	-3,000.00	25.0%
4030 - Rent	602.88	3,014.40	7,500.00	-4,485.60	40.19%
4031 - Utilities	0.00	0.00	2,000.00	-2,000.00	0.0%
4035 - IT Services	260.00	1,563.98	4,500.00	-2,936.02	34.76%
4038 - Janitorial Services	72.00	270.00	1,800.00	-1,530.00	15.0%
4050 - Equipment	0.00	0.00	5,000.00	-5,000.00	0.0%
4052 - Repairs and Maintenance	0.00	1,290.36	2,000.00	-709.64	64.52%
4060 - Supplies		26.98	2,500.00	-2,473.02	1.08%
4061 - Dues/Subscriptions/Advertising	0.00	195.00	2,500.00	-2,305.00	7.8%
4062 - Postage	0.00	132.49	500.00	-367.51	26.5%
4081 - Attorney Fees	0.00	0.00	2,000.00	-2,000.00	0.0%
4202 - Land Administration	453.75	3,481.25	70,000.00	-66,518.75	4.97%
4310 - Contingency	0.00	0.00	3,000.00	-3,000.00	0.0%
Total Expense	9,597.27	33,402.42	218,947.00	-185,544.58	15.26%
Net Ordinary Income	-9,381.67	-33,179.47	-214,847.00	181,667.53	15.44%
Other Income/Expense					
Other Income					
TRANSFERS IN					
9000 - From General Fund	0.00	0.00	124,500.00	-124,500.00	0.0%
Total TRANSFERS IN	0.00	0.00	124,500.00	-124,500.00	0.0%
Total Other Income	0.00	0.00	124,500.00	-124,500.00	0.0%
Net Other Income	0.00	0.00	124,500.00	-124,500.00	0.0%
Net Income	-9,381.67	-33,179.47	-90,347.00	57,167.53	36.72%

DENALI BOROUGH, ALASKA
ORDINANCE NO. 16-12
VERSION A

INTRODUCED BY: Mayor Clay Walker

AN ORDINANCE AMENDING DENALI BOROUGH CODE OF ORDINANCES TITLE 4,
REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

BE IT ENACTED by the Assembly of the Denali Borough, Alaska that:

Section 1 Classification. This ordinance is of a general and permanent nature.

Section 2 Purpose. The purpose of this ordinance is to amend in its entirety Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal as follows:

Title 4

REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

Chapters:

- 4.01 General Provisions**
- 4.05 Real Property Acquisition**
- 4.10 Management of Borough Real Property**
- 4.11 Borough Land Permits, License, Easements, and Rights of Way**
- 4.15 Disposal, Lease and Exchange of Borough Real Property – General Provisions**
- 4.16 Disposal of Borough Real Property**
- 4.17 Leasing of Borough Real Property**
- 4.18 Exchange of Borough Real Property**

Chapter 4.01

GENERAL PROVISIONS

Sections:

- 4.01.005** Definitions
- 4.01.010** Goals for borough real property
- 4.01.015** Authority for management of borough property
- 4.01.018** The land management fund
- 4.01.020** Procedural requirements for major land use decisions
- 4.01.021** Process for land use actions other than major decisions
- 4.01.025** Inventory and record keeping
- 4.01.030** Public notice
- 4.01.040** Generally allowed uses of borough real property
- 4.01.050** Buffers & development setbacks
- 4.01.060** Fees
- 4.01.070** Best interest finding
- 4.01.080** Bonding, indemnification, insurance

4.01.005 Definitions

- A. Real property – “real property” includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.
- B. Major land use decisions – decisions with lasting and significant impacts on the use of borough land (see specific list in 4.01.015 A)
- C. Permanent or intermittent waterbodies – these terms are used to distinguish waterbodies meriting development setbacks as specified in 4.01.050, from less environmentally significant, ephemeral water bodies. A perennial stream or river has continuous flow in parts of its stream bed all year round during years of normal rainfall. "Perennial" streams are contrasted with "intermittent" streams which normally cease flowing for weeks or months each year, and with "ephemeral" channels that flow only for hours or days following rainfall. This same conceptual distinction applies for wetlands.

4.01.010 Goals for borough real property

Manage, dispose and/or acquire new borough lands, to achieve the following:

Denali Borough, Alaska

Ordinance 16-12

Underline = New Text
[Bracket] = Delete Text

- A. Economy – enhance the sustainable health and diversity of the local economy, and support opportunities for borough residents to seek economic security.
- B. Environment – protect the health and quality of the borough’s natural environment and unique natural setting, considering individual borough properties as well as adjoining lands.
- C. Fiscal Health – generate revenue, for example, through sales, leases or permit fees, to help support public services and facilities needed by borough residents and businesses, including exceptional educational opportunities.
- D. Growth – provide more opportunities for people to make a life in the borough, in particular to provide more chances for young people/young families to own land for homes.
- E. Quality of Life – support the range of characteristics that make the borough a good place to live, including access to public lands and clean waters, efficient and adequate public facilities, the right to be free from interference in chosen lifestyles, and the right to live in a clean, safe, and orderly environment.
- F. Public Trust – recognize that borough properties are held by the public for the public benefit, and that as a result, the public shall be provided a full and fair opportunity to be involved in important decisions regarding the use of or acquisition of such lands.

4.01.015 Authority for management of borough property

- A. The assembly is the managing authority of borough lands and the decision-making body on the following major land use decisions related to borough land:
 - 1. Management plans including classification and re-classification
 - 2. Revisions and/or expansions to the land management code
 - 3. Sale and leases of borough land
 - 4. Land exchanges involving borough land
 - 5. Resource extraction licenses and long term, large scale land encumbrances (e.g., natural gas pipeline right of way)
 - 6. Appeals of decisions of administrative staff or planning commission.
- B. The managing authority shall manage all borough land in accordance with this title and adopted management policies and goals.
- C. As part of the annual work plan in DBC 4.10.020, the assembly shall review borough lands proposed to be offered for sale or lease and at that time may also give general approval for planned disposals, and other options for disposals as outlined in 4.15, 4.16, 4.17, and 4.18.
- D. The planning commission will review and make recommendations to the assembly on major land use decisions, including the following:
 - 1. Management plans including classification and re-classification
 - 2. Revisions and/or expansions to the land management code
 - 3. Sale and leases of borough land

4. Land exchanges involving borough land
 5. Resource extraction licenses (e.g., for commercial gravel extraction), and long term, large scale land encumbrances (e.g., natural gas pipeline right of way)
 6. Appeals of administrative staff decisions regarding easements, resource extraction permits
 7. Annual work plan for borough lands
- E. The planning commission is responsible for decisions on commercial use permits and smaller scale, local easements and rights-of-way.
- F. The mayor or designee is authorized to grant approval of the following actions related to borough land, working within the framework of assembly-approved management plans:
1. Resource extraction permits, including sales of sand or gravel not to exceed a maximum of 500 cubic yards per year.
 2. Temporary use permits.

4.01.018 The land management fund

- A. The land management fund is established. The land management fund is the operating fund for all activities that concern the acquisition of real property, management, development, sale or administration of borough land. Revenue derived from the sale, lease or use of borough real property, and from the sale of gravel or other resources taken or extracted from borough property, shall be deposited in the land management fund. Money may be appropriated from the land management fund only for acquisition of real property, management, development, sale or administration of borough real property, or other purposes approved by the assembly.
1. A portion of the land management fund account may be appropriated annually for management of borough real property, to fulfill the purpose and mission of the fund as stated in this chapter. The assembly shall be responsible for establishing the annual operating budget.
 2. There is established a subaccount of the land management fund to be known as the land management capital fund. In addition to the use of the fund for the land management operating budget as provided in section 4.20.010(B), revenue in the land management fund may be appropriated by the assembly to the land management capital fund only for the acquisition of real property for municipal use, and for improvements to borough real property. The planning commission shall receive at least thirty-days prior notice of any proposed assembly action regarding any proposed appropriations from the fund

“Improvements to borough real property” for the purposes of this section, means a valuable addition to borough property or an enhancement of its condition, intended to increase its value or utility, or adapt it for new or further purpose, including expenditures to extend the useful life of the property asset, to improve its performance, or for off-site mitigation necessary to improve borough real property.

3. Land management fund money shall be spent or disbursed as appropriated by ordinance and shall be appropriated for the following purposes only:
 - a. funding of the established subaccounts of the land management fund;
 - b. improvements to borough real property;
 - c. for the administration of borough land selection and land management program, including survey, engineering, and other costs related to lease, sale, or disposal of such real property; and
 - d. the maintenance of land management records.
- B. Revenue from the land management fund not appropriated may be remitted to the general fund.

4.01.020 Procedural requirements for major land use decisions

- A. The borough assembly, mayor or designee, planning commission, or the public may initiate proposals for major land use decisions. Details of this process specifically for disposals are presented in DBC 4.15.040.
- B. Prior to assembly actions on major land use decisions, and in addition to formal public hearings required under “D” and “E” below, the mayor or designee shall conduct at least one meeting to gather public input. This meeting should be held at an appropriate venue as near to the affected parcel as is practical. (see 4.01.030 for public notice requirements)
- C. The mayor or designee shall make a recommendation regarding the proposed decision to the planning commission including:
 1. Parcel location and ownership, classification or other relevant borough land management policies, known encumbrances or permits
 2. To the degree information is available, property characteristics including topography, soils, access and availability of utilities
 3. A summary of previous input from the public, planning commission or assembly, including reference to the annual work plan
 4. Compatibility with the borough comprehensive plan or other land use policy approved by the assembly.
 5. If a proposed action is not compatible with an approved management plan or the borough comprehensive plan, a revision to the relevant plan is required before the action can be approved. These revisions may be

presented for review and approval as part of the process for the review and approval of the major action.

- D. The planning commission shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action. The planning commission shall make a recommendation to the assembly, building from the steps above, and its own deliberations.
- E. The assembly shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action.
- F. The assembly shall consider the planning commission and mayor's recommendations and public comments and then may adopt, adopt with modifications, deny, continue the item, or remand the item to the planning commission.

4.01.021 Process for land use actions other than major decisions

The borough mayor or designee may elect to meet with the public, the planning commission and/or assembly on other land management issues not explicitly identified in 4.01.015.

4.01.025 Inventory and record keeping

The borough mayor or designee shall develop and maintain an inventory of all real property in which the borough has, or has had, an interest. To the degree information is available, the inventory should contain information regarding parcel size, classifications, or any current borough authorized permits, easements and leases.

4.01.030 Public notice

Public notice shall, at minimum, meet the public notice requirements of the Charter of the Denali Home Rule Borough, Article 1, Section 1.05 unless otherwise specified in this title of the DB code. Public notices shall include the date, time, location, and purpose of the notification.

4.01.040 Generally allowed uses of borough real property

- A. No person shall place improvements or personal property upon, or make unauthorized use of borough real property, without permission from the borough mayor or designee acting in compliance with approved management plans and other provisions of this title.
- B. No person shall remove timber or other vegetation, gravel or other materials from borough real property or otherwise damage the above without written permission from the borough mayor or his designee.

- C. Borough lands are open to incidental uses including walking, hiking, hunting, ATV's and snowmobiles, fishing, short term (14 days or less) camping or other low impact, public, non-commercial activities. These incidental uses may be restricted to provide for public safety or to avoid land degradation or vandalism if needed. Harvesting a small number of wild plants, mushrooms, berries, and other plant material for personal, non-commercial use is permitted.
- D. If the mayor or designee has knowledge of an unauthorized use, steps shall be taken to end this activity. Unless the mayor or designee provides otherwise, the unauthorized user shall restore the borough land to the same condition it was just prior to when the unauthorized use began, and pay all costs incurred by the borough as a result of this action.
- E. Failure to comply with borough, state and federal laws and regulations for any authorization issued under the authority of this title shall be terms for contract, permit or lease revocation, termination or other action as deemed appropriate.
- F. Persons found in violation of this section will be prosecuted in accordance with state law and the Denali Borough Code of Ordinances.

4.01.050 Buffers & development setbacks

- A. On borough owned land, and incorporated into the plans for any disposals of borough land:
 - 1. There shall be, at minimum, a 50-foot undisturbed natural vegetation buffer on either side of all permanent or intermittent waterbodies, including rivers and streams, and connected lakes and wetlands. The buffer may vary to protect the riparian areas along these water courses.
 - 2. Borough recognized main trails shall be no wider than 12-feet. There shall be, at minimum, a 50-foot undisturbed natural vegetation buffer on each side of the trail on borough land as identified through existing or future approved borough lands.
- B. Exceptions to the minimum buffer requirements may be approved by the planning commission on a case by case basis.

4.01.060 Fees

The borough mayor or designee shall propose a schedule of fees for applications, permits and other uses of borough real property under this title. The borough assembly shall approve the fee schedule.

4.01.070 Best interest finding

Land disposals, leases, and exchanges require a best interest finding statement. A best interest finding statement shall be written by the mayor or designee and be included with every land disposal ordinance. This written finding must include a description of the land identified for disposal, a summary of the disposal process

including public notices and public meetings, known natural or cultural considerations, comments received regarding the land disposal, a statement of consistency with approved borough plans, and a final statement that the land disposal is or is not in the best interest of the borough including reference to the goals in section 4.01.010 if appropriate.

4.01.080 Bonding, indemnification, insurance

- A. Where the borough has authorized a use on borough land, including commercial use, resource harvest or extractions, leases, management agreements, easements, or rights-of-way, the borough may require bonding, indemnification, and/or insurance to ensure compliance with established standards.
- B. Where the activity may alter the land surface, the borough may require a bond or damage deposit in order to ensure proper restoration after use of the land is no longer needed. The bond amount shall depend on the type of activity. The user's liability will be released and the land use authorization processed for closure only after the land has been restored or left in a condition suitable to the borough. This may be retroactive if the damage was caused by the same lessee or permit holder during a prior agreement.
- C. Persons holding a land use authorization shall be required to indemnify, save harmless and defend the borough, assembly members, officers, 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 or omission arising from the persons use, occupancy or the performance under the authorization.

Chapter 4.05

REAL PROPERTY ACQUISITION

Sections:

- 4.05.005** **Definitions**
- 4.05.010** **Acquisition and ownership**
- 4.05.020** **Procedural requirements**
- 4.05.030** **Eminent domain**
- 4.05.040** **Ownership and use**
- 4.05.050** **Rights and powers of borough**
- 4.05.060** **Federal and state aid**
- 4.05.070** **Acquisition through land exchange**

4.05.005 **Definitions**

- A. Real property – “real property” includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.
- B. “Less-than-fee simple interest” – refers to acquisition or disposal of less than the full bundle of ownership rights in a property, e.g., a lease or easement.

4.05.010 **Acquisition and ownership**

- A. The borough may acquire, own, and hold real property or limited property rights inside or outside the borough boundaries by purchase, gift, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, condemnation or declaration of taking, annexation, or by any other lawful means of conveyance. Real property shall be held in the name of “Denali Borough.”
- B. The assembly may approve and authorize the purchase of real property by contract of sale, a deed of trust, or mortgage.
- C. The borough may not acquire any real property by means of dedication by plat unless the dedication of real property is accepted in writing and signed by the mayor and approved by the assembly.

4.05.020 **Procedural requirements**

- A. Acquisition of land by the borough shall require an assembly ordinance specific to the particular acquisition, including general purpose, conditions and manner of

- acquisition. Upon authorization by ordinance, the mayor or designee shall carry out the specific steps required to acquire the real property.
- B. Any land acquisition instrument requiring execution by the borough, for example, a mortgage or deed of trust, shall be signed by the mayor or designee and attested by the clerk. The form of any conveyance shall be reviewed by the borough attorney.
- C. The mayor or designee shall prepare a resolution regarding a proposed acquisition of land or resources for consideration by the public, the planning commission and the borough assembly. The resolution shall address:
1. The purpose of the acquisition
 2. The proposed use of the land and associated land management plans.
 3. A description of the lands or interests in lands or resources concerned
 4. The terms, conditions, valuation or consideration for the proposed acquisition
- D. The decision to acquire the property shall be reviewed by the planning commission. Review by the planning commission shall be limited to the property's suitability for the intended purpose and its consistency with surrounding land use(s) and any applicable land use/land management plans. The planning commission shall recommend to the borough assembly, by resolution, their findings and recommendations.
- E. After receipt of the recommendations of the planning commission, the borough assembly may find that the land being purchased is in the best interest of the borough and shall be consummated according to the terms and conditions in the purchase agreement.
- F. Prior to approval, the mayor or designee is to make available for assembly review an abstract of title, an appraisal of the real property, a contamination/liability assessment as outlined below, and a review of any problem in acquisition. The acquisition or purchase of real property by the borough.
1. **Stage 1:** Review maps, aerial photographs, plats, surveys, any historical land use records, and visit the site, to see if any issues of obvious concern can be found such as current or former waste disposal areas, fuel storage, handling or dispensing operations including heating oil, discolored soil, sheen on surface water, or any evidence that oil or other hazardous substances were stored, used, or released at the property. This phase should also include a review of the Alaska Department of Environmental Conservation Contaminated Sites Database and associated web map available at the following link: <http://dec.alaska.gov/spar/csp/>. If nothing is found the assessment can end and a report presented to the assembly by the mayor or designee stating these findings. If any evidence of adverse effects are found, the assembly may consider contracting for a Phase I Site

Assessment to be conducted by a qualified person under ASTM E1527-13 Standard-Phase I Environmental Site Assessments or equivalent.

2. **Stage 2:** If the initial inspection reveals possible contamination issues, further research and site inspections would be needed to determine the nature of the suspicious findings in the initial assessment. This would determine if further, detailed investigation, digging, or drilling would be required. If warranted, the assembly may consider contracting for a Phase II Site Assessment to be conducted by a qualified person under ASTM E1903-11 Standard – Phase II Environmental Site Assessment or equivalent. A report of the findings would be presented to the assembly by the mayor or designee.
- G. Unless otherwise provided by the assembly, the borough shall purchase marketable title in real property. Unless otherwise provided by ordinance or resolution, or upon assembly approval of a purchase, the mayor or designee is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property.
- H. The assembly may authorize the mayor or designee to acquire land for more than fair market value only if the ordinance authorizing the acquisition contains a statement of the facts on which the more than market value acquisition is justified.

4.05.030 Eminent domain

The assembly may exercise the powers of eminent domain and declaration of taking in accordance with AS 29.35.030. Eminent domain shall be exercised only if the borough has made reasonable but unsuccessful efforts to negotiate a purchase or exchange. Eminent domain takings may only be used for public works or facilities, including road or trail access, when no other reasonable option is available, and may not be conveyed in any form to any private, corporate or nonprofit entity.

4.05.040 Ownership and use

The borough may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy with any person, corporation or government body for any public purpose. The borough may hold real property in trust for any public purpose, including:

1. temporary activities
2. easements and rights-of-way, for utilities, access
3. leasing or eventual disposal
4. long term dedication for public purposes, including public facilities and public recreation

4.05.050 Rights and powers of borough.

The borough shall have and may exercise all rights and powers in the acquisition, ownership, and holding of real property as if the borough were a private individual.

4.05.060 Federal and state aid

The borough may apply for, contract with, and do all things necessary to cooperate with the United States Government and the state of Alaska for the acquisition, holding, improvement, or development of real property inside and outside the borough boundaries.

4.05.070 Acquisition through land exchange

- A. The borough may accept in exchange for borough land any consideration of sufficient value not prohibited by law. Decisions on land exchanges are “major land use decisions”, as specified in 4.01.015, and the assembly shall review and approve or reject offers for exchange of municipal land, following the same procedures as specified for land disposals, including the requirement for a best interest finding.
- B. As is the case with disposals, exchanges shall provide for equal value, except where the assembly prepares an explicit, written finding that borough and public interests, and the goals expressed in 4.01.010, are best met through an exchange at less than equal value.

Chapter 4.10

MANAGEMENT OF BOROUGH REAL PROPERTY

Sections:

- 4.10.005** **Definitions**
- 4.10.010** **Management plans**
- 4..10.015** **Classification requirement, categories, and definition**
- 4.10.020** **Annual work plan for disposal, leasing and/or exchange**

4.10.005 **Definitions**

- A. "Commercial Use" means any activity, goods or services that are offered for sale or rent.
- B. "Fair market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- D. "Hazardous use" means an unacceptable risk to human health and well-being.
- E. "Interest in property" means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- F. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- G. "Natural resources" to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
- H. "Obnoxious use" means a use which is offensive through the creation or transmission of noise, vibration, illumination, emissions, fumes, odor, dust or radiation, blocking of scenic view, sunlight, causing flooding or blocking water access or flow or any combination of these, beyond any lot lines of the premises.
- I. "Public interest" means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.
- J. "BMP" means the best management practices as prescribed in the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock/Aggregate

4.10.010 Management plans

- A. The mayor or designee, shall prepare a written management plan for borough real properties where required under “B” below. The planning commission shall review, and the assembly provide final approval.
- B. A management plan is required before any land management action can occur including, but not limited to, any disposal, lease, exchange, or any permit or license with significant impact to the land.
- C. Management plans provide a basis for well-informed decisions on the best use of borough real properties, particularly where larger blocks of borough real property have the potential for a variety of uses. Specific objectives for management plans include:
 - 1. Provide better understanding of current and potential uses
 - 2. Provide the opportunity for public involvement
 - 3. Develop broad goals for the affected lands
 - 4. Identify appropriate land use classification(s), standards and guidelines
- D. A management plan shall contain two elements:
 - 1. Information about the parcel, including:
 - Physical characteristics of the site, for example, elevations and slopes, vegetation, and water bodies
 - Surface and groundwater relationships and proximity to private water wells, public water source, surface contaminated sites and water bodies
 - Current and potential access, including roads, trails, airstrips
 - Current and potential uses on-site and on surrounding properties; any potential public health, safety, or welfare issues
 - Improvements (e.g., buildings, infrastructure)
 - Easements, leases, and permits; utilities or other infrastructure serving or crossing the site
 - 2. Management policies, including:
 - Overall goals and objectives
 - Classification(s), including boundaries and management intent statement for each classification area
 - Plans for access and other needed infrastructure
 - Site-specific management standards and guidelines including environmental safeguards and controls for invasive plants and herbicides
 - Implementation actions and schedule
 - For intended sales, leases, permits – objectives for terms, conditions

4.10.015 Classification requirement, categories, and definition

All borough land, must be classified through an assembly approved land management plan prior to any action being taken with lasting consequences for the character and/or options for use of that land.

All borough lands shall be classified as one of the following:

1. Agriculture and Forestry
2. Amenity Value
3. Commercial and Light Industrial
4. Heavy Industrial
5. Land Bank
6. Large Scale Materials or Mineral Extraction
7. Multiple Use Reserve
8. Public Facilities
9. Recreation
10. Settlement

Classification categories defined:

- A. *Agriculture and Forestry* – Land intended for raising and harvesting crops, grazing, breeding and management of livestock, dairying, commercial timber harvest, or woodlot management. Such land can be sold in fee, sold as agriculture rights only, or leased while remaining in borough ownership.
- B. *Amenity Value* – Land intended to be retained and kept in a natural state to maintain a sense of open space and “Alaska living” for adjacent parcels and the borough as a whole, and that may also protect wildlife habitat and support non-commercial recreational opportunities, subsistence, scenic vistas, historic structures and landscapes, greenbelts, or other natural, cultural, or aesthetic qualities.
- C. *Commercial and Light Industrial* – Land intended primarily for uses related to trade and commerce, such as the sale, rental, or distribution of products and services, and/or for light industrial uses. Light industrial uses are those that do not create significant off-site impacts and are generally conducted inside closed buildings, for example warehousing, storage, and light manufacturing. Commercial and light industrial area may also include, as secondary uses, land for greenbelts, material sites for local roads and building lots, easements for roads and trails, or lots for community facilities. Residential uses may also be permitted in specified sites.

- D. *Heavy Industrial* – Land intended for industrial and related uses that are best separated from most other uses, due to their potential for off-site impacts. Examples include landfills, large scale material or mineral extraction and processing, waste handling and storage, electric generation, large scale manufacturing, or other uses that involve significant noise, odors, bright lights, or other potential nuisances or safety risks that make them poor neighbors with most other land uses. Parcels should be of a size that allows for sufficient buffer zones to reduce potential impacts of these types of use on adjoining properties.
- E. *Land Bank* – Lands where the intent is a mix of disposals and retention, and where a management plan is required to determine the specific types, character and locations of these uses. These lands will be retained in borough ownership in the near term, until a management plan is complete. Following approval of a management plan, these areas will be reclassified to designate the specific intended uses, such as settlement, commercial, amenity value, or public facilities. In the interim, the land will be available for multiple use management, as long as such use does not reduce options for future uses, including disposals. Examples of such uses include seasonal personal use firewood harvest, low impact commercial recreation activities, or small scale gravel extraction.
- F. *Large Scale Materials or Mineral Extraction* – Lands which are chiefly valuable for earth materials, including, but not limited to, sand, gravel, soil, peat moss, sphagnum, stone, pumice, cinders, limestone and clay, and for minerals, including, but not limited to, coal, phosphate, oil, shale, sodium, Sulphur, and potash, where the removal of the material would seriously interfere with utilization of the lands for other purposes.
- G. *Multiple Use Reserve* – Land to be held in borough ownership at least the near term, where there is not a pressing need for immediate decisions on the ultimate preferred use. In the interim, the land will be available for multiple use management, as long as that use does not significantly reduce options for future uses, including disposals.
- H. *Public Facilities* – Land intended to be retained and reserved for public facilities including schools, clinics, day-care centers, government buildings, parks, and other public uses. Parcels are sized to meet the need, and allow for future expansion. Such lands will generally be retained in borough ownership, but could also be sold or leased to another public or non-profit entity that will retain land for this purpose.
- I. *Recreation* – Land intended to be retained where the primary use is public and/or commercial outdoor recreational areas and facilities. Recreational uses, include, but are not limited to, trails (hiking, horse, bikes, cross-country ski and motorized,

such as ATVs), ski areas, golf courses, day use facilities, campgrounds, wilderness camps, and horse stables.

- J. *Settlement* – Land intended primarily for residential uses, including selling individual lots or parcels or for subdivisions. These areas can also include, as secondary uses, areas for greenbelts and small parks, material sites for subdivision roads and building lots, easements for roads and trails, or lots for community facilities. Limited local serving commercial may also be permitted in specified sites.

4.10.020 Annual work plan for disposal, leasing and/or exchange

The mayor or designee shall prepare by March 1st of each year a work plan for borough real property specifying disposal, leasing and exchange plans for the coming year, and more general intentions for the subsequent three years. Following review by the planning commission, the annual work plan shall be submitted for assembly approval by resolution. Elements of the work plan shall include:

1. A summary of the previous year's actions, expenditures and revenues; a general overview of intentions for future real property management actions
2. A current inventory of the location and status of borough real property
3. Proposed actions concerning real property over the coming year
 - Priority locations for management plans including land classification
 - Priority areas for land disposals and/or leases
 - Other land management priorities, including issuance and/or renewal of use permits or licenses
4. Anticipated finances of real property activities, including
 - Projections of revenue from sales, leases, permits or fund investments over the coming year
 - Anticipated expenditures including costs for staff, contractors, capital improvements or other activities
5. Preliminary plans for borough real property over the following three years, including
 - Likely locations of future management plans, disposals, leases, exchanges and larger scale permits or rights of way
 - Management activity increases or changes.

Chapter 4.11

Borough Land Permits, License, Easements, and Rights of Way

Sections:

4.11.005	Definitions
4.11.010	Extraction permit
4.11.020	Extraction license
4.11.030	Temporary use permit
4.11.050	Commercial use permit
4.11.060	Conditions for use of resources on borough land by permit or license
4.11.070	Easements and rights of way

4.11.005 Definitions

- A. "Commercial Use" means any activity, goods or services that are offered for sale or rent.
- B. "Fair market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- C. "Hazardous use" means an unacceptable risk to human health and well-being.
- D. "Interest in property" means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- E. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- F. "Natural resources" to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
- G. "Obnoxious use" means a use which is offensive through the creation or transmission of noise, vibration, illumination, emissions, fumes, odor, dust or radiation, or any combination of these, beyond any lot lines of the premises.
- H. "Public interest" means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and

which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.

- I. "BMP" means best management practices as prescribed in the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock/Aggregate

4.11.010 Extraction permit

- A. Extraction permits provide for non-commercial personal use of limited quantities of resources on borough owned land, such as gravel or firewood. —
- B. The mayor or designee is responsible for decisions on extraction permits, and for setting borough-wide and/or site specific guidelines for extraction activities.
- C. An applicant who wishes to obtain an extraction permit shall submit a non-refundable fee as set in the fee schedule. An extraction permit is exclusive, not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.
- D. An extraction use permit is required for extraction of any quantity of gravel, firewood, timber or other resource from borough land.
- E. If the mayor or designee determines an extraction permit may substantially affect the surrounding area, then prior to approving the permit the mayor or designee shall publish notice of the proposed use, including a description of the proposed use. Notice shall be per DBC 4.01.030, allowing for public comment on the proposed use. If the mayor or designee receives substantial adverse public comment to the proposed use then, before issuing the permit, the mayor or designee shall hold a public hearing on the proposed use.

4.11.020 Extraction license

- A. Extraction license provide for larger scale use of borough resources than extraction permit. An extraction license is required for any commercial extraction activity, and for gravel extraction of more than 500 cubic yards per year.
- B. The assembly is responsible for decisions on extraction licenses, for setting the terms for the license and the manner in which payment is made. After receiving recommendations from the planning commission, the assembly shall by resolution approve or deny a proposed extraction license and set borough-wide and/or site specific conditions for extraction activities.
 1. Lease holders are required to implement BMPs
 2. The plan will identify all permanent structural and non-structural BMPs selected and incorporated into the project design to eliminate or reduce pollutant discharges to storm water, and/or receiving waters to the maximum extent practicable

- C. An applicant who wishes to obtain an extraction license shall submit a non-refundable extraction license fee as set in the fee schedule. A successful applicant will be required to pay the fair market value of the extracted materials as determined by the assembly, based on recommendations from the mayor or designee. An extraction license is exclusive, not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.
- D. Applications for extraction license shall include:
1. A written detailed hydrogeological study that evaluates surface and groundwater relationships, potential impacts, and to design effective mitigation alternatives. Data collection should be accomplished under the supervision of a qualified professional engineer, hydrogeologist, or hydrologist and follow a written sampling plan approved by ADEC.
 2. Includes a plan detailing Best Management Practices (BMP) to be implemented in accordance with the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock Aggregate. The plan will identify all permanent structural and non-structural MBPs selected and incorporated into the project design to eliminate or reduce pollutant discharges to storm water, and/or receiving waters to the maximum extent practicable.
 3. Setbacks: Required according to ADEC BMP Proximity mapping
 4. Water Quality: water and groundwater flow, surface water and groundwater temperature, turbidity, pH, specific conductance, and likely contaminants
 5. Air Quality: Monitor Air Quality to meet Alaska and National Ambient Air Quality standards. 18 AAC 50.110 Particulate levels shall not exceed the National Ambient Air Quality Standards (NAAQS)
 6. No processing excavation or heavy vehicular operation shall be permitted between 8:00 p.m. and 8:00 a.m. if site is within 1000 feet of residential dwelling(s).
 7. Noise levels shall not exceed the Department of Environmental Quality standards.
 8. The site shall be sufficiently secure so that local residents are not endangered.
 9. If the development abuts residential or commercial property or there is a residence within 1000 feet of the development's property lines, buffering and screening will be provided as prescribed by ADEC BMP.
- E. The assembly may waive the license fee and the fee for fair market value of the material used by a nonprofit organization or public agency for a public purpose.
- F. Prior to approving the permit, the mayor or designee shall publish notice of the proposed license for extraction of borough natural resources to be publicized per

DBC 4.01.030. The notice will include a description of the proposed use and allow for public comment.

- G. If the assembly, mayor or designee receives any adverse public comment to the proposed license for extraction, before issuing the permit, the mayor or designee shall hold a public hearing on the proposed use. A decision by the planning commission on an application for a resource development permit shall be based on a development agreement between the Mayor or designee and the applicant including detail of how excavation and mining will occur, and how all requirements shall be met. If the mayor or designee finds that a developer holding a development permit issued under this division is removing material from the ground contrary to the conditions set out in the development agreement, the permit may be revoked under notice and hearing as per these sections.

4.11.030 Temporary use permit

- A. Temporary use permits provide for non-extractive use of borough property for a timeframe of one year or less. Temporary use permits do not allow permanent structures or improvements, and allow only minimal disturbance to the property. Unless otherwise agreed to in writing, the real property will be restored to its original condition upon expiration or revocation of the permit. This may be retroactive if caused by the same authorized user.
- B. The mayor or designee is responsible for decisions on temporary use permits, including setting borough-wide and/or site specific conditions. Approval must be consistent with a parcel's management plan.
- C. With planning commission review and assembly approval, a temporary use permit may be granted for a period of up to five years. A temporary use permit does not convey any other interest in the property, is exclusive and not transferrable
- D. An applicant who wishes to obtain a temporary use permit shall submit a non-refundable application fee as set in the borough fee schedule. A successful applicant will be issued a permit detailing conditions and fees for the permitted activity.
- E. The planning commission may reduce or waive permit fees for a non-profit organization or public agency for a public purpose.

4.11.050 Commercial use permit

- A. Commercial use permit provides for commercial activity that occur on borough land or traverse borough land. A commercial use permit does not convey any other interest in the property, is exclusive and not transferrable.

- B. The planning commission is responsible for decisions on commercial use permits of one year or less. Approval must be consistent with a parcel's management plan.
- C. With planning commission review and assembly approval, a commercial use permit may be granted for a period of up to five years.
- D. An applicant who wishes to obtain a commercial use permit shall submit a non-refundable application fee as set in the borough fee schedule. Commercial use permits may be subject to additional fees as specified in the borough fee schedule.
- E. In accordance with DBC 4.01.080, where the activity may alter the land surface, the borough may require a bond or damage deposit in order to ensure proper restoration after use of the land is no longer needed. The bond amount shall depend on the type of activity. The user's liability will be released and the land use authorization processed for closure only after the land has been restored or left in a condition suitable to the borough. This may be retroactive if damage has been caused by the same user.
- F. Persons holding a land use authorization shall be required to indemnify, save harmless and defend the borough, assembly members, officers, 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 or omission arising from the persons use, occupancy or the performance under the authorization.
- G. The mayor or designee shall cause notice of a proposed commercial use per DBC 04.01.030. The notice shall include a description of the proposed commercial use, the borough land where the activity is proposed and the terms of the permit. The planning commission may hold a public hearing on the proposed commercial use prior to issuing the permit.
- H. A successful applicant will be issued a permit detailing specific terms, conditions, forms of issuance and a description of the applicable fees for the permitted activity. Each permit will specify road, trail, land, natural habitat, and environmental protection conditions.
- I. The mayor or designee may revoke a permit, for cause, if the permit holder fails to comply with the the terms and conditions of the permit, including road, trail, land, natural habitat, and environmental protection conditions.

4.11.060 Conditions for use of resources on borough land, by permit or license

- A. The mayor or designee shall establish borough-wide and/or site specific conditions to guide resource use activities allowed by permit or license. Condition topics include, but are not limited to:
 - 1. Excavation and reclamation standards, slope standards
 - 2. Water quality protection
 - 3. Traffic impacts

4. Safety including fencing and signage
 5. Visual screening
 6. Hours of operation
- B. If the appropriate approval body determines a permit or license may cause damage to the borough land, the mayor or designee shall require the applicant to post a bond with the borough to ensure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The mayor or designee shall not release the bond until the licensee has complied with all conditions of the license.
- C. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.
- D. The mayor or designee may, for cause, revoke a permit or license:
1. Extraction Licenses -The mayor or designee shall give notice of the potential cause of the revocation and give the licensee reasonable amount of time, but not more than 60 days, to correct the problem. If the problem is not corrected and a permit or license has to be revoked, the licensee, within 45 days, shall restore the land to reasonably the same condition it was in at the time the permit or license was executed.
 2. Permits - The mayor or designee may, for cause and without notice, immediately revoke a permit. The user of borough real property whose permit has been revoked shall, within the time specified in the permit, and if no time is specified, within seven days of the revocation of the permit, remove from the borough real property any temporary improvements placed on the borough real property pursuant to the permit. Any improvements not removed shall become the property of the borough or disposed of by the borough at the owner's expense.
- E. Nothing in this chapter grants a holder of a permit or license exemption from any tax burden associated with the removal of resources from Denali Borough lands.
- F. A holder of a permit or license assumes full responsibility for any damages to equipment either during use or if left unattended on borough property before, during or after the terms of the extraction license; including, but not limited to, loss, theft and vandalism.
- G. The Denali Borough assumes no responsibility for hazardous use, accident, injury, or death incurred during any borough land use activity.

4.11.070 Easements and rights of way

- A. Depending on scale and impact, as specified below, the mayor/designee or the assembly may negotiate the dedication of rights-of-way or easements for roads, driveways, pipelines, electric transmission, telecommunication transmission, trails, pathways, or similar utilities

1. Actions of borough wide significance: rights-of-way and easements of borough wide significance, for example, those that extend across an extensive portion of borough land, must receive approval by assembly ordinance and an associated best interest finding.
 2. Actions of local significance: Rights or way or easements which only serve a limited area, are relatively short in length (approximately 1000 feet or less), and have minimal environmental impact, can be approved by the planning commission, with a recommendation from the mayor or designee.
- B. Within 45 calendar days of acceptance of a completed application for locally significant easement or right-of-way, or 90 days for borough wide significant actions, the planning commission or assembly shall approve, reject, or notify the applicant of the discovery of additional requirements of the proposed easement or right-of-way.

Chapter 4.15

DISPOSAL, LEASES AND EXCHANGE OF BOROUGH REAL PROPERTY GENERAL PROVISIONS

Sections:

- 4.15.005 Definitions.
- 4.15.010 General policy
- 4.15.020 Authority to dispose, lease or exchange borough real property
- 4.15.030 Conformity with classification and borough-approved plans
- 4.15.040 Procedures for nominations, review and approvals
- 4.15.050 Appraisal and market value
- 4.15.060 Requirements for sale
- 4.15.070 Qualifications of applicants, bidders, proposers
- 4.15.080 Assembly ordinance authorizing sales, leases or exchanges

4.15.005 Definitions

4.15.010 General Policy

The borough shall provide for land disposal, leases and exchanges, considering the following:

1. Goals presented in the borough comprehensive plan and section 4.01.010
2. The preponderance of public land and the limited supply of private land in the borough
3. Evidence of local demand and the capacity of the private real estate market to meet that demand
4. A priority on land for year round residential use and for beneficial industrial or commercial developments
5. The general intent to generate revenue to support borough services, by offering land at fair market value, except in the limited situations provided by DBC 4.05.020 (H) and 4.15.050 (C).

4.15.020 Authority to dispose, lease or exchange borough real property

- A. The mayor or designee may dispose, lease, or exchange borough land where authorized by the assembly by ordinance.
- B. Decisions on disposals, leases and/or exchanges of borough real property are subject to review by the planning commission before submission to the borough assembly. Planning commission review shall be limited to the properties' suitability for the intended purpose and consistency with surrounding land use(s) and management plans which include classification. The planning commission, by

resolution, shall make a recommendation to the borough assembly regarding the proposed land disposal.

4.15.030 Conformity with classification and borough-approved plans

The borough may dispose, lease or exchange municipal property when the affected land has received a management plan including land classification under the policies of this title and the proposed action is consistent with the borough comprehensive plan, and any other applicable land use plans.

4.15.040 Procedures for nominations, review and approvals

- A. The borough mayor or designee, the assembly, the planning commission, or the public may nominate real property for sale, lease or exchange, as outlined below:
 - 1. Land disposal nominations from the borough mayor or designee, planning commission, or assembly are incorporated into the annual work plan (DBC 4.10.020).
 - 2. The public may recommend disposals, leases or exchanges to the borough mayor or designee for inclusion in the annual work plan. Nominations from the public shall be submitted to the mayor or designee in a standardized format established for that purpose and may include a processing fee according to the assembly approved fee schedule.
 - 3. The borough entities referenced above may also recommend disposals outside the timeframe of the annual work plan.
- B. Once properties are nominated for disposal, lease or exchange, the process below shall be followed.
 - 1. The mayor or designee prepares the information below for each specific recommended disposal, lease or exchange action:
 - rationale, link to the management plan (where applicable)
 - initial best interest finding
 - intended form and terms of offering
 - physical form of sale or lease – e.g., intended use, general number and size of lots, access, design standards
 - controls on post-disposal/post exchange uses
 - for leases, objectives for operations plan
 - 2. Public notice is issued, as specified in DBC 04.01.030. A public meeting is held in a location proximate to the proposed action.
 - 3. The mayor or designee presents a package to the planning commission for review, including a recommended action. The planning commission reviews these findings and takes public testimony as part of a regularly scheduled meeting. The planning commission presents a recommendation for consideration by the assembly.

4. The assembly, by ordinance, approves any specific disposal, lease or exchange, providing sufficient direction to allow the mayor or designee to move forward with specific actions.
5. The mayor or designee carries out disposal, lease or exchange process as authorized by the assembly. Final terms and conveyance of agreements or contracts are governed by the remaining sections of this Title.

4.15.050 Appraisal and market value

- A. All lands shall be sold or leased at fair market value or fair market rental value as determined by appraisal, except as allowed by C below.
- B. Parcels to be sold, leased or exchanged must have a current appraisal performed by an Alaska State certified, Alaska chapter, Member of the Appraisal Institute (MAI) appraiser.
- C. The borough may provide for less than fair market land sales and leases in two circumstances:
 1. to established non-profit corporations and organizations when doing so would provide a public benefit and be in the best interest of the borough. The assembly may authorize the mayor or designee to sell or lease land for less than fair market value if the ordinance authorizing the action contains:
 - A finding that the sale for less than fair market value is in the best interests of the borough;
 - A statement of the facts on which the finding is based
 - The period of time during which the offer may be accepted.
 2. The borough may lease (but not sell) borough land at less than fair market value where, pursuant to the lease operating plan, a commercial or industrial facility or use will be established or maintained on the leased land, but only if the assembly first finds:
 - That without the rent reduction, development of the use or facility will not be financially feasible and will not be located or maintained within the borough;
 - The operation will confer a net economic benefit to the borough or to the citizens of the borough.
 - The below market lease rate shall not extend for up to more than 10 years. A lease entered into pursuant to this subsection may be renewed only for a fair market rental value.
 - A lease providing for below a fair market value shall provide for an immediate rent adjustment to fair market value if the specified use or facility is not established within a time specified in the lease and if the specified use or facility is not continuously maintained except for such periods as are set forth in the lease.

3. The borough may sell land determined to be unusable or inaccessible to an adjacent land owner through a direct sale as long as the land is left in permanent amenity status.

4.15.060 Requirements for sale

Borough real property (except natural resources) must be surveyed, platted and made to comply with other subdivision processes by the borough prior to sale or lease. The cost to the borough of surveying, platting and complying with other subdivision processes shall be included in the sale or rental price of the property. In the case of subdivisions, the costs may be prorated or shared equally among all the properties within the subdivision.

4.15.070 Qualifications of applicants, bidders, proposers

- A. A bidder at auction, or an applicant to otherwise purchase, exchange, lease, respond to a proposal, enter into a management agreement, or use of borough real property must be:
 1. A legally competent person under the laws of the state of Alaska;
 2. At least 18 years' old
 3. A group, association, or corporation authorized to conduct business under the laws of Alaska; or
 4. a person acting as agent for another person qualified under subsection (1) or (2) and has provided evidence of this status acceptable to the borough mayor or his designee, for example by filing with the borough a power of attorney or letter of authorization.
- B. In addition to subsection (A) of this section, a person is not qualified if:
 1. The person has failed to pay a deposit or payment, payable to the borough in relation to borough real property in the previous five years; or
 2. The person is currently in breach or default on any contract or lease for real property transactions in which the borough has an interest; or
 3. The borough mayor or his designee has documented in writing that the person is unlikely to make payment or responsibly perform under the lease or other contract.

4.15.080 Assembly ordinance authorizing sales, leases or exchanges

The assembly shall by ordinance fix the general terms of all sales, leases or exchanges of borough land. The ordinance shall contain:

1. the approximate date and the method or methods of the sale or lease
2. for sales or leases, the manner in which payment is to be made, the interest to be conveyed, the instrument of conveyance to be used, and any other terms the assembly deems necessary to provide the mayor or designee sufficient general direction to proceed with the sale or lease.

Chapter 4.16

DISPOSAL OF BOROUGH REAL PROPERTY

- 4.16.005** **Definitions**
- 4.16.010** **Terms for land disposals**
- 4.16.020** **Different methods for land disposal**
- 4.16.030** **Public auction outcry sale**
- 4.16.040** **Sealed bid public auction sale**
- 4.16.050** **Lottery sale**
- 4.16.060** **Over-the-counter sale**
- 4.16.070** **Direct sale**
- 4.16.080** **Negotiated sale**
- 4.16.090** **Land conveyance and future uses of conveyed lands**
- 4.16.100** **Conveyance for public purpose**

4.16.005 **Definitions**

4.16.010 **Terms for land disposals**

- A. The assembly may authorize payment to be made through either an upfront, full payment, or financed over time. The latter approach requires the following:
 - 1. The down payment, payment schedule and rates of interest shall be set in the assembly ordinance.
 - 2. For disposals, the period for total payment does not exceed 10 years, or 20 years if the land is sold for agricultural use.
 - 3. For a sale of land with a value of more than \$5,000, the prospective purchaser shall pay to the borough not less than 10 percent of the minimum appraised value at the time of the sale or bid opening.
- B. The sale of land with a value of \$5,000 or less shall be paid at the time of the sale or bid opening by certified check or money order by the prospective purchaser.
- C. Some methods of disposal may require a bid deposit upon submitting a request or bid to purchase. Any bid deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the sale or bid opening.
- D. Some methods of disposal may require an application fee upon request or application to purchase. Application fees to participate in a sale process shall not be refunded.
- E. If the assembly requires a prospective buyer to pay the borough a down payment, bond or other deposit, and if the prospective buyer breaches a term of the sale, damages will be assessed. The borough shall retain as liquidated damages the prospective buyer's down payment, bond or other deposit.

- F. The assembly may by ordinance impose additional limits on the number of parcels a person may buy at any sale.

4.16.020 Different methods for land disposal

The borough may dispose of borough land by any of the following methods:

1. Public auction outcry sale
2. Sealed bid public auction sale
3. Lottery Sale
4. Over the counter sale
5. Direct sale
6. Negotiated sale

4.16.030 Public auction outcry sale

The assembly may by ordinance authorize the mayor or designee to sell borough land by public auction outcry. The mayor or designee shall sell the land to the highest bidder who performs all the terms of the sale. The mayor or designee will promulgate rules and regulations for conducting this type of auction sale. These rules must be approved by the assembly.

4.16.040 Sealed bid public auction sale

The assembly may by ordinance authorize the mayor or designee to sell borough land by sealed bid public auction. The mayor or designee shall sell the land to the highest bidder who performs all the terms of the sale. The mayor or designee will promulgate rules and regulations for conducting this type of auction sale. These rules must be approved by the assembly.

4.16.050 Lottery sale

The assembly may by ordinance authorize the mayor or designee to sell borough land by the use of a lottery. A single individual, business, corporation or other eligible entity may purchase by lottery only one parcel of borough land every three years. In order to ensure the fair and equitable disposal of borough land to the public, the assembly may by ordinance impose additional limits on the number of parcels an eligible entity may buy from lottery sales. The mayor or designee may promulgate rules and regulations for conducting a lottery. These rules must be approved by the assembly.

4.16.060 Over-the-counter sale

- A. The assembly may by ordinance authorize the mayor or designee to sell borough land by the use of over-the-counter sales if the land was offered for sale at an auction or lottery and the land did not sell at the auction or lottery. Land offered over the counter for sale may be purchased on a first-come, first-served basis at the borough office. The mayor or designee may promulgate rules and regulations

for conducting an over-the-counter sale. These rules must be approved by the assembly.

- B. The mayor or designee shall periodically review the terms of sale of all land offered for sale over the counter and shall:
 - 1. Adjust rates on interest to reflect the prevailing market conditions; provided, the rate of interest shall not be more than six percentage points above the prevailing Federal Reserve discount rate to member banks.
 - 2. Adjustments in the price of any lot offered in the over-the-counter sale shall be made by the assembly. Price adjustments may be made under the guidance of an independent fee appraiser.
- C. Lots unsold at a sale may also be offered for sale at future land sales.
- D. Defaulted parcels may be offered for resale over the counter and/or at future land sales.

4.16.070 Direct sale

The assembly may by ordinance authorize the mayor or designee to sell borough land directly to the landowner adjoining the borough land if:

- 1. The land has no legal or physical access and the cost of developing access would be greater than the resulting value of the parcel with access; or
- 2. The cost of surveying, platting, or taking other action necessary to establish an acceptable legal description would exceed the value of the property; or
- 3. The land is of such a size or shape as to be illegal or unfeasible to develop as an independent parcel under the applicable land use ordinance; or
- 4. The land is found not suitable for development and is placed in permanent conservation status.

4.16.080 Negotiated sale

The assembly may by ordinance authorize the mayor or designee to sell borough land directly to an interested, eligible party under rare, specific circumstances:

- 1. Land will be sold at fair market value, and
- 2. The use of the proposed sale would lead to a specific use that provides a broad public benefit, beyond the specific benefits to the applicant, and the particular parcel provides an otherwise difficult to achieve option to provide this public benefit, or.
- 3. The sale meets the broad goals for land disposal specified in this Title and the specific terms of the proposed sale do not fit well into the other methods outlined in this chapter, e.g., forms of non-traditional payments.

4.16.090 Land conveyance and future uses of conveyed lands

- A. After the buyer has paid to the borough the payments required by ordinance, the mayor or designee shall execute the instrument of conveyance authorized by ordinance that transfers the land or the interest in land to the buyer.
- B. An instrument conveying land may contain controls on future land uses, for example deed restrictions, that set specific, borough-enforceable rules approved by the assembly that:
 - 1. Define allowed and prohibited use
 - 2. Prohibit subdivision and/or set maximum residential densities
 - 3. Establish dimensional requirements, such as building setbacks or maximum building heights
 - 4. Establish other use controls necessary to comply with the goals for the disposal established in the management plan or other adopted borough land use policy

4.16.100 Conveyance for public purpose

The transfer of borough land or resources may be made to a state or federal agency, or municipality within the borough, for public purposes if:

- A. Approved by the borough assembly; and
- B. The mayor or his designee ensures, by regulation, deed restriction, covenant, or otherwise, that transfers of land under this section serve a public purpose and are in the public interest; and
- C. The borough retains a reversionary interest if the land is not used for the public purpose that was approved by the borough assembly on each conveyance or other land use authorization made under this section.

Chapter 4.17

LEASING OF BOROUGH REAL PROPERTY

Sections:

4.17.005	Definitions
4.17.010	Procedures
4.17.020	Types of leases
4.17.021	Grazing lease
4.17.022	Agricultural lease
4.17.023	Short term lease
4.17.024	Long term lease
4.17.030	Processing fee
4.17.040	Qualifications of applicants or bidders
4.17.050	Plan of operations
4.17.060	Competitive bids
4.17.070	Term of lease
4.17.080	Current appraisal
4.17.090	Right of renewal
4.17.100	Lease rate
4.17.110	Land survey
4.17.120	Attachment of special conditions
4.17.130	Termination of lease
4.17.140	Easements on leased land

4.17.005 Definitions

- A. Agriculture - means the tilling of the soil, the raising of crops, dairying, or animal husbandry.
- B. Grazing – means the use of land for the sustenance and growth of domestic livestock, for example, horses or cattle; primarily relying on native vegetation.

Note to reviewers – the borough may want to develop policies on marijuana cultivation, manufacturing, sales and testing, as these activities may be proposed on borough lands. Preparing such a code is outside the scope of this current project, but for reference, two definitions, from the Anchorage draft code, are shown below.

- C. Marijuana Cultivation Facility - A facility that cultivates and harvests marijuana for transfer or sale to a marijuana manufacturing facility, a marijuana testing facility, or a marijuana retail sales establishment.
- D. Marijuana Manufacturing Facility - A facility that receives harvested marijuana from a cultivation facility and extracts, processes, and/or manufactures marijuana

products for transfer or sale to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana retail sales establishment.

4.17.010 Procedures

The mayor or designee is authorized to lease land, as authorized by assembly ordinance and associated best interest finding, consistent with policies in this title.

4.17.020 Types of leases

Land can be leased in response to a borough solicitation for public interest, as initiated through the annual work plan, or in response to a request for a lease from an individual, business or organization. There are four main categories of leases; grazing, agricultural, short term, and long term.

4.17.021 Grazing lease

Where lands are suitable, and public interest exists, the borough assembly may authorize by ordinance the leasing of land for grazing. The fair market value of leases shall be set to reflect the value of the land when limited to these specific purposes, that is, generally lower than if the land was available for commercial, industrial or residential use.

4.17.022 Agricultural lease

Where lands are suitable, and public interest exists, the borough assembly may authorize by ordinance the leasing of land for agriculture use. The fair market value of leases shall be set to reflect the value of the land when limited to these specific purposes, that is, generally lower than if the land was available for commercial, industrial or residential use.

4.17.023 Short term lease

Where lands are suitable, and public interest exists, the borough assembly may authorize by ordinance the leasing of land for short term use. Short term is defined as 5-years or less.

4.17.024 Long term lease

Where lands are suitable, and public interest exists, the borough assembly may authorize by ordinance the leasing of land for long term use. Long term is defined as up to 35-years.

4.17.030 Processing fee

Applicants wishing to lease borough property must complete an application and submit a nonrefundable processing fee, as specified in the borough's fee schedule.

4.17.040 Qualifications of applicants or bidders

- A. Qualified applicants or bidders must comply with the same standards presented in 4.15.070
- B. Under certain circumstances, the borough may require a sole proprietor, partnership, corporation or other entity to provide a credit application. All financial information supplied to the Denali Borough will be stamped Confidential and will not be released for public scrutiny under applicable Public Records statutes.

4.17.050 Plan of operations

- A. The lease applicant shall submit to the borough for review and approval a plan of operations as specified below. The lessee's plan of operations must be consistent with the broad goals of this title, the land's management plan, any other applicable land use plans, and provisions of borough code.
- B. The plan of operations shall include, at a minimum:
 - 1. Detailed description of the intended use of the land
 - 2. Desired lease length
 - 3. Timetable for development
 - 4. Planned structures and fuel storage facilities accompanied by a scale drawing
 - 5. Estimated value of the improvements
 - 6. Delineated access, water, and power sources
 - 7. Intended solid waste and wastewater disposal methods,
 - 8. If a non-exclusive lease, identify location points of passage for the general public
 - 9. Detailed description of how improvements will be removed at the end of the lease.
- C. Once approved the lessee must comply with all terms of the operations plan. Proposed modifications to the plan require submittal and approval of a request for plan amendment. Minor changes in the operations plan can be approved by the mayor or designee. Minor changes are defined as those that do not notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses. If changes are made without approval of the mayor or designee, the mayor or designee may require the changes to be reversed at the lessee's expense.

4.17.060 Competitive bids

The borough may provide for competitive bidding to lease borough land that is classified and intended for commercial or industrial use within the approved land management plan. The competitive bidding shall be conducted in accordance with requirements established by the Assembly.

4.17.070 Term of lease

The term of the lease shall be based on the type of lease, the nature of the improvements to be made by the lessee and shall generally be long enough to allow for amortization of improvements made by the lessee.

1. Leases shall have a maximum term of 35 years with a one-time option for renewal.
2. A lease for a term in excess of 10 years shall be recorded at the state recorder's office.
3. Lessee will provide 90 days' notice of a request to renew a lease.

4.17.080 Current appraisal.

Parcels to be leased must have a current appraisal performed by an Alaska State certified, Alaska chapter, Member of the Appraisal Institute (MAI) appraiser.

4.17.090 Right of renewal

The borough may grant the lessee a right of renewal upon the expiration of the initial term; provided, that the renewal, or any extension of the lease, shall be treated as a new lease and shall be subject to all provisions of this code then in effect, and that the lessee has complied with the approved operations plan.

4.17.100 Lease Rate

- A. The annual lease rate for a leases shall be established as the fair market value at the time the lease contract is approved, as determined by a qualified appraiser (see .14.080) unless otherwise authorized by ordinance. If an existing appraisal less than two-years old, a letter of opinion may be used.
- B. Every five years the borough will review leases and adjustments will be determined by adding the increase or decrease rate of the consumer price index (CPI) based on the annual month of March adjustment for the Anchorage metropolitan area market. The amount of the adjustment will be conveyed to the lessee by the lessor by June 1st of each year and the adjusted payment will start beginning with the following July lease payment.
- C. The appraised value or the adjusted value shall not include any improvements the lessee has made. Cost for the appraisal will be the responsibility of the proposed lessee at the lessee's own expense.

4.17.110 Land survey

The mayor or designee may require, for noncompetitively bid lands, a proposed lessee to cause the borough land to be surveyed at the proposed lessee's own expense.

4.17.120 Attachment of special conditions

The assembly, mayor or designee may attach special conditions to a lease in order to reduce risk to the borough, mitigate public concerns, or other purposes.

4.17.130 Termination of lease

When the lease terminates, the lessee shall remove all improvements made pursuant to the plan of operations except those improvements that the lease specifies shall become the property of the borough, and the lessee shall restore the land to reasonably the same condition it was in at the time the lease was executed or, if stipulated, to the condition specified in the lease agreement. Improvements that are not removed by the lessee at the expiration of the lease shall be remove at the lessee's expense.

4.17.140 Easements on leased land

Every lease of municipal land shall provide that the municipality retains the right to designate or grant rights-of-way or utility easements across the leased premises without compensation; provided, that the lessee shall be compensated for the taking or destruction of any improvements and provided further, that the lessee at their option may request to terminate the lease and/or a rental adjustment to reflect any reduction in value of the leased premises.

Chapter 4.18

EXCHANGE OF BOROUGH REAL PROPERTY

- 4.18.005** **Definitions**
- 4.18.010** **Purpose**
- 4.18.020** **Value of real property exchanged**
- 4.18.030** **Execution of exchange**

4.16.005 **Definitions**

4.18.010 **Purpose**

Subject to the requirements of this title, the assembly, by ordinance, can authorize the exchange of borough real property. Exchanges shall be for the purpose of consolidating land holdings, creating land ownership and use patterns which will permit more effective management, facilitating the objectives of borough programs, or other public purposes.

4.18.020 **Value of real property exchanged**

- A. The borough may accept in exchange for borough land any consideration of sufficient value not prohibited by law. Decisions on land exchanges are “major land use decisions”, as specified in 4.01.015, and the assembly shall review and approve or reject offers for exchange of municipal land, following the same procedures as specified for land disposals, including the requirement for a best interest finding.
- B. As is the case with disposals, exchanges shall provide for equal value, except where the assembly prepares an explicit, written finding that borough and public interests, and the goals expressed in 4.01.010, are best met through an exchange at less than equal value.

4.18.030 **Execution of exchange**

The borough must first, or simultaneously, receive the title conveyance for the real property the borough is to receive before the borough can convey the title to the real property the borough is to release through this exchange.

Appendix - Classification Guidelines

The material on the following page is not intended to be included in code, but would be part of a “policy and procedure” manual created by the borough land management department. This manual could provide guidance to the mayor, planning commission, assembly and general public when determining the appropriate classification for a parcel.

Notes:

- 1. Small, single use, stand-alone parcels, where the intended use is clear, generally do not require management plans*
- 2. Management plans may result in a general objective to use an area for land disposal, and classify the area accordingly. As more detailed site planning takes place, the initial classification will need to be refined, to clarify specific areas for sales, and other areas for retention in borough ownership. For example, the initial management plan could classify a large tract for settlement. When a detailed disposal plan is created, a portion of this land would be sold, and other portions re-classified as open space surrounding the sales areas.*

Classification	Where Appropriate	Timeframe	Management Plan Required
<p>Agriculture & Forestry Amenity Value Commercial Extraction Industrial Public Facilities Recreation Retention Settlement</p>	<p>For relatively small, accessible individual borough parcels or a set of such parcels (e.g., < 640 acres in size), where preferred uses are currently established, or where the general intent for future use can be determined with information on hand</p>	<p>Borough lands available for use today, due to current accessibility and opportunities for near term use. Drivers for such near term uses include specific public objectives (e.g., a public facility) or private sector interest (e.g., a request for sale, lease or permit).</p>	<p>Requires formal assembly review and approval process for specific proposed uses or projects: This level of approval is required for disposals (sales or lease), or for activities resulting in substantial, enduring changes in the character of the landscape (e.g., a commercial gravel operation)</p>
<p>Land Bank</p>	<p>For larger parcels (e.g., > 1 section/640 acres), with decent access, where the intention is for a mix of disposals and retention, but where work is required, using a management planning process, to determine the appropriate mix, character and location of uses</p>	<p>Borough lands that are priorities for near to mid-term decision making through a management planning process, to set the stage for subsequent implementation in a 1-5year timeframe</p>	<p>Management plan required to assess site characteristics and current and possible uses, and based on this information, establish preferred uses. Results set stage for more specific classifications & approvals described in the row above.</p>

Multiple Use Reserve

For small or larger parcels, with limited or no road access, where there is little current pressure for use and where preferred future uses are not yet clear

Borough lands where developed uses are not likely for 5, 10, or more years into the future

Management Plan: for larger parcels
Formal Assembly review and approval process for specific proposed uses or projects: for single small parcels

Section 3. Effective Date. This ordinance becomes effective upon adoption of the Denali Borough Assembly and signature of the Denali Borough Mayor.

DATE INTRODUCED: JULY 13, 2016
FIRST READING: JULY 13, 2016
PUBLIC HEARING: AUGUST 10, 2016

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this ____ day of _____, 2016.

Mayor Clay Walker

ATTEST: _____
Gail Pieknik, Borough Clerk

DENALI BOROUGH, ALASKA
ORDINANCE NO. 16-12
VERSION B

INTRODUCED BY: Mayor Clay Walker

AN ORDINANCE AMENDING DENALI BOROUGH CODE OF ORDINANCES TITLE 4,
REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

BE IT ENACTED by the Assembly of the Denali Borough, Alaska that:

Section 1 Classification. This ordinance is of a general and permanent nature.

Section 2 Purpose. The purpose of this ordinance is to amend in its entirety Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal as follows:

Title 4

REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

Chapters:

- 4.01 General Provisions.**
- 4.05 Real Property Acquisition.**
- 4.10 Management of Borough Real Property.**
- 4.11 Borough Land Permits, Licenses, Easements and Rights of Way.**
- ~~**[4.15 Disposal, Leases and Exchange of Borough Real Property – General Provisions.]**~~
- 4.16 Disposal of Borough Real Property.**
- 4.17 Leasing of Borough Real Property.**
- 4.18 Exchange of Borough Real Property.**

Chapter 4.01

GENERAL PROVISIONS

Sections:

- 4.01.005 Definitions.
- 4.01.010 Goals for borough real property.
- 4.01.015 Authority for management of borough **real** property.
- 4.01.018 The land management fund.
- 4.01.020 Procedural requirements for major land use decisions.
- 4.01.021 Process for [**land use**] **real property** actions other than major decisions.
- 4.01.025 Inventory and record keeping.
- 4.01.030 Public notice.
- 4.01.040 Generally allowed uses of borough real property.
- 4.01.050 Buffers & development setbacks.
- 4.01.060 Fees.
- 4.01.070 Best interest finding.
- 4.01.080 Bonding, indemnification, insurance.
- 4.01.090 [~~4.15.040~~] Procedures for nominations, review and approvals.
- 4.01.100 [~~4.15.050~~] Appraisal and **fair** market value.

4.01.005 Definitions.

- A. ~~“Borough land” physical surface of the earth, including the right to minerals underneath and airspace over it, under the ownership of the Denali Borough.~~ lands owned by the Denali Borough or under its management authority.
- B. “Denali Borough Code” code of ordinances adopted by the Denali Borough assembly, abbreviated DBC.
- C. Major land use decisions – decisions with lasting and significant impacts on the use of borough land (see specific list in DBC 4.01.015(A)).
- D. “Management authority” State of Alaska lands that are patent pending and in transition to Denali Borough ownership. land approved for conveyance to the borough by the State of Alaska prior to patent being issued.
- E. [~~“Permanent or intermittent waterbodies” these terms are used to distinguish waterbodies meriting development setbacks as specified in DBC 4.01.050, from less environmentally significant, ephemeral water bodies. A perennial stream or river has continuous flow in parts of its stream bed all year round during years of normal rainfall. “Perennial” streams are contrasted with “intermittent” streams which normally cease flowing for weeks or months each~~]

~~year, and with "ephemeral" channels that flow only for hours or days following rainfall. This same conceptual distinction applies for wetlands.]~~

- E. "Real property" "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.

4.01.010 Goals for borough real property.

Goals for the use of borough real property are the management, disposal, or acquisition of new borough lands for the purpose of enhancing the economy, protecting the quality of the borough's natural environment, generating revenue, and providing opportunities for citizens to make a life in the borough, while ensuring that the public shall be provided a full and fair opportunity to be involved in major land use decisions.

~~[Manage, dispose and/or acquire new borough lands, to achieve the following:~~

- ~~A. Economy—enhance the sustainable health and diversity of the local economy, and support opportunities for borough residents to seek economic security.~~
- ~~B. Environment—protect the health and quality of the borough's natural environment and unique natural setting, considering individual borough properties as well as adjoining lands.~~
- ~~C. Fiscal Health—generate revenue, for example, through sales, leases or permit fees, to help support public services and facilities needed by borough residents and businesses, including exceptional educational opportunities.~~
- ~~D. Growth—provide more opportunities for people to make a life in the borough, in particular to provide more chances for young people/young families to own land for homes.~~
- ~~E. Quality of Life—support the range of characteristics that make the borough a good place to live, including access to public lands and clean waters, efficient and adequate public facilities, the right to be free from interference in chosen lifestyles, and the right to live in a clean, safe, and orderly environment.~~
- ~~F. Public Trust—recognize that borough properties are held by the public for the public benefit, and that as a result, the public shall be provided a full and fair opportunity to be involved in important decisions regarding the use of or acquisition of such lands.]~~

4.01.015 Authority for management of borough real property.

- A. The assembly is the managing authority for ~~[of]~~ borough real property ~~[lands]~~ and the decision-making body on the following major land use decisions related to borough real property~~[land]~~:
1. Management plans including classification and re-classification.
 2. Revisions and/or expansions to DBC Title 4 ~~[the land management code]~~
 3. Sale and leases of borough ~~[land]~~ real property.
 4. Land exchanges involving borough ~~[land]~~ real property.

5. Resource extraction licenses and long term, large scale, land encumbrances (e.g., natural gas pipeline right of way).
 6. Appeals of decisions of administrative staff or planning commission acting as the board of review per DBC 5.20.120.
- B. The managing authority shall manage all borough [~~land~~] real property in accordance with this title and adopted management policies and goals.
- C. As part of the annual work plan described in DBC 4.10.020, the assembly shall review borough [~~lands~~] real property proposed to be offered for sale or lease and at that time may also give general approval for planned disposals, and other options for disposals as outlined in DBC [~~4.15,~~] 4.16, 4.17, and 4.18.
- D. The planning commission will review and make recommendations to the assembly on major land use decisions, including the following:
1. Management plans including classification and re-classification.
 2. Revisions and/or expansions to DBC Title 4. [~~the land management code~~]
 3. Sale and leases of borough [~~land~~] real property.
 4. Land exchanges involving borough [~~land~~] real property.
 5. Resource extraction licenses (e.g., for commercial gravel extraction), and long term, large scale, land encumbrances (e.g., natural gas pipeline right of way).
 - ~~6. [Appeals of administrative staff decisions regarding easements, resource-extraction permits]~~
 6. Annual work plan for borough [~~lands~~] real property.
- E. The planning commission is responsible for decisions on commercial use permits and smaller scale, local easements and rights-of-way.
- F. The mayor or designee is authorized to grant approval of the following actions related to borough [~~land~~] real property, working within the framework of assembly-approved management plans:
1. Resource extraction permits, including sales of sand or gravel not to exceed a maximum of 500 cubic yards per year
 2. Temporary use permits.

4.01.018 The land management fund.

- A. The land management fund is established. The land management fund is the operating fund for all activities that concern the acquisition of real property, management, development, sale or administration of borough [~~land~~] real property. Revenue derived from the sale, lease or use of borough real property, and from the sale of gravel or other resources taken or extracted from borough property, shall be deposited in the land management fund. Money may be appropriated from the land management fund only for acquisition of real property, management, development, sale or administration of borough real property, or other purposes approved by the assembly.

1. A portion of the land management fund account may be appropriated annually for management of borough real property, to fulfill the purpose and mission of the fund as stated in this chapter. The assembly shall be responsible for establishing the annual operating budget.
 2. There is established a subaccount of the land management fund to be known as the land management capital fund. In addition to the use of the fund for the land management operating budget as provided in this section, revenue in the land management fund may be appropriated by the assembly to the land management capital fund only for the acquisition of real property for municipal use, and for improvements to borough real property. The planning commission shall receive at least thirty-days (30) prior notice of any proposed assembly action regarding any proposed appropriations from the fund.
 3. "Improvements to borough real property" for the purposes of this section means a valuable addition to borough property or an enhancement of its condition intended to increase its value or utility, or to adapt it for new or further purpose, including expenditures to extend the useful life of the property asset, to improve its performance, or for off-site mitigation necessary to improve borough real property.
 4. Land management fund money shall be spent or disbursed as appropriated by ordinance and shall be appropriated for the following purposes only:
 - i. Funding of the established subaccounts of the land management fund;
 - ii. Improvements to borough real property;
 - iii. Administration of borough [~~land~~] real property selection and land management program, including survey, engineering, and other costs related to lease, sale, or disposal of such real property; and
 - iv. The maintenance of [~~land~~] real property management records.
- B. Revenue from the land management fund not appropriated may be remitted to the general fund.

4.01.020 Procedural requirements for major land use decisions.

- A. The borough assembly, mayor or designee, planning commission, or the public may initiate proposals for major land use decisions. Details of this process specifically for disposals are presented in DBC 4.01.090 [~~4.15.040~~].
- B. Prior to assembly action on major land use decisions, and in addition to formal public hearings required under "D" and "E" below, the mayor or designee shall conduct at least one meeting to gather public input. This meeting should be held at an appropriate venue as near to the affected parcel as is practical. (see DBC 4.01.030 for public notice requirements)
- C. The mayor or designee shall make a recommendation regarding the proposed decision to the planning commission including:

1. Parcel location and ownership, classification or other relevant borough ~~[land]~~ real property management policies, known encumbrances or permits;
 2. To the degree information is available, property characteristics including topography, soils, access and availability of utilities;
 3. A summary of previous input from the public, planning commission or assembly, including reference to the annual work plan;
 4. Compatibility with the borough comprehensive plan or other ~~[land]~~ real property use policy approved by the assembly; and
 5. If a proposed action is not compatible with an approved management plan or the borough comprehensive plan, a revision to the relevant plan is required before the action ~~[can]~~ may be approved. These revisions may be presented for review and approval as part of the process for the review and approval of the major action.
- D. The planning commission shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action. The planning commission shall make a recommendation to the assembly, building from the steps above, and its own deliberations.
- E. The assembly shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action.
- F. The assembly shall consider the planning commission recommendations, the mayor's recommendations, and public comments prior to taking action. ~~[and then may adopt, adopt with modifications, deny, continue the item, or remand the item to the planning commission]~~

4.01.021 Process for ~~[land]~~ real property use actions other than major decisions.

The borough mayor or designee may elect to meet with the public, the planning commission and/or assembly on other ~~[land]~~ real property management issues not explicitly identified in DBC 4.01.015.

4.01.025 Inventory and record keeping.

The borough mayor or designee shall develop and maintain an inventory of all real property in which the borough has, or has had, an interest. To the degree information is available, the inventory should contain information regarding parcel size~~;~~ and classification~~[s, or]~~ and any current borough authorized permits, easements or ~~[and]~~ leases.

4.01.030 Public notice.

Public notice shall, at minimum, meet the public notice requirements of the Denali Borough Charter, Article 1, Section 1.05 unless otherwise specified in this title. Public notices shall include the date, time, location, and purpose of the notification.

4.01.040 Generally allowed uses of borough real property.

- A. No person shall place improvements or personal property upon, or make unauthorized use of borough real property, without permission from the borough mayor or designee acting in compliance with approved management plans and other provisions of this title.
- B. No person shall remove timber or other vegetation, gravel or other materials, or otherwise damage borough real property without written permission from the borough mayor or designee.
- C. Borough ~~[lands]~~ real property is ~~[are]~~ open to incidental uses including walking, hiking, hunting, all-terrain vehicles (ATV's), ~~[and]~~ snowmobiles, fishing, short term (14 days or less) camping or other low impact, public, non-commercial activities. These incidental uses may be restricted to provide for public safety or to avoid ~~[land]~~ real property degradation or vandalism, if needed. Harvesting a small number of wild plants, mushrooms, berries, ~~[and]~~ or other plant material for personal, non-commercial use is permitted.
- D. If the mayor or designee has knowledge of an unauthorized use, steps shall be taken to end this activity. Unless the mayor or designee provides otherwise, the unauthorized user shall restore the borough ~~[land]~~ real property to the same condition it was prior to when the unauthorized use began, and pay all costs incurred by the borough as a result of this action.
- E. Failure to comply with borough, state and federal laws and regulations for any authorization issued under the authority of this title shall be terms for contract, permit or lease revocation, termination, or other action as deemed appropriate.
- F. Persons found in violation of this section will be prosecuted in accordance with state law and the Denali Borough Code.

4.01.050 Buffers & development setbacks.

Management plans will identify the need for any buffers and/or setbacks near waterbodies, such as rivers, streams, and lakes if there is not one already set by the state. The borough will also identify any trails in the management plans and whether they need buffers or setback and the potential maximum widths.

~~[A. On borough owned land, and incorporated into the plans for any disposals of borough land:-~~

~~1. There shall be, at minimum, a 50-foot undisturbed natural vegetation buffer on either side of all permanent or intermittent waterbodies, including rivers and streams, and connected lakes and wetlands. The buffer may vary to protect the riparian areas along these water courses.~~

- ~~2. Borough recognized main trails shall be no wider than 12 feet. There shall be, at minimum, a 50-foot undisturbed natural vegetation buffer on each side of the trail on borough land as identified through existing or future approved borough lands.~~
- ~~B. Exceptions to the minimum buffer requirements may be approved by the planning commission on a case by case basis.]~~

4.01.060 Fees.

The borough mayor or designee shall propose a schedule of fees for applications, permits and other uses of borough real property under this title. The borough assembly shall approve the fee schedule.

4.01.070 Best interest finding.

~~[Land]~~ Real property disposals, leases, and exchanges require a best interest finding statement. A best interest finding statement shall be written by the mayor or designee and be included with every ~~[land]~~ real property disposal ordinance. This written finding must include a description of the ~~[land]~~ real property identified for disposal, a summary of the disposal process including public notices and public meetings, known natural or cultural considerations, comments received regarding the ~~[land]~~ real property disposal, a statement of consistency with approved borough plans, and a final statement that the ~~[land]~~ real property disposal is or is not in the best interest of the borough including reference to the goals in section DBC 4.01.010 if appropriate.

4.01.080 Bonding, indemnification, insurance.

- A. Where the borough has authorized a use on borough ~~[land]~~ real property, including commercial use, resource harvest or extractions, leases, management agreements, easements, or rights-of-way, the borough may require bonding, indemnification, and/or insurance to ensure compliance with established standards.
- B. Where the activity may alter the land surface, the borough may require a bond or damage deposit in order to ensure proper restoration after use of the ~~[land]~~ real property ~~[is no longer needed]~~ has ended. The bond amount shall depend on the type of activity. The user's liability will be released and the ~~[land]~~ real property use authorization processed for closure only after the ~~[land]~~ real property has been restored or left in a condition suitable to the borough. This may be retroactive if the damage was caused by the same lessee or permit holder during a prior agreement.
- C. Persons holding a ~~[land]~~ real property use authorization shall be required to indemnify, save harmless and defend the borough, assembly members, officers, 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 or

omission arising from the person's use, occupancy or the performance under the authorization.

THIS SECTION WAS MOVED FROM 4.15.040

4.01.090 [4.15.040] Procedures for nominations, review and approvals

A. The ~~[borough mayor or designee, the assembly, the planning commission, or the]~~ public may nominate real property for sale, lease or exchange, as outlined below:

~~[1. Land disposal nominations from the borough mayor or designee, planning commission, or assembly are incorporated into the annual work plan (DBC-4.10.020).]~~

~~1.~~ ~~[The public may recommend disposals, leases or exchanges to the borough mayor or designee for inclusion in the annual work plan.]~~ Nominations from the public shall be submitted to the mayor or designee on a land nomination form provided by the borough ~~[in a standardized format established for that purpose]~~ and may require ~~[include]~~ a processing fee according to the Denali Borough ~~[assembly-approved]~~ fee schedule.

~~[3.—The borough entities referenced above may also recommend disposals outside the timeframe of the annual work plan.]~~

B. Once properties are nominated for disposal, lease or exchange, the process below shall be followed.

1. The mayor or designee shall prepare~~[s]~~ the information below for each specific recommended disposal, lease or exchange action:

- i. ~~[rationale, link to the management plan (where applicable)]~~ Conformity with management plan;
- ii. Initial best interest finding;
- iii. Intended ~~[form]-~~offering type; ~~[and terms of offering]~~
- iv. Physical form of sale or lease – e.g., intended use, general number and size of lots, access, design standards; and
- ~~[v.—controls on post-disposal/post-exchange uses]~~
- v. For leases, objectives for operations plan.

2. The Mayor or designee shall issue public notice of the proposed action ~~[Public notice is issued;]~~ as specified in DBC 4.01.030. A public meeting ~~[is]~~ shall be held in a location proximate to the proposed action.

3. The mayor or designee shall present~~[s a package]~~ a finding of facts and a recommendation to the planning commission for review, ~~[including a recommended action;]~~ The planning commission shall review~~[s]~~ these findings and take~~[s]~~ public testimony at a public hearing as part of a regularly scheduled meeting. The planning commission shall present~~[s]~~ a recommendation to the assembly for consideration ~~[by the assembly].~~

4. The assembly, by ordinance, shall approve~~[s]~~ any specific disposal, lease or exchange, providing sufficient direction to allow the mayor or designee to move forward with specific actions.
5. The mayor or designee shall ~~[carries]~~ carry out the disposal, lease or exchange process as authorized by the assembly. Final terms and conveyance of agreements or contracts are governed by ~~[the remaining sections of]~~ this Title.

THIS SECTION WAS MOVED FROM 4.15.050

4.01.100 ~~[4.15.050]~~ Appraisal and Fair market value

PART MOVED TO 4.16.060 ~~A.—All lands shall be sold or leased at fair market value or fair market rental value as determined by appraisal, except as allowed by DBC-4.15.050(C) [C below].~~

~~B.—~~ A. Parcels to be sold, leased or exchanged must have a current appraisal of fair market value performed by an Alaska State certified ~~[, Alaska Chapter Member of the Appraisal Institute (MAI)]~~ appraiser.

~~C.—~~ B. The borough may provide for less than fair market land sales and leases in two circumstances:

1. To established non-profit corporations and organizations when doing so would provide a public benefit and be in the best interest of the borough. The assembly may authorize the mayor or designee to sell or lease land for less than fair market value if the ordinance authorizing the action contains:

- i. A finding that the sale for less than fair market value is in the best interest~~[s]~~ of the borough;
- ii. A statement of the facts on which the finding is based; and
- iii. The period of time during which the offer may be accepted.

2. The borough may lease (but not sell) borough land at less than fair market value where, pursuant to the lease operating plan, a commercial or industrial facility or use will be established or maintained on the leased land, but only if the assembly first finds:

- i. That without the rent reduction, development of the use or facility will not be financially feasible and will not be located or maintained within the borough.
- ii. The operation will confer a net economic benefit to the borough or to the citizens of the borough.

3. ~~[iii.]~~ The below fair market lease rate shall not extend for ~~[up to]~~ more than 10 years. A lease entered into pursuant to this subsection may be renewed only for a fair market rental value.

4. ~~[iv.]~~ A lease providing for below a fair market value shall provide for an immediate rent adjustment to fair market value if the specified use or facility is not established within a time specified in the lease and if the specified use or facility is not continuously maintained except for such periods as are set forth in the lease.

5. ~~[3.]~~ The borough may sell land determined to be unusable or inaccessible to an adjacent land owner through a direct disposal ~~[sale]~~ as described in DBC 4.16.120 ~~[long as the land is left in permanent amenity status.]~~

Chapter 4.05

REAL PROPERTY ACQUISITION

Sections:

- 4.05.005 Definitions.
- 4.05.010 Acquisition and ownership.
- 4.05.020 Procedural requirements.
- 4.05.030 Eminent domain.
- 4.05.040 Ownership and use.
- 4.05.050 Rights and powers of borough.
- 4.05.060 Federal and state aid.
- ~~4.05.070 Acquisition through exchange~~

4.05.005 Definitions.

- A. "Real property" "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.

~~[B. "Less than fee simple interest" refers to acquisition or disposal of less than the full bundle of ownership rights in a property, e.g., a lease or easement.]~~

4.05.010 Acquisition and ownership.

- A. The borough may acquire, own, and hold real property or limited property rights inside or outside the borough boundaries by purchase, gift, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, condemnation or declaration of taking, annexation, or by any other lawful means of conveyance. Real property shall be held in the name of "Denali Borough."

B. Nominations to acquire property may be made by the public on a form provided by the Denali Borough.

- C. The assembly may approve and authorize the purchase of real property by contract of sale, a deed of trust, or mortgage.
- D. The borough may not acquire any real property by means of dedication by plat unless the dedication of real property is accepted in writing and signed by the mayor and approved by the assembly.

E. Any real property acquisition instrument requiring execution by the borough, for example, a mortgage or deed of trust, shall be signed by the mayor or designee and attested by the clerk. The form of any conveyance shall be reviewed by the borough attorney.

4.05.020 Procedural requirements. **REARRANGED**

- A. A proposal [~~The decision~~] to acquire [~~the~~] property shall be reviewed by the planning commission. Review by the planning commission shall be limited to the

property's suitability for the intended purpose and its consistency with surrounding ~~[land]~~ real property use(s) and any applicable land use/land management plans. The planning commission shall recommend to the borough assembly, by resolution, their findings and recommendations. ~~[The mayor or designee shall prepare a resolution regarding a proposed acquisition of land or resources for consideration by the public, the planning commission and the borough assembly.]~~

The resolution shall address:

1. The purpose of the acquisition;
 2. The proposed use of the ~~[land]~~ real property and associated land management plans; and
 3. A description of the ~~[land]~~ real property or interests in lands or resources concerned.
 4. ~~[The terms, conditions, valuation or consideration for the proposed acquisition]~~
- ~~B. [Any land acquisition instrument requiring execution by the borough, for example, a mortgage or deed of trust, shall be signed by the mayor or designee and attested by the clerk. The form of any conveyance shall be reviewed by the borough attorney.]~~ MOVED TO 4.05.010(D)
- B. After receipt of the recommendations of the planning commission, the borough assembly may find that the ~~[land]~~ real property being purchased is in the best interest of the borough. ~~[and shall be consummated]~~ Acquisition of ~~[land]~~ real property by the borough shall require an assembly ordinance specific to the particular acquisition, including general purpose, conditions and manner of acquisition.
- C. Prior to approval, the mayor or designee ~~[is to]~~ make available for assembly review an abstract of title, an appraisal of the real property, a contamination/liability assessment ~~[as outlined below]~~, and a review of any problem in acquisition. ~~[The acquisition or purchase of real property by the borough.]~~ A contamination/liability assessment shall require the following:
1. The mayor or designee shall review maps, aerial photographs, plats, surveys, any historical land use records, and visit the site to see if any issues of obvious concern ~~[can]~~ may be found. ~~[such as current or former waste disposal areas, fuel storage, handling or dispensing operations including heating oil, discolored soil, sheen on surface water, or any evidence that oil or other hazardous substances were stored, used, or released at the property. This phase should also include a review of the Alaska Department of Environmental Conservation Contaminated Sites Database and associated web map available at the following link: <http://dec.alaska.gov/spar/csp/>.]~~ If nothing is found the assessment ~~[can]~~ may end and a report will be presented to the assembly by the mayor or designee stating these findings. ~~[If any evidence of adverse effects are found, the assembly may consider~~

~~contracting a qualified person to conduct a site assessment for a Phase I Site Assessment to be conducted by a qualified person under ASTM-E1527-13 Standard-Phase I Environmental Site Assessments or equivalent.]~~

2. If the initial inspection reveals possible contamination issues, further research and site inspections shall be conducted ~~[would be needed]~~ to determine the nature of the ~~[suspicious]~~ findings in the initial assessment. ~~[This would determine if further, detailed investigation, digging, or drilling would be required. If warranted, the assembly may consider contracting for a Phase II Site Assessment to be conducted by a qualified person under ASTM E1903-11 Standard — Phase II Environmental Site Assessment or equivalent. A report of the findings would be presented to the assembly by the mayor or designee]~~
- D. Upon authorization by ordinance, the mayor or designee shall carry out the specific steps required to acquire the real property according to the terms and conditions ~~[in the purchase agreement]~~ established by the ordinance. ~~[Unless otherwise provided by the assembly, the borough shall purchase marketable title in real property. Unless otherwise provided by ordinance or resolution, or]~~ Upon assembly approval of a purchase, the mayor or designee is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property.
- E. The assembly may authorize the mayor or designee to acquire ~~[land]~~ real property for more than fair market value only if the ordinance authorizing the acquisition contains a statement of the facts on which the ~~[more than market value]~~ acquisition is justified.

4.05.030 Eminent domain.

The assembly may exercise the powers of eminent domain and declaration of taking in accordance with AS 29.35.030. Eminent domain shall be exercised only if the borough has made reasonable but unsuccessful efforts to negotiate a purchase or exchange. Eminent domain takings may only be used for public works or facilities, including road or trail access, when no other reasonable option is available, and may not be conveyed in any form to any private, corporate or nonprofit entity.

4.05.040 Ownership and use.

A. The borough may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy with any person, corporation or government body for any public purpose. The borough may hold real property in trust for any public purpose, including:

1. Temporary activities;
2. Easements and rights-of-way;
3. Leasing or eventual disposal; or

4. Long term dedication for public purposes, including public facilities and public recreation.

4.05.050 Rights and powers of borough.

The borough shall have, and may exercise, all rights and powers in the acquisition, ownership and holding of real property as if the borough were a private individual.

4.05.060 Federal and state aid.

The borough may apply for, contract with, and do all things necessary to cooperate with the United States Government and the state of Alaska for the acquisition, holding, improvement, or development of real property inside and outside the borough boundaries.

Already in CHAPTER 4.18 EXCHANGE OF BOROUGH REAL PROPERTY

Section 4.18.020 Value of real property exchanged

~~[4.05.070 Acquisition through land exchange~~

- ~~A. The borough may accept in exchange for borough land any consideration of sufficient value not prohibited by law. Decisions on land exchanges are “major land use decisions”, as specified in 4.01.015, and the assembly shall review and approve or reject offers for exchange of municipal land, following the same procedures as specified for land disposals, including the requirement for a best interest finding.~~
- ~~B. As is the case with disposals, exchanges shall provide for equal value, except where the assembly prepares an explicit, written finding that borough and public interests, and the goals expressed in 4.01.010, are best met through an exchange at less than equal value.]~~

Chapter 4.10

MANAGEMENT OF BOROUGH REAL PROPERTY

Sections:

- 4.10.005 Definitions.
- 4.10.010 Management plans.
- 4.10.015 Classification requirement, categories, and definition.
- 4.10.020 Annual work plan. ~~for disposal, leasing and/or exchange~~

4.10.005 Definitions.

- A. "Commercial Use" means any activity, goods or services that are offered for sale or rent.
- B. "Fair market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- ~~C. ["Hazardous use" means an unacceptable risk to human health and well-being.]~~
- C. "Interest in property" means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- D. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- E. "Natural resources" to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
- ~~F. ["Obnoxious use" means a use which is offensive through the creation or transmission of noise, vibration, illumination, emissions, fumes, odor, dust or radiation, blocking of scenic view, sunlight, causing flooding or blocking water access or flow or any combination of these, beyond any lot lines of the premises.]~~
- F. [~~+~~] "Public interest" means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.
- ~~J. ["BMP" means the best management practices as prescribed in the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock/Aggregate]~~

4.10.010 Management plans.

- A. The mayor or designee shall prepare a written management plan for borough real properties where required in this section. [~~under “B” below.~~] The planning commission shall review, and the assembly will provide final approval.
- B. A management plan is required before any [~~land~~] real property management action [~~can~~] may occur including, but not limited to, any disposal, lease, exchange, or any permit or license. [~~with significant impact to the land.~~]
- C. Management plans provide a basis for well-informed decisions on the best use of borough real properties, particularly where larger blocks of borough real property have the potential for a variety of uses. Specific objectives for management plans include:
 - 1. Provide better understanding of current and potential uses.
 - 2. Provide the opportunity for public involvement.
 - 3. Develop broad goals for the affected [~~lands~~] real properties.
 - 4. Identify appropriate land use classification(s), standards and guidelines.
- D. A management plan shall contain two elements:
 - 1. Information about the parcel, including:
 - i. Physical characteristics of the site, for example, elevations and slopes, vegetation, and water bodies.
 - [~~Surface and groundwater relationships and proximity to private water wells, public water source, surface contaminated sites and water bodies~~]
 - ii. Current and potential access, including roads, trails, airstrips.
 - iii. Current and potential uses on-site and on surrounding properties; any potential public health, safety, or welfare issues.
 - iv. Improvements (e.g., buildings, infrastructure).
 - v. Easements, leases, and permits; utilities or other infrastructure serving or crossing the site.
 - 2. Management policies, including:
 - i. Overall goals and objectives.
 - ii. Classification(s), including boundaries and management intent statement for each classification area.
 - iii. Plans for access and other needed infrastructure.
 - iv. Site-specific management standards and guidelines. [~~including environmental safeguards and controls for invasive plants and herbicides~~]
 - v. Implementation actions and schedule.
 - vi. [~~For intended sales, leases, permits – o~~] Objectives for terms and conditions of use for real property intended for sale, lease, or permits shall be described.

4.10.015 Classification requirement, categories, and definition.

All borough ~~[land]~~ real property must be classified through an assembly approved land management plan. ~~[prior to any action being taken with lasting consequences for the character and/or options for use of that land.]~~

All borough ~~[lands]~~ real property shall be classified as one of the following:

1. Agriculture and Forestry
2. Amenity Value
3. Commercial and Light Industrial
4. Heavy Industrial
5. Land Bank
6. Material Site ~~[Large Scale Materials or Mineral Extraction]~~
7. Multiple Use ~~[Reserve]~~
8. Public Facilities
9. Recreation
10. Residential ~~[Settlement]~~

Classification categories defined:

- A. *Agriculture and Forestry* – ~~[Land]~~ Real property intended for raising and harvesting crops, grazing, breeding and management of livestock, dairying, commercial timber harvest, or woodlot management. This includes activities such as processing, cleaning, packing, storing, and distribution of agriculture products grown on the real property. ~~[Such [land] real property [can] may be sold in fee, sold as agriculture rights only, or leased while remaining in borough ownership.]~~
- B. *Amenity Value* – ~~[Land]~~ Real property intended to be retained and kept in a natural state to maintain a sense of open space ~~[and “Alaska living” for adjacent parcels and the borough as a whole, and]~~ that may also protect wildlife habitat and support non-commercial recreational opportunities, ~~[subsistence,]~~ scenic vistas, historic structures and landscapes, greenbelts, or other natural ~~[, cultural, or aesthetic]~~ qualities.
- C. *Commercial and Light Industrial* – ~~[Land]~~ Real property intended primarily for uses related to trade and commerce, such as the sale, rental, or distribution of products and services, and/or for light industrial uses. Light industrial uses are those that do not create significant off-site impacts and are generally conducted inside closed buildings, for example warehousing, storage, and light manufacturing. ~~[Commercial and light industrial area may also include, as secondary uses, land for greenbelts, material sites for local roads and building lots, easements for roads and trails, or lots for community facilities. Residential uses may also be permitted in specified sites.]~~
- D. *Heavy Industrial* – ~~[Land]~~ Real property intended for industrial and related uses that are best separated from most other uses, due to their potential for off-site impacts. Examples include landfills, large scale material or mineral extraction and processing, waste handling and storage, electric generation, large scale

manufacturing, or other uses that involve significant noise, odors, bright lights, or other potential nuisances or safety risks that make them poor neighbors with most other ~~[land]~~ real property uses. Parcels should be of a size that allows for sufficient buffer zones to reduce potential impacts of these types of use on adjoining properties.

- E. *Land Bank* – ~~[Land]~~ Real property which will remain ~~[where the intent is a mix of disposals and retention, and where a management plan is required to determine the specific types, character and locations of these uses. These lands will be retained]~~ in borough ownership. ~~[in the near term, until a management plan is complete.]~~ Following approval of a management plan, these areas will be reclassified to designate the specific intended uses. ~~[, such as settlement, commercial, amenity value, or public facilities.]~~ In the interim, the ~~[land]~~ real property will be available for generally allowed uses per DBC 4.01.040. ~~[multiple-use management, as long as such use does not reduce options for future uses, including disposals. Examples of such uses include seasonal personal use firewood harvest, low impact commercial recreation activities, or small scale gravel extraction.]~~
- F. Material Site- Natural resources primarily used for construction of local roads, trails, easements, and building lots.
~~[Large Scale Materials or Mineral Extraction—Lands which are chiefly valuable for earth materials, including, but not limited to, sand, gravel, soil, peat moss, sphagnum, stone, pumice, cinders, limestone and clay, and for minerals, including, but not limited to, coal, phosphate, oil, shale, sodium, Sulphur, and potash, where the removal of the material would seriously interfere with utilization of the lands for other purposes.]~~
- G. *Multiple Use* ~~[Reserve—Land to be held in borough ownership at least the near-term, where there is not a pressing need for immediate decisions on the ultimate-preferred use. In the interim, the land will be available for multiple use-management, as long as that use does not significantly reduce options for future uses, including disposals.]~~ Real property in areas with potential to have multiple classifications.
- H. *Public Facilities* – ~~[Land]~~ Real property intended to be retained and reserved for public facilities including schools, clinics, day-care centers, government buildings, parks, and other public uses. Parcels are sized to meet the need, and allow for future expansion. Such lands will generally be retained in borough ownership, but could also be sold or leased to another public or non-profit entity that will retain ~~[land]~~ real property for this purpose.
- I. *Recreation* – ~~[Land]~~ Real property intended to be retained where the primary use is public and/or commercial outdoor recreational areas and facilities. Recreational uses, include, but are not limited to, trails (non-motorized ~~hiking, horse, bikes,~~

~~cross-country ski~~ and motorized, ~~such as ATVs~~), ski areas, golf courses, day use facilities, campgrounds, and wilderness camps, ~~and horse stables.~~

- J. Residential ~~Settlement~~ – [~~Land~~] is intended primarily for single- and multifamily dwellings residential uses, ~~including selling individual lots or parcels or for subdivisions.~~ These areas [~~can~~] may also include, as secondary uses, areas for greenbelts, playgrounds, schools, churches, libraries, and ~~small~~ parks. ~~material-sites for subdivision roads and building lots, easements for roads and trails, or lots for community facilities. Limited local serving commercial may also be permitted in specified sites.~~

4.10.020 Annual work plan. [~~plan for disposal, leasing and/or exchange~~]

A. The mayor or designee shall prepare by March 1st of each year a work plan for borough real property specifying disposal, leasing and exchange plans for the coming year, and more general intentions for the subsequent three years. Following review by the planning commission, the annual work plan shall be submitted [~~for~~] to the assembly. [~~approval by resolution.~~] Elements of the work plan shall include:

1. A summary of the previous year's actions, expenditures and revenues; a general overview of intentions for future real property management actions.
2. A current inventory of the location and status of borough real property.
3. Proposed actions concerning real property over the coming year:
 - i. Priority [~~locations~~] areas for management plans including [~~land~~] real property classification.
 - ii. Priority areas for [~~land~~] real property disposals, acquisition, and/or leases.
 - iii. Other land management priorities, including issuance and/or renewal of use permits or licenses.
4. Anticipated finances of real property activities, including:
 - i. Projections of revenue from sales, leases, permits or fund investments over the coming year.
 - ii. Anticipated expenditures including costs for staff, contractors, capital improvements or other activities.
5. Preliminary plans for borough real property over the following three years, including:
 - i. Likely locations of future management plans, disposals, leases, exchanges and larger scale permits or rights of way.
 - ii. Planned changes in [~~M~~] mmanagement activity ~~increases or changes.~~

Chapter 4.11

Borough Land Permits, License, and Easements, ~~and Rights of Way~~

Sections:

- 4.11.005 Definitions.
- 4.11.006 Conditions for use of resources on borough real property.
- 4.11.010 Extraction permit.
- 4.11.020 Extraction license.
- 4.11.030 Temporary use permit.
- 4.11.~~050~~ .040 Commercial use permit.
- ~~4.11.060~~ ~~Conditions for use of resources on borough real property land by permit or license (moved to 4.11.006)~~
- 4.11.~~070~~ .050 Easements. ~~[and rights of way]~~

4.11.005 Definitions.

- A. “Access easement” means the right of a limited group or the general public to travel across a defined area.
- B. “Commercial Use” means any activity, goods or services that are offered for sale or rent.
- C. “Easement” means a nonpossessory interest in borough land that entitles the holder to a specified limited use of a defined area.
- D. “Fair market value” means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- E. “Hazardous use” means an unacceptable risk to human health and well-being.
- F. “Interest in property” means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- G. “Lease” means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- H. “Natural resources” to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
~~[J]“Obnoxious use” means a use which is offensive through the creation or transmission of noise, vibration, illumination, emissions, fumes, odor, dust or radiation, or any combination of these, beyond any lot lines of the premises.]~~
- I. “Private easement” means the right by a limited group of people to use a defined area.

- J. “Public easement” means the right of the general public to use certain streets, roads, highways, paths, airspace or defined area.
- K. “Public interest” means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.
~~[]“BMP” means best management practices as prescribed in the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock/Aggregate-]~~
- L. “Utility easement” means to allow a utility the right to use or access a defined area.

This section moved FROM 4.11.060

4.11.060006 **Conditions for use of [~~resources on~~] borough real property [~~land~~], by permit or license**

- A. The mayor or designee shall establish borough-wide and/or site specific conditions to guide [~~resource~~] use [~~activities~~] allowed by permit or license. Condition topics include, but are not limited to:
 1. Excavation and reclamation standards, slope standards;
 2. Water quality protection;
 3. Traffic impacts;
 4. Safety, including fencing and signage;
 5. Visual screening;
 6. Hours of operation;
 7. Detailed description of the intended use of the land;
 8. Desired lease, permit or license length;
 9. Timetable for development;
 10. Planned structures and fuel storage facilities accompanied by a scale drawing;
 11. Estimated value of the improvements;
 12. Delineated access, water, and power sources;
 13. Intended solid waste and wastewater disposal methods;
 14. ~~[If a non-exclusive lease]~~ If necessary, identify location points of passage for the general public; and
 15. Detailed description of how improvements will be removed at the end of the lease or permit.
- B. If the appropriate approval body determines a permit or license may cause damage to the borough land, the mayor or designee shall require the applicant to post a bond with the borough to ensure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The

mayor or designee shall not release the bond until the licensee has complied with all conditions of the license.

- C. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.
- D. The mayor or designee may, for cause, revoke a permit or license:
 - 1. Extraction Licenses -The mayor or designee shall give notice of the potential cause of the revocation and give the licensee reasonable amount of time, but not more than 60 days, to correct the problem. If the problem is not corrected and a permit or license has to be revoked, the licensee, within 45 days, shall restore the land to reasonably the same condition it was in at the time the permit or license was executed.
 - 2. Permits - The mayor or designee may, for cause and without notice, immediately revoke a permit. The user of borough real property whose permit has been revoked shall, within the time specified in the permit, and if no time is specified, within seven days of the revocation of the permit, remove from the borough real property any temporary improvements placed on the borough real property pursuant to the permit. Any improvements not removed shall become the property of the borough or disposed of by the borough at the owner's expense.
- E. Nothing in this chapter grants a holder of a permit or license exemption from any tax burden associated with the removal of resources from Denali Borough lands.
- F. A holder of a permit or license assumes full responsibility for any damages to equipment either during use or if left unattended on borough property before, during or after the terms of the extraction license; including, but not limited to, loss, theft and vandalism.
- G. The Denali Borough assumes no responsibility for hazardous use, accident, injury, or death incurred during any borough [~~land~~] real property use activity.

4.11.010 Extraction permit.

- A. Extraction permits provide for non-commercial personal use of [~~limited~~] specified quantities of resources on borough owned land [~~, such as gravel or firewood~~].
- B. The mayor or designee is responsible for decisions [~~on~~] regarding extraction permits, and for setting borough-wide and/or site specific guidelines for extraction activities.
- C. An applicant who wishes to obtain an extraction permit shall submit a non-refundable fee as set in the Denali Borough fee schedule. An extraction permit is [~~exclusive,~~] not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.
- D. An extraction use permit is required for extraction of any quantity of gravel, firewood, timber or other resource from borough land.
- E. If the mayor or designee determines an extraction permit may substantially affect the surrounding area, public notice and description of the proposed use shall be

published [~~then prior to approving the permit the mayor or designee shall publish notice of the proposed use, including a description of the proposed use. Notice shall be~~] per DBC 4.01.030. [~~allowing for public comment on the proposed use~~]. If the mayor or designee determines [~~receives~~] substantial adverse public comment to the proposed use has been received, [~~then, before issuing the permit~~] the mayor or designee shall hold a public hearing on the proposed use prior to making a decision regarding the permit.

- F. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.020 Extraction license.

- A. [~~Extraction license provide for larger scale use of borough resources than an extraction permit.~~] An extraction license is required for any commercial extraction activity and for gravel extraction. [~~of more than 500 cubic yards per year.~~
- ~~B. The assembly is responsible for decisions on extraction licenses, for setting the terms for the license and the manner in which payment is made. After receiving recommendations from the planning commission, the assembly shall by resolution approve or deny a proposed extraction license and set borough-wide and/or site specific conditions for extraction activities. —~~
- ~~1. Lease holders are required to implement BMPs~~
 - ~~2. The plan will identify all permanent structural and non-structural BMPs selected and incorporated into the project design to eliminate or reduce pollutant discharges to storm water, and/or receiving waters to the maximum extent practicable]~~
- B. An applicant who wishes to obtain an extraction license shall file with the borough an application packet for extraction license. The application packet is to include:
1. An application form prescribed by the borough, indicating the type and quantity of resource to be extracted.
 2. A site development plan:
 - a. Identification of surrounding property owners, existing land uses, [~~and~~] wetlands and waterbodies within the notification area;
 - b. Planned location of permanent and semi-permanent structures for verification of setback requirements;
 - c. Proposed phases of mining activities;
 - d. Roads and access plan;
 - e. Visual screening measures;
 - f. Noise mitigation measures; and
 - g. Proposed lighting.
 3. A reclamation plan.
 4. Proof of bonding, indemnification or insurance as required under DBC 4.01.080.

5. Registration for severance tax form as required per DBC 3.30.020.

C. An applicant who wishes to obtain an extraction license shall submit a non-refundable extraction license application fee as set in the Denali Borough fee schedule. A successful applicant will be required to pay the fair market value of the extracted materials as set in the Denali Borough fee schedule. [~~determined by the assembly, based on recommendations from the mayor or designee.~~] An extraction license is [~~exclusive,~~] not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.

~~D. [Applications for extraction license shall include:~~

- ~~1. A written detailed hydrogeological study that evaluates surface and groundwater relationships, potential impacts, and to design effective mitigation alternatives. Data collection should be accomplished under the supervision of a qualified professional engineer, hydrogeologist, or hydrologist and follow a written sampling plan approved by ADEC.~~
- ~~2. Includes a plan detailing Best Management Practices (BMP) to be implemented in accordance with the Alaska Department of Environmental Conservation Best Management Practices for Gravel/Rock Aggregate. The plan will identify all permanent structural and non-structural MBPs selected and incorporated into the project design to eliminate or reduce pollutant discharges to storm water, and/or receiving waters to the maximum extent practicable.~~
- ~~3. Setbacks: Required according to ADEC BMP Proximity mapping-~~
- ~~4. Water Quality: water and groundwater flow, surface water and groundwater temperature, turbidity, pH, specific conductance, and likely contaminants~~
- ~~5. Air Quality: Monitor Air Quality to meet Alaska and National Ambient Air Quality standards. 18 AAC 50.110 Particulate levels shall not exceed the National Ambient Air Quality Standards (NAAQS)~~
- ~~6. No processing excavation or heavy vehicular operation shall be permitted between 8:00 p.m. and 8:00 a.m. if site is within 1000 feet of residential dwelling(s).~~
- ~~7. Noise levels shall not exceed the Department of Environmental Quality standards.~~
- ~~8. The site shall be sufficiently secure so that local residents are not endangered.~~
- ~~9. If the development abuts residential or commercial property or there is a residence within 1000 feet of the development's property lines, buffering and screening will be provided as prescribed by ADEC BMP.]~~

D. The assembly may waive the application license fee and the fee for fair market value of the material used by a nonprofit organization or public agency if being used for a public purpose.

E. [~~Prior to approving the permit, the mayor or designee~~] Notice shall be published [~~notice~~] of the proposed license for extraction of borough natural resources [~~to be~~

~~publicized~~] per DBC 4.01.030. The notice will include a description of the proposed use and allow for public comment.

- F. The planning commission shall hold a public hearing and then make a recommendation to the assembly.
- G. The assembly is responsible for decisions on extraction licenses, for setting the terms for the license and the manner in which payment is made. After receiving a recommendation from the planning commission, the assembly shall by resolution approve or deny a proposed extraction license and set borough-wide and/or site specific conditions for extraction activities and non-compliance.
- ~~[G. If the [assembly,] mayor or designee determines substantial [receives any] adverse public comment to the proposed license for extraction has been received, [before issuing the permit,] the mayor or designee [on] shall hold a public hearing on the proposed use prior to making a decision on the extraction license.] [A decision by the planning commission an application for a resource development permit shall be based on a development agreement between the Mayor or designee and the applicant including detail of how excavation and mining will occur, and how all requirements shall be met. If the mayor or designee finds that a developer holding a development permit issued under this division is removing material from the ground contrary to the conditions set out in the development agreement, the permit may be revoked under notice and hearing as per these sections.]~~
- H. The mayor or designee may revoke an extraction license, for cause, if the license holder fails to comply with the terms and conditions of the permit
- I. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.030 Temporary use permit.

- A. Temporary use permits provide for non-extractive use of borough real property for a specific timeframe ~~[of one year or less]~~. Temporary use permits do not allow permanent structures or improvements, and allow only minimal disturbance to the property. A temporary use permit does not convey any other interest in the property and is not transferrable. Use must be consistent with the property's management plan. Unless otherwise agreed to in writing, the real property will be restored to its original condition upon expiration or revocation of the permit. ~~[This may be retroactive if caused by the same authorized user.]~~
- B. The mayor or designee is responsible for decisions on temporary use permits for periods of one year or less, including setting borough-wide and/or site specific conditions. ~~[Approval must be consistent with a parcel's management plan.]~~
- C. The planning commission is responsible for decisions on temporary use permits for time periods of greater than one year but no greater than five years. ~~[With planning commission review and assembly approval, a temporary use permit may be granted for a period of up to five years. A temporary use permit does not convey any other interest in the property, is exclusive and not transferrable]~~

- D. An applicant who wishes to obtain a temporary use permit shall submit a non-refundable application fee as set in the Denali [b]Borough fee schedule. A successful applicant will be issued a permit detailing conditions and use fees per the Denali Borough fee schedule for the permitted activity.
- E. The assembly [planning commission] may reduce or waive permit use fees for a non-profit organization or public agency for a public purpose.
- F. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.[050] .040 Commercial use permit.

- A. Commercial use permits provide for commercial non-extractive activity that occurs on borough [~~land~~] real property or traverses borough [~~land~~] real property within a specific timeframe. A commercial use permit does not convey any other interest in the property, is non-exclusive and not transferrable. Use must be consistent with the areas management plan.
- B. Commercial use permits are subject to an application process. A commercial use permit application shall include but is not limited to:
 1. A commercial use permit application form as prescribed by the borough;
 2. Non-refundable application fee;
 3. End of season report;
 4. Insurance, bond, damage deposit;
 5. Fees per user (user or client fee); and
 6. Business plan.
- C. The planning commission is responsible for decisions on commercial use permits. [~~for periods of one year or less. Approval must be consistent with a parcel's management plan.]~~
- D. The assembly is responsible for permits for a period of up to five years and are renewable. [~~With planning commission review and assembly approval, a commercial use permit may be granted for a period of up to five years.]~~
- E. ~~An applicant who wishes to obtain or renew a commercial use permit shall submit an application prescribed by the borough including non-refundable application fee as set in the borough fee schedule and an operations plan. Commercial use permits may shall be subject to additional fees as specified in the borough fee schedule.~~
- F. ~~Bonding, indemnification and insurance shall be required in accordance with DBC-4.01.080, [where the activity may alter the land surface, the borough may require a bond or damage deposit in order to ensure proper restoration after use of the land is no longer needed. The bond amount shall depend on the type of activity. The user's liability will be released and the land use authorization processed for closure only after the land has been restored or left in a condition suitable to the borough. This may be retroactive if damage has been caused by the same user.~~

- G. ~~Persons holding a commercial use permit [land use authorization] shall be required to indemnify, [save] hold harmless and defend the borough, assembly members, officers, 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 or omission arising from the persons use, occupancy or the performance under the permit[authorization].~~
- E. The mayor or designee shall cause notice of a proposed commercial use per DBC 04.01.030. The notice shall include a description of the proposed commercial use, the borough land where the activity is proposed, and the ~~[terms]~~ conditions and timeframe of the permit. The planning commission ~~[may]~~ shall hold a public hearing on the proposed commercial use prior to ~~[issuing]~~ taking action on the permit.
- F. A successful applicant will be issued a permit detailing specific terms, conditions, ~~[forms of issuance]~~ environmental protections and a description of the applicable fees for the permitted activity. ~~[Each permit will specify road, trail, land, natural habitat, and environmental protection conditions].~~
- G. The mayor or designee may revoke a permit, for cause, if the permit holder fails to comply with the terms and conditions of the permit, ~~[including road, trail, land, natural habitat, and environmental protection conditions.]~~
- H. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

This section moved TO 4.11.006

4.11.060 — ~~Conditions for use of resources on borough real property [land], by permit or license~~

- ~~J. The mayor or designee shall establish borough-wide and/or site specific conditions to guide resource use activities allowed by permit or license. Condition topics include, but are not limited to:

 - 16. Excavation and reclamation standards, slope standards
 - 17. Water quality protection
 - 18. Traffic impacts
 - 19. Safety including fencing and signage
 - 20. Visual screening
 - 21. Hours of operation~~
- ~~K. If the appropriate approval body determines a permit or license may cause damage to the borough land, the mayor or designee shall require the applicant to post a bond with the borough to ensure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed.~~

~~The mayor or designee shall not release the bond until the licensee has complied with all conditions of the license.~~

~~L. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.~~

~~M. The mayor or designee may, for cause, revoke a permit or license:~~

~~3. Extraction Licenses - The mayor or designee shall give notice of the potential cause of the revocation and give the licensee reasonable amount of time, but not more than 60 days, to correct the problem. If the problem is not corrected and a permit or license has to be revoked, the licensee, within 45 days, shall restore the land to reasonably the same condition it was in at the time the permit or license was executed.~~

~~4. Permits - The mayor or designee may, for cause and without notice, immediately revoke a permit. The user of borough real property whose permit has been revoked shall, within the time specified in the permit, and if no time is specified, within seven days of the revocation of the permit, remove from the borough real property any temporary improvements placed on the borough real property pursuant to the permit. Any improvements not removed shall become the property of the borough or disposed of by the borough at the owner's expense.~~

~~N. Nothing in this chapter grants a holder of a permit or license exemption from any tax burden associated with the removal of resources from Denali Borough lands.~~

~~O. A holder of a permit or license assumes full responsibility for any damages to equipment either during use or if left unattended on borough property before, during or after the terms of the extraction license; including, but not limited to, loss, theft and vandalism.~~

~~P. The Denali Borough assumes no responsibility for hazardous use, accident, injury, or death incurred during any borough [land] real property use activity.~~

4.11. ~~[070]~~ 050 Easements. ~~[and rights of way]~~

A. Depending on scale and impact, as specified below, the mayor, mayor designee or the assembly may negotiate the dedication of ~~[rights-of-way-or]~~ easements for roads, driveways, pipelines, electric transmission, telecommunication transmission, trails, pathways, or similar utilities.

1. Actions of borough wide significance: ~~[rights-of-way-and]~~ easements ~~[of borough wide significance; for example, those that extend across an extensive portion of borough land]~~ greater than 1,000 feet in length must receive approval by assembly ordinance and an associated best interest finding.

2. Actions of local significance; ~~[Rights-of-way-or]~~ easements that ~~which only~~ serve a limited area, are ~~[relatively short in length (approximately)]~~ 1000 feet or less in length, and have minimal environmental impact ~~[can]~~ may be

approved by the planning commission ~~[with a]~~ upon recommendation from the mayor or designee.

- B. Application and Fee: An easement applicant shall submit a completed application as prescribed by the borough. In addition to the completed application, an applicant must submit the application fee in accordance with the Denali Borough fee schedule and any other plans, reports, or narratives requested by the mayor or designee in order to provide enough information to properly evaluate the easement request. The application shall include, but is not limited to:
1. Type of easement: public, private, access, utility, or other;
 2. Easement location information including legal location description and sketch;
 3. Easement use plan, including improvements within the easement;
 4. Operations plan when applicable;
 5. Easement timeframe; and
 6. Legal name, contact information, and signature of applicant.
- C. Within 45 calendar days of acceptance of a completed application for locally significant easements ~~[or rights of way]~~, or 90 days for borough wide significant actions, the planning commission or assembly shall by resolution grant preliminary approve, reject, or notify the applicant of the discovery of additional requirements of ~~[the]~~ any proposed easement or right-of-way.
- D. Upon preliminary approval by the planning commission or assembly, the borough will draft an easement agreement which includes, but not limited to the following:
1. Bonding;
 2. Indemnification;
 3. Insurance;
 4. Restoration plan;
 5. Easement timeframe; and
 6. Easement price, terms and conditions.
- E. Easement price shall be established according to fair market value if applicable.
- F. Prior to the execution of the easement the borough attorney will review the easement agreement.
- G. In accordance with any state cooperative easement agreement, the mayor or designee shall submit the easement request to the State of Alaska, Department of Natural Resources for review and approval.
- H. Once the borough attorney has reviewed the easement agreement the successful applicant shall sign the easement agreement and can then begin construction of the easement.
- I. Construction of easement shall follow the terms and conditions set forth in the easement agreement. If the easement location changes from the application sketch, it should be discussed with the land planner before continuing construction.

- J. An as-build survey of the easement area must be submitted following the plat requirements per DBC 9.10 before final approval will be granted.
- K. Final Approval is granted when the as-build survey is signed by the Denali Borough and recorded.
- L. No additional improvements or changes may be constructed or made within an easement unless approved, in writing, by the mayor or designee.
- M. Upon completion of any additional improvement within an easement, the easement holder shall provide the borough with an accurate and complete as-built drawing of the completed improvement
- N. An easement may be revoked if the easement holder abandons or ceases to use the easement.
- O. The mayor or designee may inspect the borough land at any time to ensure compliance with easement conditions.

Chapter 4.15

DISPOSAL, LEASES AND EXCHANGE OF BOROUGH REAL PROPERTY GENERAL PROVISIONS

Sections:

- 4.15.005 — **Definitions. (Need these yet)**
- 4.15.010 — **General policy**
- 4.15.020 — **Authority to dispose, lease or exchange borough real property**
- 4.15.030 — **Conformity with classification and borough-approved plans**
- 4.15.040 — **Procedures for nominations, review and approvals**
- 4.15.050 — **Appraisal and market value**
- 4.15.060 — **Requirements for sale**
- 4.15.070 — **Qualifications of applicants, bidders, proposers**
- 4.15.080 — **Assembly ordinance authorizing sales, leases or exchanges**

4.15.005 — Definitions

4.15.010 — General Policy

~~A. The borough shall provide for land disposal, leases and exchanges, considering the following:-~~

- ~~1. Goals presented in the borough comprehensive plan and DBC 4.01.010~~
- ~~2. The preponderance of public land and the limited supply of private land in the borough~~
- ~~3. Evidence of local demand and the capacity of the private real estate market to meet that demand~~
- ~~4. A priority on land for year round residential use and for beneficial industrial or commercial developments~~
- ~~5. The general intent to generate revenue to support borough services, by offering land at fair market value, except in the limited situations provided by DBC 4.05.020 (H) and 4.15.050 (C).~~

4.15.020 — Authority to dispose, lease or exchange borough real property

~~A. The mayor or designee may dispose, lease, or exchange borough land where authorized by the assembly by ordinance.-~~

~~B. Decisions on disposals, leases and/or exchanges of borough real property are subject to review by the planning commission before submission to the borough assembly. Planning commission review shall be limited to the properties' suitability for the intended purpose and consistency with surrounding land use(s) and management plans which include classification. The planning commission, by resolution, shall make a recommendation to the borough assembly regarding the proposed land disposal.~~

THIS SECTION WAS MOVED TO 4.16.030(A)

~~4.15.030~~ ~~Conformity with classification and borough-approved plans~~

~~The borough may dispose, lease or exchange municipal property when the affected land has received a management plan including land classification under the policies of this title and the proposed action is consistent with the borough comprehensive plan, and any other applicable land use plans.~~

THIS SECTION WAS MOVED TO 4.01.090

~~4.15.040~~ ~~Procedures for nominations, review and approvals~~

- ~~A. The borough mayor or designee, the assembly, the planning commission, or the public may nominate real property for sale, lease or exchange, as outlined below:~~
- ~~1. Land disposal nominations from the borough mayor or designee, planning commission, or assembly are incorporated into the annual work plan (DBC 4.10.020).~~
 - ~~2. The public may recommend disposals, leases or exchanges to the borough mayor or designee for inclusion in the annual work plan. Nominations from the public shall be submitted to the mayor or designee in a standardized format established for that purpose and may require [include] a processing fee according to the assembly approved fee schedule.~~
 - ~~3. The borough entities referenced above may also recommend disposals outside the timeframe of the annual work plan.~~
- ~~B. Once properties are nominated for disposal, lease or exchange, the process below shall be followed:~~
- ~~1. The mayor or designee prepares the information below for each specific recommended disposal, lease or exchange action:
 - ~~– rationale, link to the management plan (where applicable)~~
 - ~~– initial best interest finding~~
 - ~~– intended form and terms of offering~~
 - ~~– physical form of sale or lease – e.g., intended use, general number and size of lots, access, design standards~~
 - ~~– controls on post-disposal/post exchange uses~~
 - ~~– for leases, objectives for operations plan~~~~
 - ~~2. Public notice is issued, as specified in DBC 04.01.030. A public meeting is held in a location proximate to the proposed action.~~
 - ~~3. The mayor or designee presents a package to the planning commission for review, including a recommended action. The planning commission reviews these findings and takes public testimony as part of a regularly scheduled meeting. The planning commission presents a recommendation for consideration by the assembly.~~

- ~~4. The assembly, by ordinance, approves any specific disposal, lease or exchange, providing sufficient direction to allow the mayor or designee to move forward with specific actions.—~~
- ~~5. The mayor or designee carries out disposal, lease or exchange process as authorized by the assembly. Final terms and conveyance of agreements or contracts are governed by the remaining sections of this Title.—~~

THIS SECTION WAS MOVED TO 4.01.100

~~4.15.050—Appraisal and market value—~~

- ~~A. All lands shall be sold or leased at fair market value or fair market rental value as determined by appraisal, except as allowed by DBC 4.15.050(C) [C below].~~
- ~~B. Parcels to be sold, leased or exchanged must have a current appraisal performed by an Alaska State-certified, Alaska chapter, Member of the Appraisal Institute (MAI) appraiser.—~~
- ~~C. The borough may provide for less than fair market land sales and leases in two circumstances:
 - ~~1. to established non-profit corporations and organizations when doing so would provide a public benefit and be in the best interest of the borough. The assembly may authorize the mayor or designee to sell or lease land for less than fair market value if the ordinance authorizing the action contains:
 - ~~– A finding that the sale for less than fair market value is in the best interests of the borough;~~
 - ~~– A statement of the facts on which the finding is based~~
 - ~~– The period of time during which the offer may be accepted.~~~~
 - ~~2. The borough may lease (but not sell) borough land at less than fair market value where, pursuant to the lease operating plan, a commercial or industrial facility or use will be established or maintained on the leased land, but only if the assembly first finds:
 - ~~– That without the rent reduction, development of the use or facility will not be financially feasible and will not be located or maintained within the borough;~~
 - ~~– The operation will confer a net economic benefit to the borough or to the citizens of the borough.~~
 - ~~– The below fair market lease rate shall not extend for up to more than 10 years. A lease entered into pursuant to this subsection may be renewed only for a fair market rental value.~~
 - ~~– A lease providing for below a fair market value shall provide for an immediate rent adjustment to fair market value if the specified use or facility is not established within a time specified in the lease and if the specified use or facility is not continuously maintained except for such periods as are set forth in the lease.~~~~~~

3. ~~The borough may sell land determined to be unusable or inaccessible to an adjacent land owner through a direct sale as long as the land is left in permanent amenity status.~~

THIS SECTION WAS MOVED TO 4.16.030

~~4.15.060 — Requirements for sale~~

~~Borough real property (except natural resources) must be surveyed, platted and made to comply with other subdivision processes by the borough prior to sale or lease. The cost to the borough of surveying, platting and complying with other subdivision processes shall be included in the sale or rental price of the property. In the case of subdivisions, the costs may be prorated or shared equally among all the properties within the subdivision.~~

THIS SECTION WAS MOVED TO 4.16.040

~~4.15.070 — Qualifications of applicants, bidders, proposers~~

- A. ~~A bidder at auction, or an applicant to otherwise purchase, exchange, lease, respond to a proposal, enter into a management agreement, or use of borough real property must be:~~
 1. ~~A legally competent person under the laws of the state of Alaska;~~
 2. ~~At least 18 years' old~~
 3. ~~A group, association, or corporation authorized to conduct business under the laws of Alaska; or~~
 4. ~~a person acting as agent for another person qualified under subsection (1) or (2) and has provided evidence of this status acceptable to the borough mayor or his designee, for example by filing with the borough a power of attorney or letter of authorization.~~
- B. ~~In addition to subsection (A) of this section, a person is not qualified if:~~
 1. ~~The person has failed to pay a deposit or payment, payable to the borough in relation to borough real property during [in] the previous five years; or~~
 2. ~~The person is currently in breach or default on any contract or lease for real property transactions in which the borough has an interest; or~~
 3. ~~The borough mayor or his designee has documented in writing that the person is unlikely to make payment or responsibly perform under the lease or other contract.~~

THIS SECTION WAS MOVED TO 4.16.020(B)

~~4.15.080 — Assembly ordinance authorizing sales, leases or exchanges~~

- A. ~~The assembly shall by ordinance fix the general terms of all sales, leases or exchanges of borough land. The ordinance shall contain:~~
 1. ~~the approximate date and the method or methods of the sale or lease~~

~~2. for sales or leases, the manner in which payment is to be made, the interest to be conveyed, the instrument of conveyance to be used, and any other terms the assembly deems necessary to provide the mayor or designee sufficient general direction to proceed with the sale or lease.~~

Chapter 4.16

DISPOSAL OF BOROUGH REAL PROPERTY

- 4.16.005 Definitions.
- 4.16.010 Purpose.
- 4.16.020 Authority.
- 4.16.030 No warranty implied.
- 4.16.040 Procedures.
- 4.16.050 Requirements for disposal.
- ~~4.16.010 .060~~ Terms for [~~land~~] real property disposals.
- 4.16.070 Qualifications of applicants, bidders, proposers.
- ~~[4.16.020 — Different methods for land disposal]~~
- ~~4.16.030 .080~~ Public outcry auction. [~~outery sale~~]
- ~~4.16.040 .090~~ Sealed bid public auction. [~~sale~~]
- ~~4.16.050 .100~~ Lottery disposal. [~~sale~~]
- ~~4.16.060 .110~~ Over-the-counter [~~sale~~] disposal.
- ~~4.16.070 .120~~ Direct [~~sale~~] disposal.
- ~~4.16.080 .130~~ Negotiated [~~sale~~] disposal.
- ~~4.16.090 .140~~ [~~Land~~] Real property conveyance and future uses of conveyed [~~lands~~] real property.
- 4.16.100 .150 Conveyance for public purpose.

4.16.005 Definitions.

- A. “Deed Restriction” a deed restriction is a clause in a deed that limits the use of land.
- B. “Disposal” means the sale, transfer, conveyance or exchange of the fee simple interest in land, and does not include the granting of an easement or right of way.
- C. “Lot” a measured parcel of land having fixed boundaries and designated on a plot or survey.
- D. “Parcel” a tract or plot of land.
- E. “Real property” “real property” includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.
- F. “Restrictive Covenant” is a clause in a deed or lease to real property that limits what the owner of the land or lease can do with the property.

4.16.010 Purpose.

The purpose of borough real property disposal is to provide for the economic development of the borough in accordance with the borough comprehensive plan and DBC 4.01.010. Borough real property will be offered at fair market value, except as provided by DBC 4.01.100(B).

4.16.020 Authority.

The assembly shall by ordinance dispose of real property per DBC 4.01.015(A).

4.16.030 No warranty implied.

By selling or granting real property, the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the purchaser or grantee to determine whether the real property will meet their needs.

4.16.040 Procedures.

- A. The planning commission [;] shall by resolution [;shall] make a recommendation to the borough assembly regarding the proposed disposal. Planning commission review shall be limited to the property's suitability for the intended purpose and consistency with surrounding use(s) and management plans.
- B. The assembly shall by ordinance fix the general terms of all disposals [~~sales, leases or exchanges~~] of borough real property. The ordinance shall contain:
 1. The approximate date and the method [~~or methods~~] of the disposal; [~~sale or lease~~]
 2. {~~for sales or leases,~~} The manner in which payment is to be made, the interest to be conveyed, the instrument of conveyance to be used, and any other terms the assembly deems necessary to provide the mayor or designee sufficient general direction to proceed with the disposal; and [~~sale or lease.~~]
 3. If any controls on future uses of real property are needed, they shall be set through deed restrictions or restrictive covenants per DBC 4.16.140(B) and 4.16.150(B).
- C. The public has the option to nominate borough real property for future disposal per DBC 4.01.090.

4.16.050 [4.15.060] Requirements for disposal. [sale]

- A. The borough may dispose [~~, lease or exchange~~] of municipal property only when the affected real property [~~land~~] ~~has received a management plan. including land classification under the policies of this title and the proposed action is consistent with the borough comprehensive plan, and any other applicable land use plans.~~
- B. Borough real property [~~(except natural resources)~~] must be surveyed and platted per DBC 9.10 [~~and made to comply with other subdivision processes by the borough~~] prior to disposal. [~~sale or lease. The cost to the borough of surveying, platting and complying with other subdivision processes shall be included in the sale or rental price of the property. In the case of subdivisions, the costs may be prorated or shared equally among all the properties within the subdivision.~~]

C. All real property [land] shall be sold [or leased] at fair market value [or fair market rental value] as determined by appraisal per DBC 4.01.100, except as allowed by DBC 4.01.100(B)

4.16.040 .060 Terms for [land] real property disposals.

A. All applicants to purchase borough real property must be qualified per DBC 4.16.070.

B. ~~[A.]~~ The assembly may authorize payment to be made through either ~~[an upfront,]~~ full payment ~~[,]~~ or financed over time. ~~[The latter approach requires the following:]~~ If financed over time:

1. The down payment, payment schedule and rate[s] of interest shall be set in the assembly ordinance.

~~2. [For disposals, the period for total payment does not exceed 10 years, or 20 years if the land is sold for agricultural use.]~~

2. For a disposal [sale] of real property [land] with a value of more than \$5,000, the prospective purchaser shall pay to the borough a down payment not less than 10 percent of the minimum appraised value at the time of the sale or bid opening.

C. ~~[B.]~~ The disposal [sale] of real property [land] with a value of \$5,000 or less shall be paid at the time of the disposal [sale] or bid opening by certified check or money order by the prospective purchaser.

~~C. [Some methods of disposal may require a bid deposit upon submitting a request or bid to purchase. Any bid deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the sale or bid opening.]~~

~~D. [Some methods of disposal may require an application fee upon request or application to purchase. Application fees to participate in a sale process shall not be refunded.]~~ A non-refundable application fee may be required.

E. If the assembly requires a prospective buyer to pay the borough a down payment, bond or other deposit, and if the prospective buyer breaches a term of the sale, damages will be assessed. The borough shall retain as liquidated damages the prospective buyer's down payment, bond or other deposit.

F. The assembly may by ordinance impose additional limits on the number of parcels a ~~[person]~~ buyer may ~~[buy]~~ acquire at any ~~[sale]~~ disposal.

4.16.070 ~~[4.15.070]~~ Qualifications of applicants, bidders, proposers.

A. A bidder at auction, or an applicant to otherwise purchase, [exchange, lease,] respond to a proposal, enter into a management agreement, or the use of borough real property must be:

1. A legally competent person under the laws of the state of Alaska.

2. At least 18 years[?]² old.

3. A group, association, or corporation authorized to conduct business under the laws of Alaska; or

4. A person acting as an agent for another person qualified under this section [subsection (1) or (2) and] who has provided evidence of this status acceptable to the borough mayor or his designee, for example, by filing with the borough a power of attorney or letter of authorization.

B. [In addition to subsection (A) of this section,] A person is not qualified if:

~~[1. The person has failed to pay a deposit or payment, payable to the borough in relation to borough real property during [in] the previous five years; or]~~

2. The person is currently in breach or default on any deposit or payment to the borough including tax transactions. [contract or lease for real property- transactions in which the borough has an interest; or]

~~[3. The borough mayor or his designee has documented in writing that the person is unlikely to make payment or responsibly perform under the lease or other contract.]~~

~~[4.16.020 .060] Different methods for land disposal~~

~~A.—The borough may dispose of borough land by any of the following methods:—~~

~~1.—Public auction outcry sale~~

~~2.—Sealed bid public auction sale—~~

~~3.—Lottery Sale~~

~~4.—Over the counter sale~~

~~5.—Direct sale~~

~~6.—Negotiated sale]~~

4.16.030 .080 Public outcry auction. [~~outery sale~~]

In a public outcry auction, a suggested opening bid is announced and an auctioneer accepts increasingly higher bids from the floor, with the real property sold to the highest bidder. A bid deposit may be required. Any bid deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the auction.

~~[The assembly may by ordinance authorize the mayor or designee to sell borough land by public auction outcry. The mayor or designee shall sell the land to the highest bidder who performs all the terms of the sale. The mayor or designee will promulgate rules and regulations for conducting this type of auction sale. These rules must be approved by the assembly.]~~

4.16.040 .090 Sealed bid public auction. [~~sale~~]

In a sealed bid public auction, a minimum bid is defined and sealed bids are accepted on a form prescribed by the borough. Bids shall remain sealed until specified date and time of bid opening. All bid openings shall be public, with the sale to the highest bidder who performs all terms of the sale. A bid deposit may be required. Any bid deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the bid opening.

~~[The assembly may by ordinance authorize the mayor or designee to sell borough land by sealed bid public auction. The mayor or designee shall sell the land to the highest bidder who performs all the terms of the sale. The mayor or designee will promulgate rules and regulations for conducting this type of auction sale. These rules must be approved by the assembly.]~~

4.16.050 .100 Lottery disposal. [~~sale~~]

In a lottery, qualified applicants complete an application form prescribed by the borough to register for a chance to be chosen at random to purchase borough real property. Applications shall be submitted to the borough office, and reviewed to determine qualification per DBC 4.16.070. Qualified applicant names will be entered into the lottery drawing. Applicants will be notified of their eligibility status. Lottery drawings shall be made in public. ~~[The assembly may by ordinance authorize the mayor or designee to sell borough land by the use of a lottery.]~~ A single individual, business, corporation or other eligible entity may purchase by lottery only one parcel of borough land every three years. ~~[In order to ensure the fair and equitable disposal of borough land to the public, the assembly may by ordinance impose additional limits on the number of parcels an eligible entity may buy from lottery sales. The mayor or designee may promulgate rules and regulations for conducting a lottery. These rules must be approved by the assembly.]~~ A deposit may be required per the Denali Borough fee schedule. Any deposit submitted that is not successful shall be returned to the unsuccessful applicant immediately following the lottery drawing.

4.16.060 .110 Over-the-counter [~~sale~~] disposal.

- A. In an over the counter disposal, real property that has been offered but not disposed of by auction or lottery is available for purchase ~~[The assembly may by ordinance authorize the mayor or designee to sell borough land by the use of over-the-counter sales if the land was offered for sale at an auction or lottery and the land did not sell at the auction or lottery. Land offered over the counter for sale may be purchased]~~ on a first-come, first-served basis at the borough office. ~~[The mayor or designee may promulgate rules and regulations for conducting an over-the-counter sale. These rules must be approved by the assembly.]~~
- B. The mayor or designee shall periodically review the terms of sale of all land offered for sale over the counter and shall:
1. Adjust ~~[rates on]~~ the annual interest rates to reflect the prevailing market conditions; provided, the ~~[rate of]~~ interest rate shall not be more than six percentage points above the prevailing Federal Reserve discount rate to member banks.
 2. Adjustments in the price of any lot offered in the over-the-counter [~~sale~~] disposal shall be made by the assembly. Price adjustments may be made under the guidance of an independent fee appraiser.
- C. Lots unsold [~~at a sale~~] may [~~also~~] be offered [~~for sale~~] at a future real property disposal [~~land sales~~].

D. Defaulted parcels may be offered for resale over the counter and/or at a future real property disposal [~~land sales~~].

4.16.070- .120 Direct [~~sale~~] disposal.

A. The assembly may by ordinance authorize the mayor or designee to dispose of [~~sell~~] borough real property [~~land~~] directly to the landowner adjoining the borough real property [~~land~~] if:

1. The real property [~~land~~] has no legal or physical access and the cost of developing access would be greater than the resulting value of the parcel with access; [~~or~~]
2. The cost of surveying, platting, or taking other action necessary to establish an acceptable legal description would exceed the value of the property; [~~or~~]
3. The real property [~~land~~] is of such a size or shape as to be illegal or unfeasible to develop as an independent parcel under the applicable land use ordinance; or
4. The land is found not suitable for development and is placed in permanent conservation status.

4.16.080 .130 Negotiated [~~sale~~] disposal.

A. The assembly may by ordinance authorize the mayor or designee to disposal of [~~sale~~] borough real property [~~land~~] directly to an interested, eligible party under rare, specific circumstances when:

- ~~1. [Land will be sold at fair market value, and~~
- ~~2. The use of the proposed sale would lead to a specific use that provides a broad public benefit, beyond the specific benefits to the applicant, and the particular parcel provides an otherwise difficult to achieve option to provide this public benefit, or.]~~
1. The disposal [~~sale~~] meets the broad goals for real property [~~land~~] disposal specified in DBC 4.01.010 [~~this Title~~] and the specific terms of the proposed sale do not fit well into the other methods outlined in this chapter. [~~, e.g., forms of non-traditional payments.~~]

4.16.090 .140 [~~Land~~] Real property conveyance and future uses of conveyed ~~land~~ real property.

A. After the buyer has paid to the borough the payments required by ordinance, the mayor or designee shall execute the instrument of conveyance authorized by ordinance that transfers the real property [~~land~~] or the interest in real property [~~land~~] to the buyer.

B. An instrument conveying real property [~~land~~] may contain controls on future real property [~~land~~] uses, for example deed restrictions, that set specific, borough-enforceable rules approved by the assembly that:

1. Define allowed and prohibited use.

2. Prohibit subdivision and/or set maximum residential densities.
3. Establish dimensional requirements, such as building setbacks or maximum building heights.
4. Establish other use controls necessary to comply with the goals for the disposal established in the management plan or other adopted borough real property [~~land~~] use policy.

4.16.~~100~~ .150 Conveyance for public purpose.

The transfer of borough real property [~~land or resources~~] may be made to a state or federal agency, non-profit, or municipality within the borough, for public purposes for less than fair market value per DBC 4.01.100(B) if:

- A. Approved by the borough assembly; [~~and~~]
- B. The mayor or his designee ensures, by regulation, deed restriction, covenant, or otherwise, that transfers of land under this section serve a public purpose and are in the public interest; and
- C. The borough retains a reversionary interest if the land is not used for the public purpose that was approved by the borough assembly on each conveyance or other land use authorization made under this section.

Chapter 4.17

LEASING OF BOROUGH REAL PROPERTY

Sections:

- 4.17.005 Definitions.
- 4.17.010 Purpose.
- 4.17.020 Authority.
- 4.17.030 No warranty implied.
- 4.17.~~010~~ .040 Procedures.
- 4.17.050 Requirements for lease.
- 4.17.~~040~~ .060 Qualifications of applicants or bidders.
- ~~4.17.020 Types of leases.~~
- ~~4.17.021 Grazing lease.~~
- ~~4.17.022 Agricultural lease.~~
- ~~4.17.023 Short term lease.~~
- ~~4.17.024 Long term lease.~~
- ~~4.17.030 Processing fee.~~
- ~~4.17.050 Plan of operations.~~
- ~~4.17.060 Competitive bids.~~
- 4.17.~~070~~ .070 Term of lease.
- ~~4.17.080 Current appraisal.~~
- 4.17.~~090~~ .080 Right of renewal.
- 4.17.~~100~~ .090 Lease rate.
- ~~4.17.110 Land survey.~~
- 4.17.~~120~~ .100 Attachment of special conditions.
- 4.17.~~130~~ .110 Termination of lease.
- 4.17.~~140~~ .120 Easements on leased land.

4.17.005 Definitions.

- ~~A. [Agriculture—means the tilling of the soil, the raising of crops, dairying, or animal husbandry.—~~
- ~~B. Grazing— means the use of land for the sustenance and growth of domestic livestock, for example, horses or cattle; primarily relying on native vegetation.]~~
- A. “Animal Unit Month (AUM)” an AUM is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep or goats for a month.
- B. “Lease” a contract or instrument conveying property to another for a specified period or for a period determinable at the will of either lessor or lessee in consideration of rent or other compensation.
- C. “Lessee” a person who holds the lease of a property; a tenant.

~~[Note to reviewers — the borough may want to develop policies on marijuana cultivation, manufacturing, sales and testing, as these activities may be proposed on borough lands. Preparing such a code is outside the scope of this current project, but for reference, two definitions, from the Anchorage draft code, are shown below.]~~

~~D. Marijuana Cultivation Facility – A facility that cultivates and harvests marijuana for transfer or sale to a marijuana manufacturing facility, a marijuana testing facility, or a marijuana retail sales establishment.~~

~~E. Marijuana Manufacturing Facility – A facility that receives harvested marijuana from a cultivation facility and extracts, processes, and/or manufactures marijuana products for transfer or sale to another marijuana manufacturing facility, a marijuana testing facility, or a marijuana retail sales establishment.~~

4.17.010 Purpose.

The purpose of leasing borough real property is to provide for the economic development of the borough in accordance with the borough comprehensive plan and DBC 4.01.010. Borough real property will be offered at fair market value, except as provided by DBC 4.01.100(B).

4.17.020 Authority.

The assembly shall by ordinance lease real property per DBC 4.01.015(A).

4.17.030 No warranty implied.

By leasing real property the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the lessee to determine whether the real property will meet their needs.

4.17.040 Procedures.

- A. Real property may be leased in response to the annual work plan; a request from an individual, business, or organization; or by public request.
- B. The planning commission by resolution shall make a recommendation to the assembly regarding a proposed lease per DBC 4.01.015(D).
- C. The assembly may by ordinance authorize ~~[H]~~the mayor or designee ~~[is-authorized]~~ to lease real property per DBC 4.01.015(A). ~~[and, as authorized by assembly ordinance and associated best interest finding, consistent with policies in this title.]~~
- D. The assembly may provide for competitive bidding to lease borough real property that is classified and intended for commercial or industrial use. Competitive bidding shall be conducted in accordance with requirements established by the assembly.

4.17.050 [4.15.060] Requirements for lease. [sale]

- A. The borough may [dispose] lease [, -or exchange of municipal] real property only when the affected real property [land] has received a management plan and the proposed lease conforms with the existing classifications. including land classification under the policies of this title and the proposed action is consistent with the borough comprehensive plan, and any other applicable land use plans.
- B. Borough real property [(except natural resources)] must be surveyed and platted per DBC 9.10 [and made to comply with other subdivision processes by the borough] prior to [sale or]-lease. [The cost to the borough of surveying, platting and complying with other subdivision processes shall be included in the sale or rental price of the property. In the case of subdivisions, the costs may be prorated or shared equally among all the properties within the subdivision.]
- C. All real property [land] shall be [sold or] leased at fair market value [or fair market rental value] as determined by appraisal per DBC 4.01.100, except as allowed by DBC 4.01.100(B).
- D. Applicants to lease borough real property shall submit a complete application form prescribed by the borough. A nonrefundable lease application fee may be required per the Denali Borough fee schedule.
- E. The lease applicant shall submit to the borough for review and approval a plan of operations as specified below. The lessee's plan of operations must be consistent with the broad goals of this title, the [land's] area management plan, other applicable land use plans, and provisions of borough code. The plan of operations shall include, at a minimum:
 - 1. Detailed description of the intended use of the real property. [land]
 - 2. Desired lease length.
 - 3. Timetable for development.
 - 4. Planned structures and fuel storage facilities accompanied by a scale drawing.
 - 5. Estimated value of the improvements.
 - 6. Delineated access, water, and power sources.
 - 7. Intended solid waste and wastewater disposal methods.
 - 8. If a non-exclusive lease, identify location points of passage for the general public.
 - 9. Detailed description of how improvements will be removed at the end of the lease.

4.17.060 [4.15.070—4.17.040] Qualifications of applicants or bidders

~~[Q ualified applicants or bidders must comply with the same standards presented in 4.15.070]~~

- A. A bidder at auction, or an applicant to otherwise [purchase, exchange,] lease, respond to a proposal, enter into a management agreement, or use of borough real property must be:

1. A legally competent person under the laws of the state of Alaska.
 2. At least 18 years['] old.
 3. A group, association, or corporation authorized to conduct business under the laws of Alaska; or
 4. A person acting as an agent for another person qualified under this section [subsection (1) or (2) and] who has provided evidence of this status acceptable to the borough mayor or his designee, for example, by filing with the borough a power of attorney or letter of authorization.
- B. Under certain circumstances, the borough may require a sole proprietor, partnership, corporation or other entity to provide a credit application. All financial information supplied to the Denali Borough will be stamped Confidential and will not be released for public scrutiny under applicable Public Records statutes.
- C. ~~[In addition to subsection (A) of this section,]~~ A person is not qualified if
- ~~1. The person has failed to pay a deposit or payment, payable to the borough in relation to borough real property during [in] the previous five years; or]~~
 2. they are [person is] currently in breach or default on any deposit or payment to the borough including tax transactions. [contract or lease for real property transactions in which the borough has an interest; or]
 - ~~[3. The borough mayor or his designee has documented in writing that the person is unlikely to make payment or responsibly perform under the lease or other contract.]~~

~~4.17.020 .070~~ Types of leases.

~~Real property [Land can] may be leased in response to a borough solicitation for public interest, as initiated through the annual work plan, or in response to a request for a lease from an individual, business or organization. There are four main categories of leases; grazing, agricultural, short term, and long term.~~

~~4.17.021 .080~~ Grazing lease.

~~Where [land are] suitable [,] and public interest exists per DBC 4.17.070, the borough assembly may authorize by ordinance the leasing of real property [land] for grazing. The fair market value of leases shall be set to reflect the value of the real property [land] when limited to these specific purposes, that is, generally lower than if the real property [land] was available for commercial, industrial or residential use.~~

~~4.17.022 .090~~ Agricultural lease.

~~Where [land are] suitable [,] and public interest exists per DBC 4.17.070, the borough assembly may authorize by ordinance the leasing of real property [land] for agriculture use. The fair market value of leases shall be set to reflect the value of the real property [land] when limited to these specific purposes, that is, generally lower than if the real property [land] was available for commercial, industrial or residential use.~~

~~4.17.023 .100~~ Short term lease.

~~Where [land are] suitable [,] and public interest exists per DBC 4.17.070, the borough assembly may authorize by ordinance the leasing of real property [land] for short term use. Short term is defined as 5 years or less.~~

~~4.17.024 .110~~ Long term lease.

~~Where [land are] suitable [,] and public interest exists per DBC 4.17.070, the borough assembly may authorize by ordinance the leasing of real property [land] for long term use. Long term is defined as up to 35 years.~~

~~4.17.030 .120~~ Processing fee. MOVED TO 4.17.050D

~~Applicants wishing to lease borough property must complete an application and submit a nonrefundable processing fee, as specified in the borough's fee schedule.~~

~~4.17.050 .130~~ Plan of operations. MOVED A&B TO 4.17.050E, MOVED C TO 4.17.070

- ~~A. The lease applicant shall submit to the borough for review and approval a plan of operations as specified below. The lessee's plan of operations must be consistent with the broad goals of this title, the land's management plan, any other applicable land use plans, and provisions of borough code.~~
- ~~B. The plan of operations shall include, at a minimum:
 - ~~10. Detailed description of the intended use of the real property [land]~~
 - ~~11. Desired lease length~~
 - ~~12. Timetable for development~~
 - ~~13. Planned structures and fuel storage facilities accompanied by a scale drawing~~
 - ~~14. Estimated value of the improvements~~
 - ~~15. Delineated access, water, and power sources~~
 - ~~16. Intended solid waste and wastewater disposal methods,~~
 - ~~17. If a non-exclusive lease, identify location points of passage for the general public~~
 - ~~18. Detailed description of how improvements will be removed at the end of the lease.~~~~
- ~~C. Once approved the lessee must comply with all terms of the operations plan. Proposed modifications to the plan require submittal and approval of a request for plan amendment. Minor changes in the operations plan [can] may be approved by the mayor or designee. Minor changes are defined as those that do not notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses. If changes are made without approval of the mayor or designee, the mayor or designee may require the changes to be reversed at the lessee's expense.~~

~~4.17.060 .140~~ Competitive bids. MOVED to 4.17.040D

~~The borough may provide for competitive bidding to lease borough real property [land] that is classified and intended for commercial or industrial use within the approved real property [land] management plan. The competitive bidding shall be conducted in accordance with requirements established by the assembly.~~

4.17.070 Term of lease.

- A. The term of the lease shall be based on the type of lease, the nature of the improvements to be made by the lessee and shall generally be long enough to allow for amortization of improvements made by the lessee.
 - 1. Leases shall have a maximum term of 35 years. ~~[with a one-time option for renewal.]~~
 - 2. A lease for a term in excess of 10 years shall be recorded at the state recorder's office.
 - 3. Lessee ~~[will]~~ shall provide no less than 90 days' notice of a request to renew a lease.
- B. ~~[Once an operation plan is approved]~~ The lessee must comply with [all terms set forth in] the operations plan.
- C. Proposed modifications to the operations plan requires submittal and approval of a request for plan amendment.
- D. Minor changes in the operations plan may be approved by the mayor or designee. Minor changes are defined as those that do not notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses. If changes are made without approval of the mayor or designee, the mayor or designee may require the changes to be reversed at the lessee's expense.
- E. Major changes to the operation plan shall be approved by the assembly. Major changes are defined as those that notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses.
- F. If changes are made without approval of either the mayor or designee or assembly, the mayor or designee may require the changes to be reversed at the lessee's expense.

4.17.080—Current appraisal.

~~Parcels to be leased must have a current appraisal performed by an Alaska State-certified, Alaska chapter, Member of the Appraisal Institute (MAI) appraiser.~~

4.17.090 .080 Right of renewal.

The ~~[borough]~~ assembly may by ordinance grant the lessee a right of renewal upon ~~[the]~~ expiration of the initial term ~~[;]~~ ; provided~~[,]~~ that the renewal, or any extension of the lease, ~~[shall be treated as a new lease and]~~ shall be subject to all provisions of this code ~~[then]~~ in effect at the time of the renewal, and that the lessee has complied with the approved operations plan.

4.17.100 .090 Lease rate.

- A. The annual lease rate for a lease[s] shall be established as the fair market value at the time the lease contract is approved, as determined by a qualified appraiser (see DBC 4.01.100) unless otherwise authorized by ordinance. If an existing appraisal is less than two-years old, a letter of opinion may be used.
- B. The rate for leases of borough land shall be calculated by multiplying the property's fair market value as established by an Alaska State certified [MAI] appraiser with the rate multiplier of seven and one-half percent divided by 12 to determine the monthly base lease rate.
- C. ~~[Every five years the borough will review]~~ Leases will be reviewed every five years and adjustments will be determined by adding the increase or decrease rate of the consumer price index (CPI) based on the annual month of March adjustment for the Anchorage metropolitan area market. The amount of the adjustment will be conveyed to the lessee by the lessor by June 1st of each year and the adjusted payment will start beginning with the following July lease payment.
- D. The appraised value or the adjusted value shall not include any improvements the lessee has made. ~~[Cost for the appraisal will be the responsibility of the proposed lessee at the lessee's own expense.]~~
- E. Grazing leases will be based on the animal unit month (AUM) of livestock.

~~4.17.110 Land survey.~~

~~The mayor or designee may require, for noncompetitively bid real property [land], a proposed lessee to cause the borough real property [land] to be surveyed at the proposed lessee's own expense.~~

~~4.17.120~~ .100 **Attachment of special conditions.**

The assembly, mayor or designee may attach special conditions to a lease in order to reduce risk to the borough, mitigate public concerns, or other purposes.

~~4.17.130~~ .110 **Termination of lease.**

When the lease terminates, the lessee shall remove all improvements made pursuant to the plan of operations except those improvements that the lease specifies shall become the property of the borough, and the lessee shall restore the land to reasonably the same condition it was in at the time the lease was executed or, if stipulated, to the condition specified in the lease agreement. Improvements that are not removed by the lessee at the expiration of the lease shall be removedd at the lessee's expense.

~~4.17.140~~ .120 **Easements on leased land.**

Every lease of borough real property ~~[municipal land]~~ shall provide that the ~~[municipality]~~ borough retains the right to designate or grant rights-of-way or utility easements across the leased premises without compensation, ; provided, that the lessee shall be compensated for the taking or destruction of any improvements and

provided further~~[]~~ that the lessee^u at their option^u may request to terminate the lease and/or a rental adjustment to reflect any reduction in value of the leased premises.

Chapter 4.18

EXCHANGE OF BOROUGH REAL PROPERTY

4.18.005 Definitions. (need these yet)

4.18.010 Purpose.

4.18.020 Authority.

4.18.030 No warranty implied.

4.18.040 Requirements for exchange.

4.18.050 Value of real property exchanged.

4.18.~~030~~ .060 Execution of exchange.

4.18.005 Definitions

4.18.010 Purpose.

Subject to the requirements of this title, the assembly[,] may by ordinance~~[, can]~~ authorize the exchange of borough real property. Exchanges may ~~[shall]~~ be for the purpose of consolidating land holdings, and for creating land ownership and use patterns which will permit more effective management. ~~[, facilitating the objectives of borough programs, or other public purposes.]~~ Exchanges shall be demonstrated to be in the best interest of the Denali Borough

4.18.020 Authority.

The assembly shall by ordinance exchange real property per DBC 4.01.015 and DBC 4.01.020.

4.18.030 No warranty implied.

By exchanging real property the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the party involved in the exchange to determine whether the real property will meet their needs.

4.18.040 ~~[4.15.060]~~ Requirements for exchange. [sale]

- A. The borough may ~~[dispose, leaseor,]~~ exchange ~~[municipal]~~ borough real property only when the affected area ~~[land received]~~ has a management plan. ~~[including land classification under the policies of this title and the proposed action is consistent with the borough comprehensive plan, and any other applicable land use plans.]~~
- B. Borough real property ~~[(except natural resources)]~~ must be surveyed and platted per DBC 9.10 ~~[and made to comply with other subdivision processes by the borough]~~ prior to exchange. ~~[sale or lease. The cost to the borough of surveying, platting and complying with other subdivision processes shall be included in the~~

~~sale or rental price of the property. In the case of subdivisions, the costs may be prorated or shared equally among all the properties within the subdivision.~~

- C. ~~All real property [land] shall be [sold or] leased at fair market value [or fair market rental value] as determined by appraisal per DBC 4.01.100, except as allowed by DBC 4.01.100(B).]~~

4.18.~~[020]~~ .050 Value of real property exchanged.

- A. The borough may accept in exchange for borough real property [~~land~~] any consideration of sufficient value not prohibited by law. Decisions on real property [~~land~~] exchanges are “major land use decisions”, as specified in DBC 4.01.015, and the assembly shall review and approve or reject offers for exchange of municipal real property [~~land~~], following the same procedures as specified for real property [~~land~~] disposals per DBC 4.16.040, including the requirement for a best interest finding per DBC 4.01.070.
- B. As is the case with disposals, exchanges shall provide for equal value, except where the assembly prepares an explicit~~[.]~~ written finding~~u~~, that borough and public interests~~[.]~~ and the goals expressed in DBC 4.01.010~~[.]~~ are best met through an exchange at less than equal value.

4.18.~~[030]~~ .060 Execution of exchange.

The borough shall [~~must~~] first, or simultaneously, receive the title conveyance for the real property the borough is to receive before the borough [~~can~~] may convey the title to the real property the borough is to release through this exchange.

Appendix – Classification Guidelines

~~The material on the following page is not intended to be included in code, but would be part of a “policy and procedure” manual created by the borough land management department. This manual could provide guidance to the mayor, planning commission, assembly and general public when determining the appropriate classification for a parcel.~~

Notes:

- ~~1. Small, single use, stand-alone parcels, where the intended use is clear, generally do not require management plans~~
- ~~2. Management plans may result in a general objective to use an area for land disposal, and classify the area accordingly. As more detailed site planning takes place, the initial classification will need to be refined, to clarify specific areas for sales, and other areas for retention in borough ownership. For example, the initial management plan could classify a large tract for settlement. When a detailed disposal plan is created, a portion of this land would be sold, and other portions re-classified as open space surrounding the sales areas.—~~

Classification	Where Appropriate	Timeframe	Management Plan Required
Agriculture & Forestry Amenity Value Commercial Extraction Industrial Public Facilities Recreation Retention Settlement	For relatively small, accessible individual borough parcels or a set of such parcels (e.g., < 640 acres in size), where preferred uses are currently established, or where the general intent for future use can be determined with information on hand	Borough lands available for use today, due to current accessibility and opportunities for near term use. Drivers for such near term uses include specific public objectives (e.g., a public facility) or private sector interest (e.g., a request for sale, lease or permit).	Requires formal assembly review and approval process for specific proposed uses or projects: This level of approval is required for disposals (sales or lease), or for activities resulting in substantial, enduring changes in the character of the landscape (e.g., a commercial gravel operation)
Land Bank	For larger parcels (e.g., > 1 section/640 acres), with decent access, where the intention is for a mix of disposals and retention, but where work is required, using a management planning process, to determine the appropriate mix, character and location of uses	Borough lands that are priorities for near to mid-term decision making through a management planning process, to set the stage for subsequent implementation in a 1-5 year timeframe	Management plan required to assess site characteristics and current and possible uses, and based on this information, establish preferred uses. Results set stage for more specific classifications & approvals described in the row above.

~~Multiple Use Reserve~~

~~For small or larger parcels, with limited or no road access, where there is little current pressure for use and where preferred future uses are not yet clear~~

~~Borough lands where developed uses are not likely for 5, 10, or more years into the future~~

~~Management Plan: for larger parcels- Formal Assembly review and approval process for specific proposed uses or projects: for single small parcels~~

Section 3. Effective Date. This ordinance becomes effective upon adoption of the Denali Borough Assembly and signature of the Denali Borough Mayor.

DATE INTRODUCED: JULY 13, 2016
FIRST READING: JULY 13, 2016
PUBLIC HEARING: AUGUST 10, 2016

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this ____ day of _____, 2016.

Mayor Clay Walker

ATTEST: _____
Gail Pieknik, Borough Clerk

DENALI BOROUGH, ALASKA
ORDINANCE NO. 16-12
VERSION B

INTRODUCED BY: Mayor Clay Walker

AN ORDINANCE AMENDING DENALI BOROUGH CODE OF ORDINANCES TITLE 4,
REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

BE IT ENACTED by the Assembly of the Denali Borough, Alaska that:

Section 1 Classification. This ordinance is of a general and permanent nature.

Section 2 Purpose. The purpose of this ordinance is to amend in its entirety Denali Borough Code of Ordinances Title 4, Real Property Acquisition, Management and Disposal as follows:

Title 4

REAL PROPERTY ACQUISITION, MANAGEMENT AND DISPOSAL

Chapters:

- 4.01 General Provisions.**
- 4.05 Real Property Acquisition.**
- 4.10 Management of Borough Real Property.**
- 4.11 Borough Land Permits, Licenses, Easements and Rights of Way.**
- 4.16 Disposal of Borough Real Property.**
- 4.17 Leasing of Borough Real Property.**
- 4.18 Exchange of Borough Real Property.**

Chapter 4.01

GENERAL PROVISIONS

Sections:

- 4.01.005 Definitions.
- 4.01.010 Goals for borough real property.
- 4.01.015 Authority for management of borough real property.
- 4.01.018 The land management fund.
- 4.01.020 Procedural requirements for major land use decisions.
- 4.01.021 Process for real property actions other than major decisions.
- 4.01.025 Inventory and record keeping.
- 4.01.030 Public notice.
- 4.01.040 Generally allowed uses of borough real property.
- 4.01.050 Buffers & development setbacks.
- 4.01.060 Fees.
- 4.01.070 Best interest finding.
- 4.01.080 Bonding, indemnification, insurance.
- 4.01.090 Procedures for nominations, review and approvals.
- 4.01.100 Appraisal and fair market value.

4.01.005 Definitions.

- A. "Borough land" lands owned by the Denali Borough or under its management authority.
- B. "Denali Borough Code" code of ordinances adopted by the Denali Borough assembly, abbreviated DBC.
- C. "Major land use decisions" decisions with lasting and significant impacts on the use of borough land (see specific list in DBC 4.01.015(A)).
- D. "Management authority" land approved for conveyance to the borough by the State of Alaska prior to patent being issued.
- E. "Real property" "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.

4.01.010 Goals for borough real property.

Goals for the use of borough real property are the management, disposal, or acquisition of new borough lands for the purpose of enhancing the economy, protecting the quality of the borough's natural environment, generating revenue, and providing opportunities for citizens to make a life in the borough, while ensuring that the public shall be provided a full and fair opportunity to be involved in major land use decisions.

4.01.015 Authority for management of borough real property.

- A. The assembly is the managing authority for borough real property and the decision-making body on the following major land use decisions related to borough real property:
 - 1. Management plans including classification and re-classification.
 - 2. Revisions and/or expansions to DBC Title 4.
 - 3. Sale and leases of borough real property.
 - 4. Land exchanges involving borough real property.
 - 5. Resource extraction licenses and long term, large scale, land encumbrances (e.g., natural gas pipeline right of way).
 - 6. Appeals of decisions of administrative staff or planning commission acting as board of review per DBC 5.20.120.
- B. The managing authority shall manage all borough real property in accordance with this title and adopted management policies and goals.
- C. As part of the annual work plan described in DBC 4.10.020, the assembly shall review borough real property proposed to be offered for sale or lease and at that time may also give general approval for planned disposals, and other options for disposals as outlined in DBC 4.16, 4.17, and 4.18.
- D. The planning commission will review and make recommendations to the assembly on major land use decisions, including the following:
 - 1. Management plans including classification and re-classification.
 - 2. Revisions and/or expansions to DBC Title 4.
 - 3. Sale and leases of borough real property.
 - 4. Land exchanges involving borough real property.
 - 5. Resource extraction licenses (e.g., for commercial gravel extraction), and long term, large scale, land encumbrances (e.g., natural gas pipeline right of way).
 - 6. Annual work plan for borough real property.
- E. The planning commission is responsible for decisions on commercial use permits and smaller scale, local easements and rights-of-way.
- F. The mayor or designee is authorized to grant approval of the following actions related to borough real property, working within the framework of assembly-approved management plans:
 - 1. Resource extraction permits, including sales of sand or gravel not to exceed a maximum of 500 cubic yards per year.
 - 2. Temporary use permits.

4.01.018 The land management fund.

- A. The land management fund is established. The land management fund is the operating fund for all activities that concern the acquisition of real property, management, development, sale or administration of borough real property. Revenue derived from the sale, lease or use of borough real property, and from the sale of gravel or other resources taken or extracted from borough property,

shall be deposited in the land management fund. Money may be appropriated from the land management fund only for acquisition of real property, management, development, sale or administration of borough real property, or other purposes approved by the assembly.

1. A portion of the land management fund account may be appropriated annually for management of borough real property, to fulfill the purpose and mission of the fund as stated in this chapter. The assembly shall be responsible for establishing the annual operating budget.
 2. There is established a subaccount of the land management fund to be known as the land management capital fund. In addition to the use of the fund for the land management operating budget as provided in this section, revenue in the land management fund may be appropriated by the assembly to the land management capital fund only for the acquisition of real property for municipal use, and for improvements to borough real property. The planning commission shall receive at least thirty-days (30) prior notice of any proposed assembly action regarding any proposed appropriations from the fund.
 3. "Improvements to borough real property" for the purposes of this section means a valuable addition to borough property or an enhancement of its condition intended to increase its value or utility, or to adapt it for new or further purpose, including expenditures to extend the useful life of the property asset, to improve its performance, or for off-site mitigation necessary to improve borough real property.
 4. Land management fund money shall be spent or disbursed as appropriated by ordinance and shall be appropriated for the following purposes only:
 - i. Funding of the established subaccounts of the land management fund;
 - ii. Improvements to borough real property;
 - iii. Administration of borough real property selection and land management program, including survey, engineering, and other costs related to lease, sale, or disposal of such real property; and
 - iv. The maintenance of real property management records.
- B. Revenue from the land management fund not appropriated may be remitted to the general fund.

4.01.020 Procedural requirements for major land use decisions.

- A. The borough assembly, mayor or designee, planning commission, or the public may initiate proposals for major land use decisions. Details of this process specifically for disposals are presented in DBC 4.01.090.
- B. Prior to assembly action on major land use decisions, and in addition to formal public hearings required under "D" and "E" below, the mayor or designee shall conduct at least one meeting to gather public input. This meeting should be held

at an appropriate venue as near to the affected parcel as is practical. (see DBC 4.01.030 for public notice requirements)

- C. The mayor or designee shall make a recommendation regarding the proposed decision to the planning commission including:
 - 1. Parcel location and ownership, classification or other relevant borough real property management policies, known encumbrances or permits;
 - 2. To the degree information is available, property characteristics including topography, soils, access and availability of utilities;
 - 3. A summary of previous input from the public, planning commission or assembly, including reference to the annual work plan;
 - 4. Compatibility with the borough comprehensive plan or other real property use policy approved by the assembly; and
 - 5. If a proposed action is not compatible with an approved management plan or the borough comprehensive plan, a revision to the relevant plan is required before the action may be approved. These revisions may be presented for review and approval as part of the process for the review and approval of the major action.
- D. The planning commission shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action. The planning commission shall make a recommendation to the assembly, building from the steps above, and its own deliberations.
- E. The assembly shall review the proposed major land use decision at a public hearing, and provide the opportunity for public testimony and/or submission of written comments regarding the proposed action.
- F. The assembly shall consider the planning commission recommendations, the mayor's recommendations, and public comments prior to taking action.

4.01.021 Process for real property use actions other than major decisions.

The borough mayor or designee may elect to meet with the public, the planning commission and/or assembly on other real property management issues not explicitly identified in DBC 4.01.015.

4.01.025 Inventory and record keeping.

The borough mayor or designee shall develop and maintain an inventory of all real property in which the borough has, or has had, an interest. To the degree information is available, the inventory should contain information regarding parcel size and classification and any current borough authorized permits, easements or leases.

4.01.030 Public notice.

Public notice shall, at minimum, meet the public notice requirements of the Denali Borough Charter, Article 1, Section 1.05 unless otherwise specified in this title. Public notices shall include the date, time, location, and purpose of the notification.

4.01.040 Generally allowed uses of borough real property.

- A. No person shall place improvements or personal property upon, or make unauthorized use of borough real property, without permission from the borough mayor or designee acting in compliance with approved management plans and other provisions of this title.
- B. No person shall remove timber or other vegetation, gravel or other materials, or otherwise damage borough real property without written permission from the borough mayor or designee.
- C. Borough real property is open to incidental uses including walking, hiking, hunting, all-terrain vehicles (ATV's), snowmobiles, fishing, short term (14 days or less) camping or other low impact, public, non-commercial activities. These incidental uses may be restricted to provide for public safety or to avoid real property degradation or vandalism, if needed. Harvesting a small number of wild plants, mushrooms, berries, or other plant material for personal, non-commercial use is permitted.
- D. If the mayor or designee has knowledge of an unauthorized use, steps shall be taken to end this activity. Unless the mayor or designee provides otherwise, the unauthorized user shall restore the borough real property to the same condition it was prior to when the unauthorized use began, and pay all costs incurred by the borough as a result of this action.
- E. Failure to comply with borough, state and federal laws and regulations for any authorization issued under the authority of this title shall be terms for contract, permit or lease revocation, termination, or other action as deemed appropriate.
- F. Persons found in violation of this section will be prosecuted in accordance with state law and the Denali Borough Code.

4.01.050 Buffers & development setbacks.

Management plans will identify the need for any buffers and/or setbacks near waterbodies, such as rivers, streams, and lakes if there is not one already set by the state. The borough will also identify any trails in the management plans and whether they need buffers or setback and the potential maximum widths.

4.01.060 Fees.

The borough mayor or designee shall propose a schedule of fees for applications, permits and other uses of borough real property under this title. The borough assembly shall approve the fee schedule.

4.01.070 Best interest finding.

Real property disposals, leases, and exchanges require a best interest finding statement. A best interest finding statement shall be written by the mayor or designee and be included with every real property disposal ordinance. This written finding must include a description of the real property identified for disposal, a summary of the disposal process including public notices and public meetings,

known natural or cultural considerations, comments received regarding the real property disposal, a statement of consistency with approved borough plans, and a final statement that the real property disposal is or is not in the best interest of the borough including reference to the goals in section DBC 4.01.010 if appropriate.

4.01.080 Bonding, indemnification, insurance.

- A. Where the borough has authorized a use on borough real property, including commercial use, resource harvest or extractions, leases, management agreements, easements, or rights-of-way, the borough may require bonding, indemnification, and/or insurance to ensure compliance with established standards.
- B. Where the activity may alter the land surface, the borough may require a bond or damage deposit in order to ensure proper restoration after use of the real property has ended. The bond amount shall depend on the type of activity. The user's liability will be released and the real property use authorization processed for closure only after the real property has been restored or left in a condition suitable to the borough. This may be retroactive if the damage was caused by the same lessee or permit holder during a prior agreement.
- C. Persons holding a real property use authorization shall be required to indemnify, save harmless and defend the borough, assembly members, officers, 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 or omission arising from the person's use, occupancy or the performance under the authorization.

4.01.090 Procedures for nominations, review and approvals

- A. The public may nominate real property for sale, lease or exchange, as outlined below:
 - 1. Nominations from the public shall be submitted to the mayor or designee on a land nomination form provided by the borough and may require a processing fee according to the Denali Borough fee schedule.
- B. Once properties are nominated for disposal, lease or exchange, the process below shall be followed.
 - 1. The mayor or designee shall prepare the information below for each specific recommended disposal, lease or exchange action:
 - i. Conformity with management plan;
 - ii. Initial best interest finding;
 - iii. Intended offering type;
 - iv. Physical form of sale or lease – e.g., intended use, general number and size of lots, access, design standards; and
 - v. For leases, objectives for operations plan.

2. The Mayor or designee shall issue public notice of the proposed action as specified in DBC 4.01.030. A public meeting shall be held in a location proximate to the proposed action.
3. The mayor or designee shall present a finding of facts and a recommendation to the planning commission for review. The planning commission shall review these findings and take public testimony at a public hearing as part of a regularly scheduled meeting. The planning commission shall present a recommendation to the assembly for consideration.
4. The assembly, by ordinance, shall approve any specific disposal, lease or exchange, providing sufficient direction to allow the mayor or designee to move forward with specific actions.
5. The mayor or designee shall carry out the disposal, lease or exchange process as authorized by the assembly. Final terms and conveyance of agreements or contracts are governed by this Title.

4.01.100 Appraisal and Fair market value

- A. Parcels to be sold, leased or exchanged must have a current appraisal of fair market value performed by an Alaska State certified appraiser.
- B. The borough may provide for less than fair market land sales and leases in two circumstances:
 1. To established non-profit corporations and organizations when doing so would provide a public benefit and be in the best interest of the borough. The assembly may authorize the mayor or designee to sell or lease land for less than fair market value if the ordinance authorizing the action contains:
 - i. A finding that the sale for less than fair market value is in the best interest of the borough;
 - ii. A statement of the facts on which the finding is based; and
 - iii. The period of time during which the offer may be accepted.
 2. The borough may lease (but not sell) borough land at less than fair market value where, pursuant to the lease operating plan, a commercial or industrial facility or use will be established or maintained on the leased land, but only if the assembly first finds:
 - i. That without the rent reduction, development of the use or facility will not be financially feasible and will not be located or maintained within the borough.
 - ii. The operation will confer a net economic benefit to the borough or to the citizens of the borough.
 3. The below fair market lease rate shall not extend for more than 10 years. A lease entered into pursuant to this subsection may be renewed only for a fair market rental value.
 4. A lease providing for below a fair market value shall provide for an immediate rent adjustment to fair market value if the specified use or facility

is not established within a time specified in the lease and if the specified use or facility is not continuously maintained except for such periods as are set forth in the lease.

5. The borough may sell land determined to be unusable or inaccessible to an adjacent land owner through a direct disposal as described in DBC 4.16.120.

Chapter 4.05

REAL PROPERTY ACQUISITION

Sections:

- 4.05.005** Definitions.
- 4.05.010** Acquisition and ownership.
- 4.05.020** Procedural requirements.
- 4.05.030** Eminent domain.
- 4.05.040** Ownership and use.
- 4.05.050** Rights and powers of borough.
- 4.05.060** Federal and state aid.

4.05.005 Definitions.

- A. "Real property" "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.

4.05.010 Acquisition and ownership.

- A. The borough may acquire, own, and hold real property or limited property rights inside or outside the borough boundaries by purchase, gift, grant, dedication, exchange, redemption, purchase of equity of redemption, operation of law, tax or lien foreclosure, condemnation or declaration of taking, annexation, or by any other lawful means of conveyance. Real property shall be held in the name of "Denali Borough."
- B. Nominations to acquire property may be made by the public on a form provided by the Denali Borough.
- C. The assembly may approve and authorize the purchase of real property by contract of sale, a deed of trust, or mortgage.
- D. The borough may not acquire any real property by means of dedication by plat unless the dedication of real property is accepted in writing and signed by the mayor and approved by the assembly.
- E. Any real property acquisition instrument requiring execution by the borough, for example, a mortgage or deed of trust, shall be signed by the mayor or designee and attested by the clerk. The form of any conveyance shall be reviewed by the borough attorney.

4.05.020 Procedural requirements.

- A. A proposal to acquire property shall be reviewed by the planning commission. Review by the planning commission shall be limited to the property's suitability for the intended purpose and its consistency with surrounding real property use(s) and any applicable land use/land management plans. The planning commission

shall recommend to the borough assembly, by resolution, their findings and recommendations. The resolution shall address:

1. The purpose of the acquisition;
 2. The proposed use of the real property and associated land management plans; and
 3. A description of the real property or interests in lands or resources concerned.
- B. After receipt of the recommendations of the planning commission, the borough assembly may find that the real property being purchased is in the best interest of the borough. Acquisition of real property by the borough shall require an assembly ordinance specific to the particular acquisition, including general purpose, conditions and manner of acquisition.
- C. Prior to approval, the mayor or designee shall make available for assembly review an abstract of title, an appraisal of the real property, a contamination/liability assessment, and a review of any problem in acquisition. A contamination/liability assessment shall require the following:
1. The mayor or designee shall review maps, aerial photographs, plats, surveys, any historical land use records, and visit the site, to see if any issues of obvious concern may be found. If nothing is found the assessment may end and a report will be presented to the assembly by the mayor or designee stating these findings.
 2. If the initial inspection reveals possible contamination issues, further research and site inspections shall be conducted to determine the nature of the findings in the initial assessment.
- D. Upon authorization by ordinance, the mayor or designee shall carry out the specific steps required to acquire the real property according to the terms and conditions established by the ordinance. Upon assembly approval of a purchase, the mayor or designee is authorized to obtain title insurance, to execute any instruments, and to take all steps necessary to complete and close the purchase and acquisition of the real property.
- E. The assembly may authorize the mayor or designee to acquire real property for more than fair market value only if the ordinance authorizing the acquisition contains a statement of the facts on which the acquisition is justified.

4.05.030 Eminent domain.

The assembly may exercise the powers of eminent domain and declaration of taking in accordance with AS 29.35.030. Eminent domain shall be exercised only if the borough has made reasonable but unsuccessful efforts to negotiate a purchase or exchange. Eminent domain takings may only be used for public works or facilities, including road or trail access, when no other reasonable option is available, and may not be conveyed in any form to any private, corporate or nonprofit entity.

4.05.040 Ownership and use.

A. The borough may acquire and hold real property as sole owner or as tenant in common or other lawful tenancy with any person, corporation or government body for any public purpose. The borough may hold real property in trust for any public purpose, including:

1. Temporary activities;
2. Easements and rights-of-way;
3. Leasing or eventual disposal; or
4. Long term dedication for public purposes, including public facilities and public recreation.

4.05.050 Rights and powers of borough.

The borough shall have, and may exercise, all rights and powers in the acquisition, ownership and holding of real property as if the borough were a private individual.

4.05.060 Federal and state aid.

The borough may apply for, contract with, and do all things necessary to cooperate with the United States Government and the state of Alaska for the acquisition, holding, improvement, or development of real property inside and outside the borough boundaries.

Chapter 4.10

MANAGEMENT OF BOROUGH REAL PROPERTY

Sections:

- 4.10.005 Definitions.**
- 4.10.010 Management plans.**
- 4.10.015 Classification requirement, categories, and definition.**
- 4.10.020 Annual work plan.**

4.10.005 Definitions.

- A. "Commercial Use" means any activity, goods or services that are offered for sale or rent.
- B. "Fair market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- C. "Interest in property" means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- D. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- E. "Natural resources" to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
- F. "Public interest" means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.

4.10.010 Management plans.

- A. The mayor or designee shall prepare a written management plan for borough real properties where required in this section. The planning commission shall review, and the assembly will provide final approval.
- B. A management plan is required before any real property management action may occur including, but not limited to, any disposal, lease, exchange, or any permit or license.
- C. Management plans provide a basis for well-informed decisions on the best use of borough real properties, particularly where larger blocks of borough

real property have the potential for a variety of uses. Specific objectives for management plans include:

1. Provide better understanding of current and potential uses.
2. Provide the opportunity for public involvement.
3. Develop broad goals for the affected real properties.
4. Identify appropriate land use classification(s), standards and guidelines.

D. A management plan shall contain two elements:

1. Information about the parcel, including:
 - i. Physical characteristics of the site, for example, elevations and slopes, vegetation, and water bodies.
 - ii. Current and potential access, including roads, trails, airstrips.
 - iii. Current and potential uses on-site and on surrounding properties; any potential public health, safety, or welfare issues.
 - iv. Improvements (e.g., buildings, infrastructure).
 - v. Easements, leases, and permits; utilities or other infrastructure serving or crossing the site.
2. Management policies, including:
 - i. Overall goals and objectives.
 - ii. Classification(s), including boundaries and management intent statement for each classification area.
 - iii. Plans for access and other needed infrastructure.
 - iv. Site-specific management standards and guidelines.
 - v. Implementation actions and schedule.
 - vi. Objectives for terms and conditions of use for real property intended for sale, lease, or permits shall be described.

4.10.015 Classification requirement, categories, and definition.

All borough real property must be classified through an assembly approved land management plan.

All borough real property shall be classified as one of the following:

- | | |
|------------------------------------|----------------------|
| 1. Agriculture and Forestry | 6. Material Site |
| 2. Amenity Value | 7. Multiple Use |
| 3. Commercial and Light Industrial | 8. Public Facilities |
| 4. Heavy Industrial | 9. Recreation |
| 5. Land Bank | 10. Residential |

Classification categories defined:

- A. *Agriculture and Forestry* – Real property intended for raising and harvesting crops, grazing, breeding and management of livestock, dairying, commercial timber harvest, or woodlot management. This includes activities such as processing, cleaning, packing, storing, and distribution of agriculture products grown on the real property.

- B. *Amenity Value* – Real property intended to be retained and kept in a natural state to maintain a sense of open space that may also protect wildlife habitat and support non-commercial recreational opportunities, scenic vistas, historic structures and landscapes, greenbelts, or other natural qualities.
- C. *Commercial and Light Industrial* – Real property intended primarily for uses related to trade and commerce, such as the sale, rental, or distribution of products and services, and/or for light industrial uses. Light industrial uses are those that do not create significant off-site impacts and are generally conducted inside closed buildings, for example warehousing, storage, and light manufacturing.
- D. *Heavy Industrial* – Real property intended for industrial and related uses that are best separated from most other uses, due to their potential for off-site impacts. Examples include landfills, large scale material or mineral extraction and processing, waste handling and storage, electric generation, large scale manufacturing, or other uses that involve significant noise, odors, bright lights, or other potential nuisances or safety risks that make them poor neighbors with most other real property uses. Parcels should be of a size that allows for sufficient buffer zones to reduce potential impacts of these types of use on adjoining properties.
- E. *Land Bank* – Real property which will remain in borough ownership. Following approval of a management plan, these areas will be reclassified to designate the specific intended uses. In the interim, the real property will be available for generally allowed uses per DBC 4.01.040.
- F. *Material Site- Natural resources* primarily used for construction of local roads, trails, easements, and building lots.
- G. *Multiple Use* - Real property in areas with potential to have multiple classifications.
- H. *Public Facilities* – Real property intended to be retained and reserved for public facilities including schools, clinics, day-care centers, government buildings, parks, and other public uses. Parcels are sized to meet the need, and allow for future expansion. Such lands will generally be retained in borough ownership, but could also be sold or leased to another public or non-profit entity that will retain real property for this purpose.
- I. *Recreation* – Real property intended to be retained where the primary use is public and/or commercial outdoor recreational areas and facilities. Recreational uses, include, but are not limited to, trails (non-motorized and motorized), ski areas, golf courses, day use facilities, campgrounds, and wilderness camps.
- J. *Residential* – is intended primarily for single- and multifamily dwellings. These areas may also include, as secondary uses, areas for greenbelts, playgrounds, schools, churches, libraries, and parks.

4.10.020 Annual work plan.

A. The mayor or designee shall prepare by March 1st of each year a work plan for borough real property specifying disposal, leasing and exchange plans for the coming year, and more general intentions for the subsequent three years. Following review by the planning commission, the annual work plan shall be submitted to the assembly.

Elements of the work plan shall include:

1. A summary of the previous year's actions, expenditures and revenues; a general overview of intentions for future real property management actions.
2. A current inventory of the location and status of borough real property.
3. Proposed actions concerning real property over the coming year:
 - i. Priority areas for management plans including real property classification.
 - ii. Priority areas for real property disposals, acquisition, and/or leases.
 - iii. Other land management priorities, including issuance and/or renewal of use permits or licenses.
4. Anticipated finances of real property activities, including:
 - i. Projections of revenue from sales, leases, permits or fund investments over the coming year.
 - ii. Anticipated expenditures including costs for staff, contractors, capital improvements or other activities.
5. Preliminary plans for borough real property over the following three years, including:
 - i. Likely locations of future management plans, disposals, leases, exchanges and larger scale permits or rights of way.
 - ii. Planned changes in management activity.

Chapter 4.11

Borough Land Permits, License, and Easements

Sections:

- 4.11.005 Definitions.
- 4.11.006 Conditions for use of resources on borough real property.
- 4.11.010 Extraction permit.
- 4.11.020 Extraction license.
- 4.11.030 Temporary use permit.
- 4.11.040 Commercial use permit.
- 4.11.050 Easements.

4.11.005 Definitions.

- A. "Access easement" means the right of a limited group or the general public to travel across a defined area.
- B. "Commercial Use" means any activity, goods or services that are offered for sale or rent.
- C. "Easement" means a nonpossessory interest in borough land that entitles the holder to a specified limited use of a defined area.
- D. "Fair market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- E. "Hazardous use" means an unacceptable risk to human health and well-being.
- F. "Interest in property" means a right, claim, title, or legal share in that property. Refers to the bundle of rights which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.
- G. "Lease" means a contract granting use or occupation of property during a specified period in exchange for a specified rent.
- H. "Natural resources" to which the borough holds title may be sold pursuant to approval by the assembly including, but not limited to, gravel, sand, soil, rock, peat, timber, firewood and natural vegetation
- I. "Private easement" means the right by a limited group of people to use a defined area.
- J. "Public easement" means the right of the general public to use certain streets, roads, highways, paths, airspace or defined area.
- K. "Public interest" means the welfare of the general public (in contrast to the narrow interest of a person, group, or firm) in which the whole society has a stake and

which warrants recognition, promotion, and protection by the government and its agencies, and includes both monetary and non-monetary values.

- L. "Utility easement" means to allow a utility the right to use or access a defined area.

4.11.006 Conditions for use of borough real property, by permit or license

- A. The mayor or designee shall establish borough-wide and/or site specific conditions to guide use allowed by permit or license. Condition topics include, but are not limited to:
 - 1. Excavation and reclamation standards, slope standards;
 - 2. Water quality protection;
 - 3. Traffic impacts;
 - 4. Safety, including fencing and signage;
 - 5. Visual screening;
 - 6. Hours of operation;
 - 7. Detailed description of the intended use of the land;
 - 8. Desired lease, permit or license length;
 - 9. Timetable for development;
 - 10. Planned structures and fuel storage facilities accompanied by a scale drawing;
 - 11. Estimated value of the improvements;
 - 12. Delineated access, water, and power sources;
 - 13. Intended solid waste and wastewater disposal methods;
 - 14. If necessary, identify location points of passage for the general public; and
 - 15. Detailed description of how improvements will be removed at the end of the lease or permit.
- B. If the appropriate approval body determines a permit or license may cause damage to the borough land, the mayor or designee shall require the applicant to post a bond with the borough to ensure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The mayor or designee shall not release the bond until the licensee has complied with all conditions of the license.
- C. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.
- D. The mayor or designee may, for cause, revoke a permit or license:
 - 1. Extraction Licenses -The mayor or designee shall give notice of the potential cause of the revocation and give the licensee reasonable amount of time, but not more than 60 days, to correct the problem. If the problem is not corrected and a permit or license has to be revoked, the licensee, within 45 days, shall restore the land to reasonably the same condition it was in at the time the permit or license was executed.

- 2. Permits - The mayor or designee may, for cause and without notice, immediately revoke a permit. The user of borough real property whose permit has been revoked shall, within the time specified in the permit, and if no time is specified, within seven days of the revocation of the permit, remove from the borough real property any temporary improvements placed on the borough real property pursuant to the permit. Any improvements not removed shall become the property of the borough or disposed of by the borough at the owner's expense.
- E. Nothing in this chapter grants a holder of a permit or license exemption from any tax burden associated with the removal of resources from Denali Borough lands.
- F. A holder of a permit or license assumes full responsibility for any damages to equipment either during use or if left unattended on borough property before, during or after the terms of the extraction license; including, but not limited to, loss, theft and vandalism.
- G. The Denali Borough assumes no responsibility for hazardous use, accident, injury, or death incurred during any borough real property use activity.

4.11.010 Extraction permit.

- A. Extraction permits provide for non-commercial personal use of specified quantities of resources on borough owned land.
- B. The mayor or designee is responsible for decisions regarding extraction permits, and for setting borough-wide and/or site specific guidelines for extraction activities.
- C. An applicant who wishes to obtain an extraction permit shall submit a non-refundable fee as set in the fee schedule. An extraction permit is not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.
- D. An extraction use permit is required for extraction of any quantity of gravel, firewood, timber or other resource from borough land.
- E. If the mayor or designee determines an extraction permit may substantially affect the surrounding area, public notice and description of the proposed use shall be published per DBC 4.01.030. If the mayor or designee determines substantial adverse public comment to the proposed use has been received, the mayor or designee shall hold a public hearing on the proposed use prior to making a decision regarding the permit.
- F. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.020 Extraction license.

- A. An extraction license is required for any commercial extraction activity and for gravel extraction.

- B. An applicant who wishes to obtain an extraction license shall file with the borough an application packet for extraction license. The application packet is to include:
1. An application form prescribed by the borough, indicating the type and quantity of resource to be extracted.
 2. A site development plan:
 - a. Identification of surrounding property owners, existing land uses, wetlands and waterbodies within the notification area;
 - b. Planned location of permanent and semi-permanent structures for verification of setback requirements;
 - c. Proposed phases of mining activities;
 - d. Roads and access plan;
 - e. Visual screening measures;
 - f. Noise mitigation measures; and
 - g. Proposed lighting.
 3. A reclamation plan.
 4. Proof of bonding, indemnification or insurance as required under DBC 4.01.080.
 5. Registration for severance tax form as required per DBC 3.30.020.
- C. An applicant who wishes to obtain an extraction license shall submit a non-refundable extraction license application fee as set in the fee schedule. A successful applicant will be required to pay the fair market value of the extracted materials as set in the fee schedule. An extraction license is not transferable and does not convey any interest in land. Approval must be consistent with a parcel's management plan.
- D. The assembly may waive the application license fee and the fee for fair market value of the material used by a nonprofit organization or public agency if being used for a public purpose.
- E. Notice shall be published of the proposed license for extraction of borough natural resources per DBC 4.01.030. The notice will include a description of the proposed use and allow for public comment.
- F. The planning commission shall hold a public hearing and then make a recommendation to the assembly.
- G. The assembly is responsible for decisions on extraction licenses, for setting the terms for the license and the manner in which payment is made. After receiving a recommendation from the planning commission, the assembly shall by resolution approve or deny a proposed extraction license and set borough-wide and/or site specific conditions for extraction activities and non-compliance.
- H. The mayor or designee may revoke an extraction license, for cause, if the license holder fails to comply with the terms and conditions of the permit

- I. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.030 Temporary use permit.

- A. Temporary use permits provide for non-extractive use of borough real property for a specific timeframe. Temporary use permits do not allow permanent structures or improvements, and allow only minimal disturbance to the property. A temporary use permit does not convey any other interest in the property and is not transferrable. Use must be consistent with the property's management plan. Unless otherwise agreed to in writing, the real property will be restored to its original condition upon expiration or revocation of the permit.
- B. The mayor or designee is responsible for decisions on temporary use permits for periods of one year or less, including setting borough-wide and/or site specific conditions.
- C. The planning commission is responsible for decisions on temporary use permits for time periods of greater than one year but no greater than five years.
- D. An applicant who wishes to obtain a temporary use permit shall submit a non-refundable application fee as set in the borough fee schedule. A successful applicant will be issued a permit detailing conditions and use fees per the fee schedule for the permitted activity.
- E. The assembly may reduce or waive permit use fees for a non-profit organization or public agency for a public purpose.
- F. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.040 Commercial use permit.

- A. Commercial use permits provide for commercial non-extractive activity that occurs on borough real property or traverses borough real property within a specific timeframe. A commercial use permit does not convey any other interest in the property, is non-exclusive and not transferrable. Use must be consistent with the areas management plan.
- B. Commercial use permits are subject to an application process. A commercial use permit application shall include but is not limited to:
 - 1. A commercial use permit application form as prescribed by the borough;
 - 2. Non-refundable application fee;
 - 3. End of season report;
 - 4. Insurance, bond, damage deposit;
 - 5. Fees per user (user or client fee); and
 - 6. Business plan.
- C. The planning commission is responsible for decisions on commercial use permits.
- D. The assembly is responsible for permits for a period of up to five years and are renewable. The mayor or designee shall cause notice of a proposed commercial

use per DBC 04.01.030. The notice shall include a description of the proposed commercial use, the borough land where the activity is proposed, and the conditions and timeframe of the permit. The planning commission shall hold a public hearing on the proposed commercial use prior to taking action on the permit.

- E. A successful applicant will be issued a permit detailing specific terms, conditions, environmental protections and a description of the applicable fees for the permitted activity.
- F. The mayor or designee may revoke a permit, for cause, if the permit holder fails to comply with the terms and conditions of the permit
- G. The mayor or designee may inspect the borough land at any time to ensure compliance with permit or license conditions.

4.11.050 Easements.

- A. Depending on scale and impact, as specified below, the mayor, mayor designee or the assembly may negotiate the dedication of easements for roads, driveways, pipelines, electric transmission, telecommunication transmission, trails, pathways, or similar utilities.
 - 1. Actions of borough wide significance: greater than 1,000 feet in length must receive approval by assembly ordinance and an associated best interest finding.
 - 2. Actions of local significance; easements that serve a limited area, are 1000 feet or less in length, and have minimal environmental impact may be approved by the planning commission upon recommendation from the mayor or designee.
- B. Application and Fee: An easement applicant shall submit a completed application as prescribed by the borough. In addition to the completed application, an applicant must submit the application fee in accordance with the Denali Borough fee schedule and any other plans, reports, or narratives requested by the mayor or designee in order to provide enough information to properly evaluate the easement request. The application shall include, but is not limited to:
 - 1. Type of easement: public, private, access, utility, or other;
 - 2. Easement location information including legal location description and sketch;
 - 3. Easement use plan, including improvements within the easement;
 - 4. Operations plan when applicable;
 - 5. Easement timeframe; and
 - 6. Legal name, contact information, and signature of applicant.
- C. Within 45 calendar days of acceptance of a completed application for locally significant easements, or 90 days for borough wide significant actions, the planning commission or assembly shall by resolution grant preliminary approve,

reject, or notify the applicant of the discovery of additional requirements of any proposed easement or right-of-way.

- D. Upon preliminary approval by the planning commission or assembly, the borough will draft an easement agreement which includes, but not limited to the following:
 - 1. Bonding;
 - 2. Indemnification;
 - 3. Insurance;
 - 4. Restoration plan;
 - 5. Easement timeframe; and
 - 6. Easement price, terms and conditions.
- E. Easement price shall be established according to fair market value if applicable.
- F. Prior to the execution of the easement the borough attorney will review the easement agreement.
- G. In accordance with any state cooperative easement agreement, the mayor or designee shall submit the easement request to the State of Alaska, Department of Natural Resources for review and approval.
- H. Once the borough attorney has reviewed the easement agreement the successful applicant shall sign the easement agreement and can then begin construction of the easement.
- I. Construction of easement shall follow the terms and conditions set forth in the easement agreement. If the easement location changes from the application sketch, it should be discussed with the land planner before continuing construction.
- J. An as-build survey of the easement area must be submitted following the plat requirements per DBC 9.10 before final approval will be granted.
- K. Final approval is granted when the as-build survey is signed by the Denali Borough and recorded.
- L. No additional improvements or changes may be constructed or made within an easement unless approved, in writing, by the mayor or designee.
- M. Upon completion of any additional improvement within an easement, the easement holder shall provide the borough with an accurate and complete as-built drawing of the completed improvement
- N. An easement may be revoked if the easement holder abandons or ceases to use the easement.
- O. The mayor or designee may inspect the borough land at any time to ensure compliance with easement conditions.

Chapter 4.16

DISPOSAL OF BOROUGH REAL PROPERTY

- 4.16.005** Definitions.
- 4.16.010** Purpose.
- 4.16.020** Authority.
- 4.16.030** No warranty implied.
- 4.16.040** Procedures.
- 4.16.050** Requirements for disposal.
- 4.16.060** Terms for real property disposals.
- 4.16.070** Qualifications of applicants, bidders, proposers.
- 4.16.080** Public outcry auction.
- 4.16.090** Sealed bid public auction.
- 4.16.100** Lottery disposal.
- 4.16.110** Over-the-counter disposal.
- 4.16.120** Direct disposal.
- 4.16.130** Negotiated disposal.
- 4.16.140** Real property conveyance and future uses of conveyed real property.
- 4.16.150** Conveyance for public purpose.

4.16.005 Definitions.

- A. "Deed Restriction" a deed restriction is a clause in a deed that limits the use of land.
- B. "Disposal" means the sale, transfer, conveyance or exchange of the fee simple interest in land, and does not include the granting of an easement or right of way
- C. "Lot" a measured parcel of land having fixed boundaries and designated on a plot or survey.
- D. "Parcel" a tract or plot of land.
- E. "Real property" "real property" includes any estate in land, easement, right-of-way, lease, permit, license, franchise, future interest, building, fixture, or any other right, title or interest in land or a building.
- F. "Restrictive Covenant" is a clause in a deed or lease to real property that limits what the owner of the land or lease can do with the property.

4.16.010 Purpose.

The purpose of borough real property disposal is to provide for the economic development of the borough in accordance with the borough comprehensive plan and DBC 4.01.010. Borough real property will be offered at fair market value, except as provided by DBC 4.01.100(B).

4.16.020 Authority.

The assembly shall by ordinance dispose of real property per DBC 4.01.015(A).

4.16.030 No warranty implied.

By selling or granting real property, the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the purchaser or grantee to determine whether the real property will meet their needs.

4.16.040 Procedures.

- A. The planning commission shall by resolution make a recommendation to the borough assembly regarding the proposed disposal. Planning commission review shall be limited to the property's suitability for the intended purpose and consistency with surrounding use(s) and management plans.
- B. The assembly shall by ordinance fix the general terms of all disposals of borough real property. The ordinance shall contain:
 - 1. The approximate date and the method of the disposal;
 - 2. The manner in which payment is to be made, the interest to be conveyed, the instrument of conveyance to be used, and any other terms the assembly deems necessary to provide the mayor or designee sufficient general direction to proceed with the disposal; and
 - 3. If any controls on future uses of real property are needed, they shall be set through deed restrictions or covenants per DBC 4.16.140(B) and DBC 4.16.150(B).
- C. The public has the option to nominate borough real property for future disposal per DBC 4.01.090.

4.16.050 Requirements for disposal.

- A. The borough may dispose of municipal property only when the affected real property has a management plan.
- B. Borough real property must be surveyed and platted per DBC 9.10 prior to disposal.
- C. All real property shall be sold at fair market value as determined by appraisal per DBC 4.01.100, except as allowed by DBC 4.01.100(B).

4.16.060 Terms for real property disposals.

- A. All applicants to purchase borough real property must be qualified per DBC 4.16.070.
- B. The assembly may authorize payment to be made through either full payment or financed over time. If financed over time:
 - 1. The down payment, payment schedule and rate of interest shall be set in the assembly ordinance.

2. For a disposal of real property with a value of more than \$5,000, the prospective purchaser shall pay to the borough a down payment not less than 10 percent of the minimum appraised value at the time of the sale or bid opening.
- C. The disposal of real property with a value of \$5,000 or less shall be paid at the time of the disposal or bid opening by check or money order by the prospective purchaser.
- D. A non-refundable application fee may be required.
- E. If the assembly requires a prospective buyer to pay the borough a down payment, bond or other deposit, and if the prospective buyer breaches a term of the sale, damages will be assessed. The borough shall retain as liquidated damages the prospective buyer's down payment, bond or other deposit.
- F. The assembly may by ordinance impose additional limits on the number of parcels a buyer may acquire at any disposal.

4.16.070 Qualifications of applicants, bidders, proposers.

- A. A bidder at auction, or an applicant to otherwise purchase, respond to a proposal, enter into a management agreement, or the use of borough real property must be:
 1. A legally competent person under the laws of the state of Alaska.
 2. At least 18 years old.
 3. A group, association, or corporation authorized to conduct business under the laws of Alaska; or
 4. A person acting as an agent for another person qualified under this section who has provided evidence of this status acceptable to the borough mayor or his designee, for example, by filing with the borough a power of attorney or letter of authorization.
- B. A person is not qualified if the person is currently in breach or default on any deposit or payment to the borough including tax transactions.

4.16.080 Public outcry auction.

In a public outcry auction, a suggested opening bid is announced and an auctioneer accepts increasingly higher bids from the floor, with the real property sold to the highest bidder. A bid deposit may be required. Any bid deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the auction.

4.16.090 Sealed bid public auction.

In a sealed bid public auction, a minimum bid is defined and sealed bids are accepted on a form prescribed by the borough. Bids shall remain sealed until specified date and time of bid opening. All bid openings shall be public, with the sale to the highest bidder who performs all terms of the sale. A bid deposit may be required. Any bid

deposit submitted that is not successful shall be returned to the unsuccessful bidder immediately following the bid opening.

4.16.100 Lottery disposal.

In a lottery, qualified applicants complete an application form prescribed by the borough to register for a chance to be chosen at random to purchase borough real property. Applications shall be submitted to the borough office, and reviewed to determine qualification per DBC 4.16.070. Qualified applicant names will be entered into the lottery drawing. Applicants will be notified of their eligibility status. Lottery drawings shall be made in public. A single individual, business, corporation or other eligible entity may purchase by lottery only one parcel of borough land every three years. A deposit may be required per the Denali Borough fee schedule. Any deposit submitted that is not successful shall be returned to the unsuccessful applicant immediately following the lottery drawing.

4.16.110 Over-the-counter disposal.

- A. In an over the counter disposal, real property that has been offered but not disposed of by auction or lottery is available for purchase on a first-come, first-served basis at the borough office.
- B. The mayor or designee shall periodically review the terms of sale of all land offered for sale over the counter and shall:
 - 1. Adjust the annual interest rates to reflect the prevailing market conditions; provided, the interest rate shall not be more than six percentage points above the prevailing Federal Reserve discount rate to member banks.
 - 2. Adjustments in the price of any lot offered in the over-the-counter disposal shall be made by the assembly. Price adjustments may be made under the guidance of an independent fee appraiser.
- C. Lots unsold may be offered at a future real property disposal.
- D. Defaulted parcels may be offered for resale over the counter and/or at a future real property disposal.

4.16.120 Direct disposal.

- A. The assembly may by ordinance authorize the mayor or designee to dispose of borough real property directly to the landowner adjoining the borough real property if:
 - 1. The real property has no legal or physical access and the cost of developing access would be greater than the resulting value of the parcel with access;
 - 2. The cost of surveying, platting, or taking other action necessary to establish an acceptable legal description would exceed the value of the property;
 - 3. The real property is of such a size or shape as to be illegal or unfeasible to develop as an independent parcel under the applicable land use ordinance;or

4. The land is found not suitable for development and is placed in permanent conservation status.

4.16.130 Negotiated disposal.

A. The assembly may by ordinance authorize the mayor or designee to disposal of borough real property directly to an interested, eligible party under rare, specific circumstances when:

1. The disposal meets the broad goals for real property disposal specified in DBC 4.01.010 and the specific terms of the proposed sale do not fit well into the other methods outlined in this chapter.

4.16.140 Real property conveyance and future uses of conveyed real property.

A. After the buyer has paid to the borough the payments required by ordinance, the mayor or designee shall execute the instrument of conveyance authorized by ordinance that transfers the real property or the interest in real property to the buyer.

B. An instrument conveying real property may contain controls on future real property uses, for example deed restrictions, that set specific, borough-enforceable rules approved by the assembly that:

1. Define allowed and prohibited use.
2. Prohibit subdivision and/or set maximum residential densities.
3. Establish dimensional requirements, such as building setbacks or maximum building heights.
4. Establish other use controls necessary to comply with the goals for the disposal established in the management plan or other adopted borough real property use policy.

4.16 .150 Conveyance for public purpose.

The transfer of borough real property may be made to a state or federal agency, non-profit, or municipality within the borough, for public purposes for less than fair market value per DBC 4.01.100(B) if:

- A. Approved by the borough assembly;
- B. The mayor or his designee ensures, by regulation, deed restriction, covenant, or otherwise, that transfers of land under this section serve a public purpose and are in the public interest; and
- C. The borough retains a reversionary interest if the land is not used for the public purpose that was approved by the borough assembly on each conveyance or other land use authorization made under this section.

Chapter 4.17

LEASING OF BOROUGH REAL PROPERTY

Sections:

- 4.17.005 Definitions.
- 4.17.010 Purpose.
- 4.17.020 Authority.
- 4.17.030 No warranty implied.
- 4.17.040 Procedures.
- 4.17.050 Requirements for lease.
- 4.17.060 Qualifications of applicants or bidders
- 4.17.070 Term of lease.
- 4.17.080 Right of renewal.
- 4.17.090 Lease rate.
- 4.17.100 Attachment of special conditions.
- 4.17.110 Termination of lease.
- 4.17.120 Easements on leased land.

4.17.005 Definitions.

- A. "Animal Unit Month (AUM)" an AUM is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep or goats for a month.
- B. "Lease" a contract or instrument conveying property to another for a specified period or for a period determinable at the will of either lessor or lessee in consideration of rent or other compensation.
- C. "Leasee" a person who holds the lease of a property; a tenant.

4.17.010 Purpose.

The purpose of leasing borough real property is to provide for the economic development of the borough in accordance with the borough comprehensive plan and DBC 4.01.010. Borough real property will be offered at fair market value, except as provided by DBC 4.01.100(B).

4.17.020 Authority.

The assembly shall by ordinance lease real property per DBC 4.01.015(A).

4.17.030 No warranty implied.

By leasing real property the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the lessee to determine whether the real property will meet their needs.

4.17.040 Procedures.

- A. Real property may be leased in response to the annual work plan; a request from an individual, business, or organization; or by public request.
- B. The planning commission by resolution shall make a recommendation to the assembly regarding a proposed lease per DBC 4.01.015(D).
- C. The assembly may by ordinance authorize the mayor or designee to lease real property per DBC 4.01.015(A).
- D. The assembly may provide for competitive bidding to lease borough real property that is classified and intended for commercial or industrial use. Competitive bidding shall be conducted in accordance with requirements established by the assembly.

4.17.050 Requirements for lease.

- A. The borough may lease real property only when the affected real property has a management plan and the proposed lease conforms with the existing classifications.
- B. Borough real property must be surveyed and platted per DBC 9.10 prior to lease.
- C. All real property shall be leased at fair market value as determined by appraisal per DBC 4.01.100, except as allowed by DBC 4.01.100(B).
- D. Applicants to lease borough real property shall submit a complete application form prescribed by the borough. A nonrefundable lease application fee may be required per the Denali Borough fee schedule.
- E. The lease applicant shall submit to the borough for review and approval a plan of operations as specified below. The lessee's plan of operations must be consistent with the broad goals of this title, the area management plan, other applicable land use plans, and provisions of borough code. The plan of operations shall include, at a minimum:
 - 1. Detailed description of the intended use of the real property.
 - 2. Desired lease length.
 - 3. Timetable for development.
 - 4. Planned structures and fuel storage facilities accompanied by a scale drawing.
 - 5. Estimated value of the improvements.
 - 6. Delineated access, water, and power sources.
 - 7. Intended solid waste and wastewater disposal methods.
 - 8. If a non-exclusive lease, identify location points of passage for the general public.
 - 9. Detailed description of how improvements will be removed at the end of the lease.

4.17.060 Qualifications of applicants or bidders

- A. A bidder at auction, or an applicant to otherwise lease, enter into a management agreement, or the use of borough real property must be:
 - 1. A legally competent person under the laws of the state of Alaska.
 - 2. At least 18 years old.
 - 3. A group, association, or corporation authorized to conduct business under the laws of Alaska; or
 - 4. A person acting as an agent for another person qualified under this section who has provided evidence of this status acceptable to the borough mayor or his designee, for example, by filing with the borough a power of attorney or letter of authorization.
- B. Under certain circumstances, the borough may require a sole proprietor, partnership, corporation or other entity to provide a credit application. All financial information supplied to the Denali Borough will be stamped Confidential and will not be released for public scrutiny under applicable Public Records statutes.
- C. A person is not qualified if they are currently in breach or default on any deposit or payment to the borough including tax transactions.

4.17.070 Term of lease.

- A. The term of the lease shall be based on the type of lease, the nature of the improvements to be made by the lessee and shall generally be long enough to allow for amortization of improvements made by the lessee.
 - 1. Leases shall have a maximum term of 35 years.
 - 2. A lease for a term in excess of 10 years shall be recorded at the state recorder's office.
 - 3. Lessee shall provide no less than 90 days' notice of a request to renew a lease.
- B. The lessee must comply with the operations plan.
- C. Proposed modifications to the operations plan requires submittal and approval of a request for plan amendment.
- D. Minor changes in the operations plan may be approved by the mayor or designee. Minor changes are defined as those that do not notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses. If changes are made without approval of the mayor or designee, the mayor or designee may require the changes to be reversed at the lessee's expense.
- E. Major changes to the operation plan shall be approved by the assembly. Major changes are defined as those that notably change the nature of the use, the footprint of any improvements, or the impact on surrounding uses.
- F. If changes are made without approval of either the mayor or designee or assembly, the mayor or designee may require the changes to be reversed at the lessee's expense.

4.17.080 Right of renewal.

The assembly may by ordinance grant the lessee a right of renewal upon expiration of the initial term, provided that the renewal, or any extension of the lease, shall be subject to all provisions of this code in effect at the time of the renewal, and that the lessee has complied with the approved operations plan.

4.17.090 Lease rate.

- A. The annual lease rate for a lease shall be established as the fair market value at the time the lease contract is approved, as determined by a qualified appraiser (see DBC 4.01.100) unless otherwise authorized by ordinance. If an existing appraisal is less than two-years old, a letter of opinion may be used.
- B. The rate for leases of borough land shall be calculated by multiplying the property's fair market value as established by an Alaska State certified appraiser with the rate multiplier of seven and one-half percent divided by 12 to determine the monthly base lease rate.
- C. Leases will be reviewed every five years and adjustments will be determined by adding the increase or decrease rate of the consumer price index (CPI) based on the annual month of March adjustment for the Anchorage metropolitan area market. The amount of the adjustment will be conveyed to the lessee by the lessor by June 1st of each year and the adjusted payment will start beginning with the following July lease payment.
- D. The appraised value or the adjusted value shall not include any improvements the lessee has made.
- E. Grazing leases will be based on the animal unit month (AUM) of livestock.

4.17.100 Attachment of special conditions.

The assembly, mayor or designee may attach special conditions to a lease in order to reduce risk to the borough, mitigate public concerns, or other purposes.

4.17.110 Termination of lease.

When the lease terminates, the lessee shall remove all improvements made pursuant to the plan of operations except those improvements that the lease specifies shall become the property of the borough, and the lessee shall restore the land to reasonably the same condition it was in at the time the lease was executed or, if stipulated, to the condition specified in the lease agreement. Improvements that are not removed by the lessee at the expiration of the lease shall be removed at the lessee's expense.

4.17.120 Easements on leased land.

Every lease of borough real property shall provide that the borough retains the right to designate or grant rights-of-way or utility easements across the leased premises without compensation, provided, that the lessee shall be compensated for the taking or destruction of any improvements and provided further that the lessee, at their

option, may request to terminate the lease and/or a rental adjustment to reflect any reduction in value of the leased premises.

Chapter 4.18

EXCHANGE OF BOROUGH REAL PROPERTY

- 4.18.005 Definitions.**
- 4.18.010 Purpose.**
- 4.18.020 Authority.**
- 4.18.030 No warranty implied.**
- 4.18.040 Requirements for exchange.**
- 4.18.050 Value of real property exchanged.**
- 4.18.060 Execution of exchange.**

4.18.005 Definitions

4.18.010 Purpose.

Subject to the requirements of this title, the assembly may by ordinance authorize the exchange of borough real property. Exchanges may be for the purpose of consolidating land holdings, and for creating land ownership and use patterns which will permit more effective management. Exchanges shall be demonstrated to be in the best interest of the Denali Borough

4.18.020 Authority.

The assembly shall by ordinance exchange real property per DBC 4.01.015 and DBC 4.01.020.

4.18.030 No warranty implied.

By exchanging real property the borough does not give or imply any warranty as to the real property's fitness, use, or suitability, or whether public utilities or services will be provided. It is the responsibility of the party involved in the exchange to determine whether the real property will meet their needs.

4.18.040 Requirements for exchange.

- A. The borough may exchange borough real property only when the affected area has a management plan.
- B. Borough real property must be surveyed and platted per DBC 9.10 prior to exchange.

4.18.050 Value of real property exchanged.

- A. The borough may accept in exchange for borough real property any consideration of sufficient value not prohibited by law. Decisions on real property exchanges are "major land use decisions", as specified in DBC 4.01.015, and the assembly shall

review and approve or reject offers for exchange of municipal real property, following the same procedures as specified for real property disposals per DBC 4.16.040, including the requirement for a best interest finding per DBC 4.01.070.

- B. As is the case with disposals, exchanges shall provide for equal value, except where the assembly prepares an explicit written finding, that borough and public interests and the goals expressed in DBC 4.01.010 are best met through an exchange at less than equal value.

4.18.060 Execution of exchange.

The borough shall first, or simultaneously, receive the title conveyance for the real property the borough is to receive before the borough may convey the title to the real property the borough is to release through this exchange.

Section 3. Effective Date. This ordinance becomes effective upon adoption of the Denali Borough Assembly and signature of the Denali Borough Mayor.

DATE INTRODUCED: JULY 13, 2016
FIRST READING: JULY 13, 2016
PUBLIC HEARING: AUGUST 10, 2016

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this ____ day of _____, 2016.

Mayor Clay Walker

ATTEST: _____
Gail Pieknik, Borough Clerk

DENALI BOROUGH, ALASKA
ORDINANCE NO. 16-13
INTRODUCED BY: Mayor Clay Walker
VERSION B

AN ORDINANCE AMENDING THE DENALI BOROUGH CODE OF ORDINANCES,
CHAPTER 3.21 TITLED MANAGEMENT OF GRANTS

BE IT ENACTED by the Denali Borough Assembly, Alaska that:

Section 1. Classification. This ordinance is of a general and permanent nature.

Section 2. Purpose. The purpose of this ordinance is to amend the Denali Borough Code of Ordinances Chapter 3.21 titled Management of Grants in its entirety as follows:

Chapter 3.21
MANAGEMENT OF GRANTS

Section:

- 3.21.020 Definitions.
- 3.21.030 Grant management.
- 3.21.100 Grants received.
- 3.21.110 Administration.
- 3.21.120 Grant application/approval process.
- 3.21.130 Accountability.
- 3.21.150 Legislative grants.
- 3.21.200 Grant programs.
- 3.21.220 Nonprofit grant program.
- 3.21.230 Matching grant program.
- 3.21.235 Matching grant committee.
- 3.21.240 Public safety per capita funding program.
- 3.21.250 Municipal assistance program.

3.21.020 Definitions.

The following definitions apply to this chapter:

“Administered” means to conduct, control, direct, supervise, or oversee a grant program.

“Assets” means items of economic value that can be converted to cash.

“Capital improvements” means construction or improvement of major public facilities such as schools and landfill facilities.

“Capital project” means a project undertaken by a municipality that requires a major expenditure of funds typically involving the purchase, construction, or improvement of buildings or other structured areas used to provide service to the community.

“Capitalize” means to classify a cost as a long-term investment, rather than charging it to current operations. A capitalized cost does not appear on the income statement but appears as a debit on the long-term assets account and a credit on the cash account of the balance sheet.

“Civil action” means an individual or corporation sues another for violating an agreement or duty owed them by the other entity.

“Direct vendor purchase” occurs when grantees do not have enough funds available to make large purchases (i.e., building materials, prepackaged buildings, insurance coverage), and the borough makes a direct payment to a vendor. The grant manager may authorize a direct vendor payment (DVP) in this situation. DVP is used under the borough nonprofit and matching grant programs listed under DBC 3.21.220 and 3.21.230. All DVPs will be at the discretion of the mayor and will be authorized only when, in the judgment of the mayor, the grantee is unable to secure the purchases through cost reimbursable means.

“Eligible nonprofit organization” means organizations that serve some public or mutual benefit as opposed to benefiting only the owners, investors or members of the organization.

“Faith-based” means pertaining to a religion or spiritual belief system.

“Grant” means the furnishing by the federal, state, municipal government, or other institution of assistance (financial or other) to implement a project or program authorized by law (excluding revenue-sharing programs), requiring compliance with terms and conditions under a grant agreement.

“Grant agreement” means the contract document including, but not limited to, rules, regulations and laws pertaining to the grant, between the grantee and the granting agency.

“Grant manager” refers to the Denali Borough mayor or designee.

“Grantee” means a person, agency, organization, or division of government awarded a grant.

“In-kind donation” means a contribution of goods or services other than cash.

“Legislative grants” means a request for specific projects, such as capital improvements that are not otherwise funded in a state agency capital budget. Funding for a variety of projects such as these may be requested directly from the legislature.

“Lien holder” means an institution having legal claim to the specific property of another person or entity as security on titled or deeded equipment.

“Pass through grant” means a grant issued by an agency to a primary recipient that is used to benefit a secondary recipient per the award eligibility terms.

“Reimbursable expenditures” means qualified, documented expenditures paid by the grantee and properly submitted in receipt form with a quarterly financial report to be paid by the grantor.

“Titled equipment” means any vehicle that by law must be titled or registered by the State of Alaska, Department of Motor Vehicles or FAA, to include fire trucks, ambulances, snow machines, boats, aircraft and the like.

3.21.030 Grant management.

The Denali Borough assembly may accept or provide grant opportunities that benefit the citizens of the Denali Borough. The mayor or designee shall seek funding sources that will benefit the residents of the Denali Borough.

The treasurer shall report to the assembly regarding grant revenue and expenditures on a quarterly basis.

The Denali Borough operates without discrimination in regard to race, color, national origin, ancestry, sex, sexual orientation, gender identity or expression religion, age, pregnancy, disability, work-related injury, covered veteran status, political ideology, genetic information, marital status, or any other factor that the law protects from discrimination.

Organizations that are found to discriminate in their provision of service and/or hiring based on age, race, color, religion, sex or national origin or other criteria shall be required to return any grant awards and may be rendered ineligible for future support.

The Denali Borough will not support any program that requires exposure, adherence, or conversion to any doctrine in order to be a beneficiary of the program. As an example, a direct service program run by a faith-based organization may be eligible, provided that the program’s beneficiaries are not ~~[encouraged or]~~ required to learn about, adhere to, or convert to that organization’s doctrine as a condition of receiving service from the program.

3.21.100 Grants received.

The Denali Borough assembly may accept grant revenue from state, federal, and other granting agencies and make appropriations thereof.

3.21.110 Administration.

- A. Except as this code provides otherwise, all rights, powers and authority pertaining to grants are vested in the grant manager.
- B. The grant manager shall administer all facets of grants from pre-application through final grant audit.
- C. The grant manager shall have the responsibility to assure full compliance by the borough with the terms and conditions of the grant agreement.

3.21.120 Grant application/approval process.

- A. The grant manager shall identify and submit grant information to the Denali Borough assembly for approval.
- B. A non-code ordinance appropriating funds for reimbursable expenditures shall be submitted to the assembly for adoption.

- C. When a grant application timeline prohibits the consideration of an ordinance, the assembly may approve a resolution to authorize the grant manager to proceed with the application.
- D. The grant manager is authorized to enter into a grant agreement with state, federal or other granting entity.

3.21.130 Accountability.

- A. All grant funds shall be accounted for in the annual financial statement.
- B. Pass-through grants allow grant-acquired assets to be distributed to borough community organizations.
 - 1. The treasurer shall arrange for the accountability of such assets but otherwise not capitalize these in borough financial statements.
 - 2. The process to transfer assets shall include a letter of receipt, signed by the grantee and filed with the borough.

3.21.150 Legislative grants.

- A. The mayor, assembly, or designee will create a resolution listing capital projects and priorities requested of the State of Alaska to be approved by the assembly.
- B. Upon approval, the grant manager will submit said resolution and associated documentation to the legislature and/or governor of the State of Alaska for consideration.
- C. Upon notification of award, the grant manager is authorized to enter into an agreement with the State of Alaska and shall report the grant award to the assembly.
- D. The grant manager, in accordance with Sections 3.02 and 9.13 of the Denali Borough Charter, DBC 3.05.010, 3.20.030 and 3.21.030, will follow procedures outlined by the grant requirements and Chapter 3.35 DBC and DBC 3.10.100 to purchase approved grant items.
- E. Borough assets will be maintained on an inventory of equipment purchased as per DBC 6.05. If the items, to include capital improvements, purchased with grant funds are to be distributed to another agency, the Denali Borough shall account for, but not capitalize, the items until such time as they have been transferred to the receiving agency. The receiving agency shall acknowledge in writing the transfer of equipment. Any titled equipment shall list the Denali Borough as lien holder.

3.21.200 Grant Programs.

- A. Authority.
 - 1. Denali Borough Charter, Article III, Section 3.02(D).
 - 2. Chapter 3.05 DBC.
 - 3. DBC 2.45.040.
- B. Grant programs under this section shall not, in combination, exceed funding limitations per DBC 3.05.040(E).

3.21.220 Nonprofit grant program.

- A. Purpose. The purpose of the nonprofit grant program is to assist eligible nonprofit organizations, including fire departments, libraries and community organizations, by providing supplemental funds for local programs and services that will benefit citizens of the Denali Borough.
- B. Nonprofit grant program guidelines

1. Grant programs must be administered by an eligible nonprofit organization within the state of Alaska.
 2. Nonprofit grants are subject to an application process. Items to be included in the application packet:
 - a. an application form prescribed by the borough,
 - b. organization by-laws and copy of State of Alaska Incorporation: Nonprofit Certificate,
 - c. applicant organization's most recent board approved budget,
 - d. minutes from the applicant organization public meeting(s) recording board approval of the proposed program or service,
 - e. a list of current organization board members, including addresses and phone numbers,
 - f. prior July 1 – June 30 fundraising activity report, and
 - g. fire departments must submit a copy of their most recent annual summary report.
 3. Grant applications must be received at the borough office or postmarked no later than 4:00 p.m. March 1st. Incomplete or late applications will not be accepted.
 4. Grant programs will not be funded retroactively.
 5. Grant funding shall be on a reimbursable basis. Direct vendor purchase (DVP) is available under the nonprofit grant program. Grant funds may not be used for indirect purchases for gift cards, contractor cards, or other lines of credit.
- C. Grantee Obligations.
1. All grant recipients shall submit, within 20 days of the end of the quarter (September 30th, December 31st, March 31st, June 30th), a financial report detailing activity related to the program and associated receipts.
 2. The Denali Borough reserves the right to, upon 30 days' written notice, conduct a financial audit, itself or through its agent, of the program for which the grant was given.
 3. If the grantee's organization dissolves, the grantee shall offer assets from the grant program to be distributed according to statutory laws, AS 10.20.290 through 10.20.452.
- D. Failure to Comply
1. Failure to submit quarterly reports within 20 days of the due date described in 3.21.220(C)(1) will result in suspension of grant payment until the delinquent quarterly report is received by the borough. Any expenses incurred during a period of suspension will not be reimbursed.
 2. Failure to submit a quarterly report within 90 days of the end of a quarter (September 30th, December 31st, March 31st, June 30th), will be considered a failure to meet the obligations of the program and shall result in termination of grant.
 3. Any organization that has previously applied for and was awarded a grant under this chapter and failed to meet the obligations of the program shall be disqualified for a period of two years. The organization may also be subject to civil action for recovery of any grant monies that may have been dispensed.

3.21.230 Matching grant program.

- A. Purpose. The purpose of the Denali Borough matching grant program is to assist eligible nonprofit organizations by providing grant funds for specific local projects that will benefit citizens of the Denali Borough.
- B. Matching grant program guidelines.
 - 1. Up to three matching grant awards may be granted annually dependent upon financial availability.
 - 2. Organizations receiving other grants or monies from the Denali Borough may apply for the matching grant program.
 - 3. Grant projects must be administered by an eligible nonprofit organization.
 - 4. Grants are subject to an application process. Items to be included in the application packet:
 - a. an application form prescribed by the borough,
 - b. organization by-laws and copy of State of Alaska Incorporation: Nonprofit Certificate,
 - c. applicant organization's most recent board approved budget,
 - d. minutes from the applicant organization meeting(s) recording board approval of the proposed project, and
 - e. a list of current organization board members, including addresses and phone numbers.
 - 5. A matching grant application must have a minimum request of \$5,000.
 - 6. The borough's contribution toward a matching grant project shall not exceed \$20,000.
 - 7. Grant applications must be received at the borough office or postmarked no later than 4:00 p.m. March 1st.
 - 8. Incomplete or late applications will not be forwarded to the matching grant selection committee.
 - 9. A 20 percent cash match by the applicant is required. The 20 percent match must be reported quarterly with receipts provided, and may not be used for labor costs or travel expenses. The 20 percent cash match must not be provided by funding from the Denali Borough. In-kind donations do not qualify toward the 20 percent match.
 - 10. Matching grants will not be awarded for administrative costs, operational costs of programs, or salaries and benefits related to direct services. The Denali Borough, by funding a matching grant project, accepts no responsibility for the project's ongoing maintenance.
 - 11. Grant projects will not be funded retroactively.
 - 12. Grant funding shall be on a reimbursable basis. Upon proof of 20 percent match, direct vendor purchase (DVP) is available under the matching grant program. Grant funds may not be used for indirect purchases for gift cards, contractor cards, or other lines of credit.
 - 13. The performance period for non-construction projects will be 12 months beginning July 1st. The performance period for construction projects will be 15 months beginning July 1st.
 - 14. Any organization that has previously applied for and was awarded a grant under this chapter and failed to meet the obligations of the program may be disqualified for a period of two years. The organization may also be subject to civil action for recovery of any grant monies that may have been dispensed.

15. Matching grants may be used in combination with non-borough grant programs.

C. Grantee Obligations.

1. All grant recipients shall submit, within 20 days of the end of the quarter (September 30th, December 31st, March 31st, June 30th), a financial report detailing grant activity, 20 percent match, and associated receipts.
2. The Denali Borough reserves the right to, upon 30 days' written notice, conduct a financial audit, itself or through its agent, of the project for which the grant was given.
3. All promotional or printed material for any project funded must include the following statement: "This project is partially funded by the Citizens of the Denali Borough."
4. Statement of project completion is required with final grant reports (photos, affidavit, etc.).
5. Grant projects shall be dedicated to public purposes for their useful life.
6. If the grantee's organization dissolves, the grantee shall offer assets from the grant project to be distributed according to statutory laws, AS 10.20.290 through 10.20.452.

D. Failure to Comply.

1. Failure to submit quarterly reports within 20 days of the due date described in 3.21.230(C)(1) will result in suspension of grant payment until the delinquent quarterly report is received by the borough. Any expenses incurred during a period of suspension will not be reimbursed.
2. Failure to submit a quarterly report within 90 days of the end of a quarter (September 30th, December 31st, March 31st, June 30th), will be considered a failure to meet the obligations of the program and will result in termination of grant.
3. Any organization that has previously applied for and was awarded a grant under this chapter and failed to meet the obligations of the program shall be disqualified for a period of two years. The organization may also be subject to civil action for recovery of any grant monies that may have been dispensed.

3.21.235 Matching grant committee.

- A. The matching grant committee is created per DBC 5.50.
- B. The matching grant committee shall have their first meeting no later than 45 days after the matching grant applications are due as per DBC 3.21.230(B)(7). The grant committee shall make their recommendations, by separate prioritized resolutions, to the assembly not later than the May assembly regular meeting.
- C. If the matching grant committee fails to adhere to the guidelines set in this section, the grant manager shall make a recommendation to the assembly not later than the June assembly meeting at its regularly set date.

3.21.240 Public safety per capita funding program.

- A. Purpose. The purpose of the public safety per capita funding program is to enhance public safety by providing supplemental support to independent fire departments within the Denali Borough.
- B. Public safety per capita funding program guidelines
 1. Per capita funding must be administered by a fire department holding current registration with the State of Alaska Division of Life and Fire Safety.
 2. Per capita funding is subject to an application process. Items to be included in the application packet:

- a. an application form prescribed by the borough,
 - b. a copy of the applicant organization's current Fire Department Registration Certificate,
 - c. a copy of the applicant organization's most recent annual summary report, and
 - d. confirmation of service area map and census population data provided by the borough.
3. Grant applications must be received at the borough office or postmarked no later than 4:00 p.m. March 1st.
 4. Incomplete or late applications will not be accepted.
 5. The treasurer shall verify deposit of per capita funding to the grantee, and shall provide documentation to the grant manager to be kept on file.
 6. DBC 3.20.045 does not apply to the public safety per capita funding program.
- C. Grantee Obligations.
1. All grant recipients shall submit, within 20 days of the end of the quarter (September 30th, December 31st, March 31st, June 30th), a financial report detailing activity related to the program and associated receipts.
 2. The Denali Borough reserves the right to, upon 30 days' written notice, conduct a financial audit, itself or through its agent, of the program for which the grant was given.
 3. If the grantee's organization dissolves, the grantee shall offer assets from the grant program to be distributed according to statutory laws, AS 10.20.290 through 10.20.452.

3.21.250 Municipal assistance program.

- A. Purpose.
1. The municipal assistance program provides Denali Borough incorporated municipalities with funds vital to the delivery of basic public services. Payments received shall be used at the discretion of the municipality for any public purpose, as it is generally recognized that local government and residents are in the best position to determine the needs and priorities of their own community.
 2. The municipal assistance program will be in lieu of all other borough grant programs.
- B. Allocation of Funds.
1. In the annual budget, the Denali Borough assembly may appropriate funds to borough municipalities under the municipal assistance program.
 2. The total level of funding shall not exceed one percent of the funds available for budgetary purposes for the following fiscal year as of January 1st of the calendar year.
- C. Application Process.
1. An incorporated municipality within the Denali Borough is eligible for municipal assistance if at least three of the following services are provided by the municipality:
 - a. Fire protection;
 - b. Emergency medical;
 - c. Water or sewer management;
 - d. Solid waste management;
 - e. Public road maintenance;
 - f. Public health;
 - g. Search and rescue;

- h. Public library.
- 2. A municipality must adhere to the following standards to receive payment:
 - a. The qualifying municipality must agree to irrevocably dedicate for a public purpose the payment that the entity receives under this program;
 - b. The municipality must have held a public meeting in their local community and must produce a resolution approved by the local government showing support of the funds;
 - c. Applicants must submit an application for funds on a form prescribed by the Denali Borough by March 1st for the following fiscal year;
 - d. The application must include the municipality's current budget;
 - e. The municipality must hold local regular elections;
 - f. Regular meetings of the governing body must be held in accordance with local and state laws and a record of the proceedings maintained;
 - g. Local ordinances must be adopted and codified;
 - h. The municipality must submit the prior fiscal year annual audit (if applicable) or the certified financial statement of annual income and expenditures approved by the governing body;
 - i. The Denali Borough will not issue municipal assistance funds to the entity for an allocation year until the borough has received the applicant's approved budget showing proposed use of municipal assistance funds; and
 - j. The Denali Borough will provide municipalities an estimate of municipal assistance funding no later than April 15th. Funding is contingent on Denali Borough assembly final budget adoption.

Section 3. Effective Date. This ordinance becomes effective upon adoption of the Denali Borough Assembly and signature of the Mayor.

DATE INTRODUCED: OCTOBER 12, 2016
 FIRST READING: OCTOBER 12, 2016
 PUBLIC HEARING: NOVEMBER 02, 2016

PASSED AND APPROVED by the Denali Borough Assembly this ____ day of _____, 2016.

 CLAY WALKER, MAYOR

ATTEST: _____
 GAIL PIEKNIK, BOROUGH CLERK

DENALI BOROUGH, ALASKA
RESOLUTION NO. 16-18

A RESOLUTION EXTENDING APPRECIATION AND GRATITUDE
TO TERI LEWIS FOR THE TIME AND ENERGY SHE DEDICATED
TO THE DENALI BOROUGH

WHEREAS, Teri has faithfully performed the duties as Administrative Assistant of the Denali Borough Assembly; and

WHEREAS, Teri could be counted on by the community, assembly, mayor and fellow employees to honestly and vigorously defend the ideas of the borough; and

WHEREAS, there is no question that the aforementioned service came at the expense of other important pursuits in her life.

THEREFORE BE IT RESOLVED that the Denali Borough Assembly extends its appreciation to Ms. Teri Lewis for her faithful service to the people of the Denali Borough.

BE IT FURTHER RESOLVED that the Denali Borough Assembly wishes her the best in the future.

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this ____day of _____2016.

MAYOR CLAY WALKER

ATTEST: _____
GAIL PIEKNIK, BOROUGH CLERK

**DENALI BOROUGH, ALASKA
RESOLUTION NO. 16-19**

**A RESOLUTION ESTABLISHING DENALI BOROUGH
STATE OF ALASKA CAPITAL BUDGET REQUESTS FOR FISCAL YEAR 2018**

WHEREAS, the Alaska State Legislature will convene its Thirtieth Legislative Session on January 17th, 2017; and

WHEREAS, the State Legislature will consider adoption of the State's operating and capital budgets; and

WHEREAS, the Denali Borough, through its' Capital Improvement Program, has identified essential community projects which align with the appropriate and legitimate operation of borough functions, and

WHEREAS, the Denali Borough recognizes the importance of closing the State's budgetary gap and promotes the legislature taking the necessary steps this session.

NOW, THEREFORE BE IT RESOLVED; the Denali Borough requests the following project be considered for inclusion in the State of Alaska Fiscal Year 2018 Capital Budget, within available funding levels.

\$215,000 – Healy Solid Waste Transfer Station. Healy is the largest community in the borough and the nearest solid waste facility, the Denali Borough Landfill, is 35 miles away. A transfer station is a long identified basic need. The borough is actively planning this facility and will contribute one half of the total project expense, estimated to be \$430,000.

PASSED AND APPROVED by the Denali Borough Assembly this ____ day of _____, 201 .

MAYOR CLAY WALKER

ATTEST: _____
GAIL PIEKNIK, BOROUGH CLERK

**DENALI BOROUGH, ALASKA
RESOLUTION NO. 16-20**

**A RESOLUTION OF THE DENALI BOROUGH ASSEMBLY AUTHORIZING THE MAYOR TO WORK
TOWARD A LAND EXCHANGE WITH THE CITY OF ANDERSON IN ORDER TO FACILITATE THE
CONTINUED OPERATION OF THE DENALI REGIONAL SEPTAGE FACILITY**

WHEREAS, the Denali Borough Assembly, in 2006 and 2007, approved resolutions supporting a land exchange in order to facilitate the construction of a new regional septage facility located near the Denali Borough Landfill; and

WHEREAS, the septage facility was constructed and has been continuously operated by the City of Anderson; and

WHEREAS, the City of Anderson Denali Regional Septage Facility Operations Plan includes a scaled drawing indicating that roughly half of the facility is located on City of Anderson land and half is located on Denali Borough land; and

WHEREAS, the Alaska Department of Environmental Conservation, the regulatory authority for the facility, requires that the City of Anderson own the land in order to maintain site control at their septage facility; and

WHEREAS, the City of Anderson Council held a work session on this topic on October 19, 2016, when they indicated the location and estimated acreage of land they are interested in exchanging; and

WHEREAS, the earlier resolutions identified acreage to swapped ranging from 50 to 150 acres and currently the area is estimated to be 18 acres; and

WHEREAS, lot descriptions will be included in an ordinance approving the exchange, after the lands have been surveyed with each municipality surveying their own land.

NOW, THEREFORE BE IT RESOLVED; the Denali Borough Assembly authorizes the Denali Borough Mayor to work with the City of Anderson to expedite the aforementioned exchange.

PASSED AND APPROVED by the Denali Borough Assembly this ____ day of _____, 201__

MAYOR CLAY WALKER

ATTEST: _____
GAIL PIEKNIK, BOROUGH CLERK



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

November 23, 2016

Denali Borough
Attn: Gail Pieknik, Borough Clerk
Via Email: gail_pieknik@denaliborough.com

Re: Notice of 2017/2018 Liquor License Renewal Application

License Type:	Outdoor Recreation	License Number:	5155
Licensee:	Skyline Lodge, LLC.		
Doing Business As:	Skyline Lodge		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Franklin".

Cynthia Franklin, Director
amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

What is this form?

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing liquor license that will expire on December 31, 2016. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only needs to be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed correctly and submitted to the Alcohol & Marijuana Control Office (AMCO)'s main office, along with all other required documents and fees, before any renewal license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed.

Licensee:	Skyline Lodge, LLC	License #:	5155
License Type:	Outdoor Recreation Lodge - Seasonal	Statute:	AS 04.11.225
Doing Business As:	Skyline Lodge		
Premises Address:	Mile 91 Denali Park Road		
Local Governing Body:	Denali Borough		
Community Council:	None		

Mailing Address:	PO Box 46				
City:	DENALI PARK	State:	AK	ZIP:	99755

Enter information for the licensee who will be designated as the primary point of contact regarding this application and the license.

Designated Licensee:	GREGORY LAHAIE		
Contact Phone:	907 978 6292	Business Phone:	
Contact Email:	GREG.LAHAIE@YAHOO.COM		

Seasonal License? Yes No

If "Yes", write your six-month operating period: 5/1 TO NOV 1





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board
Form AB-17: Renewal License Application

Section 2 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 3. If more space is needed, please attach a separate sheet with the required information. The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	
Email:					
Contact Phone:					

This individual is an: applicant affiliate

Name:					
Address:					
City:		State:		ZIP:	
Email:					
Contact Phone:					

Section 3 – Entity Ownership Information

This subsection must be completed by any licensee that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC). Partnerships may skip to Page 3. Sole proprietors should skip to Section 4.

Alaska DOC Entity #:	100778
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Alaska Division of Corporations: Yes No

Is your entity in good standing with the Alaska Division of Corporations?





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

This subsection must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	GREGORY LAHAIE			
Title(s):	PRESIDENT	Phone:	9079786292	% Owned: 100
Address:	PO BOX 46			
City:	DENALI PARK	State:	AK	ZIP: 99755-0046

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
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<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board
Form AB-17: Renewal License Application

Section 4 – Authorization

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

Section 5 – License Operation

Check the box that best describes your liquor license operations in calendar years 2015 and 2016:

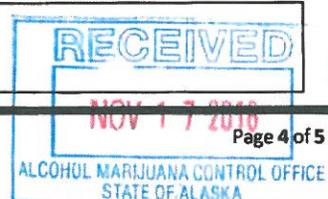
- The license was regularly operated continuously throughout each year, for 8 or more hours each day.
- The license was regularly operated during a specific season each year, for 8 or more hours each day.
- The license was only operated to meet the minimum requirement of 30 days each year, 8 hours each day.
If this box is checked, an AMCO employee will contact you after reviewing your application.
- The license was not operated at all or was not operated for at least the minimum requirement of 30 days each year, 8 hours each day, during one or both of the calendar years.
If this box is checked, an AMCO employee will contact you after reviewing your application.

Section 6 – Convictions

Applicant convictions in calendar years 2015 and 2016: Yes No

Has any person named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2015 or 2016?

If "Yes", list all convictions:





Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501

alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 7 - Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and if the licensee is an organized entity, that all current entity officials and stakeholders are listed with the Alaska Division of Corporations.

GL

I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

GL

I certify that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.

GL

I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers or stakeholders) from what is currently on file with the Alcoholic Beverage Control Board.

GL

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Alcoholic Beverage Control Board.

GL

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

[Handwritten Signature]

Signature of licensee

[Handwritten Signature: Kenna R. Hoffman]

Signature of Notary Public

GREGORY LAHAIE

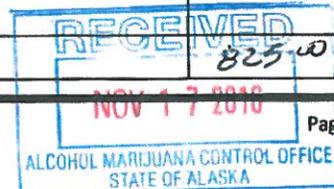
Printed name of licensee

Notary Public in and for the State of Michigan

My commission expires: 11-21-2016

Subscribed and sworn to before me this 11 day of November, 2016

License Fee:	\$ 625.00	Filing Fee:	\$ 200.00	TOTAL:	\$ 825.00
Late Fee of \$500.00 – if received or postmarked after 01/03/2017:					
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					



Memo

To: Denali Borough Assembly
From: Denali Borough Planning Commission
cc: Mayor Clay Walker; Borough Clerk Gail Pieknik
Date: December 1, 2016
Re: Land Use Planning; City of Anderson Land Exchange

During the November 29, 2016 Planning Commission Meeting, the following motions were made:

Re: Land Use Planning: Letter from Agnew::Beck

Kesslyn TENCH MOVED to send a memo to the Denali Borough Assembly supporting the letter from Agnew::Beck regarding land use planning and implementing the three stage process and timeline recommended in the letter. The planning commission is asking the Denali Borough Assembly what the assembly sees as the planning commission's role in the process and what their first step(s) should be. The motion was seconded. The VOTE by show of hands was unanimous.

Re: Land Exchange with the City of Anderson

Baxter MERCER MOVED to send a memo to the Denali Borough Assembly recommending approval of the land exchange with the City of Anderson. The motion was seconded. The VOTE by show of hands was unanimous.

DENALI BOROUGH LAND PLANNING OPTIONS

LETTER TO PLANNING COMISSION & ASSEMBLY

Revised Draft 10.22.16

“These days no place stays special by accident.” (Planner Ed McMahon)

Planning and Zoning – Tough Subjects in Alaska

The Denali Borough, like much of Alaska, has very limited controls over use of private land. And lots of people like it that way. Likewise, the borough has an approved comprehensive plan with sensible goals, but with no accompanying land use plan, and few specifics for guiding growth.

At the same time, more Borough residents are pointing out the downsides of the absence of land use planning and regulations in the borough. Some of these concerns, as reported by borough residents, include:

- A less than attractive built environment in “Glitter Gulch”
- Unplanned development that creates safety issues
- Disruption in the character of residential areas, including noise, traffic, unsightly structures

Attitudes about planning are evolving around Alaska. One way to summarize this evolution is to reference a possible spectrum of views. At one end are those who embrace the need for robust land use regulation; at the other end are those who want no regulations whatsoever. Many Alaskans are shifting from wanting no rules to embracing the mid-point on this spectrum, as illustrated in the quotes below:

“Regulate the user down the street, who is creating real problems, but don’t bother me”.

“We cheat the other guy, and pass the savings on to you.” Chilkoot Charlie’s slogan

A (Very) Brief History of Land Use Planning and Zoning in the US

“I’ve lived here for over twenty years, and I don’t like government, I don’t want taxes and zoning, and I’m really irked to see the trashy buildings going up around our borough, and no trespassing signs, and all the changes I’ve seen in the place I call home” (quote from a meeting participant in Healy, winter 1997)

“Zoning” is a word that triggers strong responses, especially in Alaska. And “planning” is often seen as the camel’s nose into the zoning tent, leading to rules, taxes, and a host of related annoyances. This is an understandable view. One of Alaska’s great charms is the opportunity to live a life and use your land in any way you choose. And zoning as historically practiced in many American counties and cities hasn’t always produced commendable results – at times leading to monotonous single use neighborhoods, fussy controls on buildings that stifle business growth and owner creativity, and regulations aim at excluding certain people.

But despite these potential drawbacks, the vast majority of Americans and American local governments have chosen to create comprehensive plans that present clear goals and strategies for guiding growth, and then adopt an associated zoning ordinance to implement these goals. The US Supreme Court begin formally recognizing the valid and legal community interest in regulating the use of private land, starting in the early 1900’s. Since then a serious of cases, including the famous Euclid case¹, have confirmed and extended the public interest in regulating land in support of public health, safety and welfare.

¹ In *Euclid v. Ambler Real Estate*, 1926 the court found there was valid government interest in maintaining the character of a neighborhood and in regulating where certain land uses should occur. The court ruled that zoning ordinances, regulations and laws must find their justification in some aspect of police power and be asserted for the public welfare. Benefit for the public welfare must be determined in connection with the circumstances, the conditions and the locality of the case, and have a rational basis. No legal case has ever challenged this core finding, and many cases have greatly extended these initial local government powers.



The legal and practical logic for zoning is based on a simple reality: what I do with my property can affect my neighbors. This sets the stage for work to balance the benefits of my freedom to use my land as I please, against the public interest in managing the impacts of my uses on neighbors and the community as a whole.

Finding the Balance Point: Individual Freedom vs Off-Site Impacts

“Zoning” is a word that, like the words ‘food’ or ‘fun’, covers a vast spectrum of possibilities. Zoning rules can be minimally restrictive, or can regulate everything about land uses down to the color of your front door, or where you park your snowmachine. This wide range suggests it’s not always reasonable to be simply for or against zoning; the more practical view is judging the merit of particular rules in particular locations.

In broadest terms, zoning is used to maintain property values and quality of life (e.g. restraining nuisances like excessive noise or glaring lights), protect environmental quality (e.g., protecting drinking water) and promote economic development (e.g., setting standards for attractive, successful commercial districts). Local governments and their communities can shape regulations to respond to the specific concerns of property owners, businesses and residents, and find the level of guidance that best matches local interests. And even in Alaska, few people in a typical residential neighborhood would want an auto wrecking yard next door. The inherent ability to adapt zoning to meet local needs includes the option to have different degrees of regulations in different locations (more on this below).

Before sharing examples of how these tools are commonly used around Alaska and the US, and presenting suggestions on an approach to planning in the Denali Borough, below is background on State planning requirements and the recommendations on this topic in the Borough Comprehensive Plan.

Foundations: Alaska State Law and the Denali Borough Comprehensive Plan

State of Alaska statutes, Title 29.35.180 states: “A home rule borough (such as Denali Borough) shall provide for planning, platting, and land use regulation.” No specific details are specified beyond the general requirements, for reference, “A first or second class borough shall provide for planning, platting, and land use regulation in accordance with AS 29.40”. Two critical sections of AS 29.40 are excerpted below (with emphasis added):

- “The comprehensive plan is a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the first or second class borough, and may include, but is not limited to, the following:
 - 1) Statements of policies, goals, and standards;
 - 2) A land use plan;
 - 3) A community facilities plan; 4) a transportation plan; and
 - 4) Recommendations for implementation of the comprehensive plan.

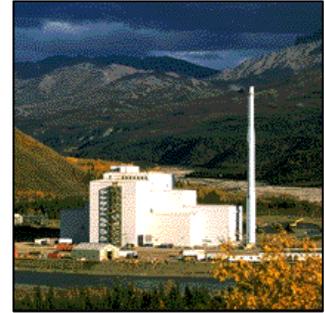
- “In accordance with a comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by ordinance shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to,
 - 1) Zoning regulations restricting the use of land and improvements by geographic districts;
 - 2) Land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
 - 3) Measures to further the goals and objectives of the comprehensive plan.”



The adopted Borough Comprehensive Plan sets out a series of goals that either require a stronger approach to guiding land use, or directly call for development of a land use plan. Illustrative examples include:

Goals for Economic Development

- Goal 1 - Create a sustainable, diversified economic base through the development of natural resources and expansion of the tourist industry.
- Goal 2 - Identify and promote development, including federal, state, and borough facilities and private industry to bring new and increased opportunities into the Denali Borough.
- Goal 8 – Promote affordable housing for seasonal and temporary workers in the construction and tourism industry.



Land Use

- Goal 3 - Develop a Denali Borough Land Use Plan.
- Goal 4 - Ensure that each community can retain its individual identity and develop services to support their particular requirements.

Goals for Transportation

- Goal 1 – Continue to develop and maintain a Long Range Comprehensive Transportation Plan.
- Goal 2 - Expand public transportation.
- Goal 10 - Continue to encourage and support DOT and NPS in their efforts to develop multi-use paths along the Parks Highway through communities and in heavily used tourist areas.

Motivations for More Active Planning and Zoning in the Borough?

State law, the borough comprehensive plan, and the views coming forward recently from at least some borough residents provide a reference point for considering a more active approach to managing land use and development. Examples of possible motivations specific to the borough include:

Supporting Economic Development

The borough has a more diverse economy than many Alaskan regions, but nonetheless faces economic challenges. These include declines in coal production, a very seasonal economy focused on the visitor industry, declining populations in portions of the borough, some local schools with enrollments well below their capacity, and the reality that Alaska local governments will soon have to pay more for public services like schools as generous state contributions decline. Examples of how active planning and zoning might help address these challenges include:

- Strategies to give visitors more reasons to spend time and money in the borough. For example:
 - Set standards to guide growth and improve the appearance and walkability of commercial areas like the park entrance.
 - Take steps to protect the views along the highway.
 - Developing practical plans to improve and sustain diverse recreational opportunities, for residents and visitors, for example, through an active, multi-organization/agency trails plan.
- Working with residents, businesses and landowners to create clearer community identity, and clearer centers, such as the long discussed idea of a better defined Healy towncenter.

Protecting Neighborhood Character/ Supporting Investment/ Protecting Public Safety

The primary driver of zoning in the US is sustaining the character of a place and property values – be that a residential neighborhood or an industrial park. Planning and zoning can do this, for example, by:

- Separating incompatible land uses, e.g. separating industrial from residential uses
- Minimizing potential off-site impacts of adjoining uses – e.g. through setbacks, or limitations on building heights or land clearing

- Setting standards for residential uses, through rules on density and/or guidelines on building form, to help maintain the desired character of a neighborhood

Managing and separating incompatible uses give land owners greater confidence that the qualities that supported an investment today – building a home or starting a business – won’t get turned upside down by a future, incongruous neighboring use.



Efficient Planning Infrastructure

Planning and zoning provide a way for local governments to anticipate and synchronize the location and intensity of growth with expansion of roads and other infrastructure. Examples include planning for roads and sidewalks to provide safe and convenient access from resident and employee housing to schools, shopping and jobs.

Defining and Reaching Big Picture Goals

Beyond the specifics of setbacks or other detailed land use policies, planning done right gives a community the chance to work together to bring about what they want for their future – to set out a vision and the steps needed: to make... **“intelligent use of the borough’s resources for its present and future generations”** (quote from the Borough Comprehensive Plan)

A Possible Approach for Planning and Zoning in the Denali Borough

Despite claims about the value of planning and zoning, not everyone in the borough wants to move in that direction. Accepting the validity of that viewpoint, below are some general principles and then a more detailed approach to investigating options for guiding growth in the borough.

Some Starting Principles

- Bottom Up – invest time in understanding issues and options at the local level; build plans and policies based on views of residents, landowners, businesses, visitors, vs. aiming to sell a “top down” approach.
- Start with Agreement on Goals – zoning or any other specific regulatory or fiscal implementation policy should be taken up only *after* a process that creates widely shared agreement around broad goals and strategies, for land use, economic development, environmental projection, transportation, public services and fiscal health. The existing comprehensive plan offers a good start, but lacks sufficient guidance.
- Respect “Sub-Regional” Differences – different portions of the borough have quite different physical settings, land use patterns, economies, attitudes and traditions. Broad goals and strategies, as well as eventual possible implementation actions, can and must respect these differences.
- It’s the Economy – there are many reasonable motivations for planning and zoning. A focus on economic opportunity is a strong motivator, and particularly appropriate in a place so dependent on tourism, and at a time of profound decline in the state’s budget.
- The Right Process – developing widely understood and supported land use policy requires a process that is inclusive and transparent, and offers diverse ways for people to express their views (more than just through attending traditional meetings). To sustain community interest and make good use of people’s time the process needs to move along at a brisk pace with a clear end point.
- Pragmatism – If residents, landowners and leadership together conclude there is a need for more active planning and even zoning, the policies will likely need to be clear, relatively simple, and limited to the most important issues. A particular need will be realism about managing and enforcing any new policies with a limited borough staff.

Outlined below is a specific possible approach.

A Possible Process to Explore Options for Planning & Zoning in the Denali Borough

A note about terms: *Planning* is used here to include the process of setting general goals and strategies on a range of topics including land use, transportation, public facilities, economic development, health, that is, the topics covered in most comprehensive plans/strategic plans. *Zoning* is one of many specific tools used to implement these larger scale plans.

1. Set a clear path, reflecting both the desire for and the hesitations about planning and land use regulation

Process and Objective: Start by setting out a schedule and the steps the Borough would follow to explore and perhaps develop new land use strategies and implementation tools. Clarify the roles and responsibilities for carrying out this work. Ensure the process will be broadly inclusive, and also efficient with clear deadlines.

Specific Outcomes:

- Schedule with key benchmarks for products and decisions.
- An explicit engagement process, including the general public, businesses, land owners. This needs to include:
 - An option for an advisory committee
 - Proactive early outreach to stakeholders that typically do not attend general public meetings. Particularly important would be outreach to Native corporations, major employers including tourism companies, Usibelli Coal and other businesses, the National Park Service and State of Alaska
 - A means for people to stay involved in the process, without attending meetings, such as a project website, newsletters, use of social media, etc.
- Clear process for final, formal approval of outcomes (*CB recommends: do not require a vote as a step towards formal adoption of land use policy*)

*Time required*²: 3 months

2. Start broad scale – a Borough Strategic Land Use and Economic Plan, & a Generalized Land Use Map

Process and Objective: While some Borough residents have urged the Assembly and staff to move quickly to create a zoning ordinance, we suggest the best place to start would be with more generalized land use planning. This could build on the current comprehensive plan, several previous “visioning exercises” and other relevant past work, and extensive outreach. Starting with broader scale planning means that there can first be agreement on goals, and only then is the stage set for determining how best to achieve those goals.

Specific Outcomes:

- Update facts and trends regarding growth and growth-related issues in the borough.
- Working community by community, develop a draft “Borough Strategic Land Use/Economic Plan”
Topics of this plan would need to work back and forth at regional and sub-regional scales, and include:



Case Study 1: Talkeetna Agnew: Beck worked with community of Talkeetna, a town where many people were suspicious of planning, but also a location clearly feeling the side effects of rapidly growing tourism. The initial product was a widely supported “community/tourism plan” that identified issues and options and set clear goals and strategies for supporting growth and maintaining community character.

This plan in turn set the stage for the first ever zoning code in Talkeetna. The code was supported by people who initially didn’t want zoning, as they came to believe that controlling growth was in their economic interest, and because the regulations largely codified what were already seen by the community as sensible building, signage and land use practices.

² “Time required” presumes availability of Borough staff and leadership, perhaps supported by consulting services, based on experience in comparable planning work in other portions of Alaska and the lower 48 mountain west.

- A “strategic vision” statement for the borough as whole, which captures broad intentions for the future of the area. This would include refining existing comp plan goals for economic and fiscal health, protection of quality of life of residents, and protection of the natural landscape. These goals would then provide a reference point for discussing topics not included in the comp plan, including the desirable character, locations and magnitudes of future growth in the borough, and the general standards required to help different uses be compatible neighbors.
- Develop an equivalent strategic vision for each of 4-5 subregions of the borough (e.g., Cantwell, Yanert, “greater” Park entry, “greater” Healy, Clear/Anderson).
- Based on the Strategic Vision, develop a borough-wide, generalized land use map that reflects differences in market and physical constraints and opportunities, access, and the range of views of residents and landowners.
 - Build the map by considering the specific existing and desired land uses in different locations. These might be expressed in traditional single use land use categories, like rural residential use, commercial and industrial. More helpful may be using mixed use categories that reflect the unique characteristics of different portions of the borough. Examples might be areas where the primary use is low density residential, but the intent is also to allow a range of business activities in ways that do not significantly disrupt neighborhood life. Another example might be a mixed use towncenter area, where the deliberate idea is to promote a mix of uses in compact, concentrated walkable location.
 - Identify the assumptions about actions needed to support the desired future land use patterns, including transportation and other public facilities, coordination with partners, and perhaps new fiscal strategies, such as creating road service areas to cover local road maintenance costs.
 - This stage may lead to quite different outcomes in different sub-regions of the borough, with some areas pushing forward with fairly detailed ambitious land use plans, and other sub-regions wanting to move more slowly.
- Bring forward the combined package – “Strategic Land Use/Economic Plan” and Generalized Land Use Map – for formal Planning Commission and then Assembly approval.

Time required: 6-8 months

3. Develop the specific tools most appropriate to implement conclusions of broad scale planning

Objective: After the work above is complete the borough will be well positioned to consider what specific tools may be needed to implement these broader policy intentions. One likely implementation tool would likely be a zoning code, with the following characteristics:



Case Study 2: Methow Valley WA/Bend OR These two destinations provide examples of how good planning and zoning, good marketing, and active partnerships between governments and non-profits can create economic opportunities well beyond what any given landowner or agency can do on its own. The Methow Valley has become a premier four season destination for trail-based activities, created through collaboration of multiple land owners, and anchored by a series of small, walkable downtowns. Bend has experienced remarkable growth based on thoughtful development of 4 season recreational opportunities, and public & private investments to create a lively, brewpub-rich, riverfront downtown.



- Allow for different portions of the borough to have different levels of land use regulation, while recognizing the code has to be fair
- Allow for significant latitude in use of private land, but provide standards that control the subset of uses most likely to create significant off-site adverse impacts. One specific strategy is for the great majority of common uses to be allowed “by right”. This can be coupled with a conditional use process to provide for higher standards and more public review for proposals for larger scale uses likely to have significant off-site impacts, such as industrial activities, high density housing or large scale tourism development.³
- Establish specific land use policies, consistent with resident, business, landowner and borough leadership desires, in specific locations. Possible candidates include:
 - Provide new standards for commercial development and commercial signage, aiming to elevate the quality of commercial centers like “Glitter Gulch” in a way that increases tendency of visitors to spend time (and money) in the borough
 - Provide standards that maintain the unique, positive qualities of lower density residential areas
 - Work towards creating more identifiable community centers, such as the long discussed “Healy town center”

Specific Outcomes:

- Preparation and refinement of a draft and then final zoning code, working with extensive public and land owner input
- Adoption of other actions to implement the strategic plan, for example, a trail plan or a CIP for roads and other public services and infrastructure,
- Preparation and refinement of a practical approach to implementing and enforcing the zoning code, based on realistic expectations regarding staffing and budgets.

Time required: will vary based on conclusions in previous steps regarding extent of regulations desired in the borough. A reasonable, starting estimate is 6-12 months.



Above: neighbors talking to neighbors, Petersburg Borough Comprehensive Plan

Case Studies 3: Alaska Borough Comprehensive Plans/Municipal Zoning Plans

Experiences in Alaska with regional and borough scale land use planning show both the value and challenges of bringing the planning tools to places where not everyone welcomes their arrival. The first ever zoning code for Talkeetna was developed start-to-finish in 4 months. Ambitious, multi-year attempts to create borough- wide zoning in the Mat Su Borough and to comprehensively overhaul the Kodiak Island Borough Code both collapsed in rancor. In early 2016, the Petersburg Borough Assembly approved a comprehensive plan, which encompassed a large area recently absorbed into this newly established borough, & included a call for creating new zoning and subdivision rules.

The lessons? Strong leadership and a sincere commitment to working with the public “where they are” gets the job done.

³ A note on CCR’s – Codes Covenants and Restrictions - Using CCR’s to manage land use vs. zoning is often proposed in Alaska. The track record for CCR’s in Alaska is weak at best. CCR’s can work in established neighborhoods, such as Anchorage subdivisions, where most homes are all built at the same time, to a similar standard, and occupied by people with similar values and incomes. In different settings, particularly in rural subdivisions that will be built out slowly over time by people with widely divergent values and funds for construction, CCR’s tend to be ignored and are very difficult to enforce.

DENALI BOROUGH, ALASKA
RESOLUTION NO. 15-06

A RESOLUTION OF THE DENALI BOROUGH ASSEMBLY CONCERNING A SOLID
WASTE TRANSFER STATION IN THE HEALY AREA

WHEREAS, the Denali Borough has assumed solid waste powers and is operating a landfill near the Clear area and a solid waste transfer station near Cantwell; and

WHEREAS, the Denali Borough Assembly has previously passed resolutions in support of a Healy solid waste transfer station; and

WHEREAS, two public surveys have previously shown support for a transfer station in the Healy area.

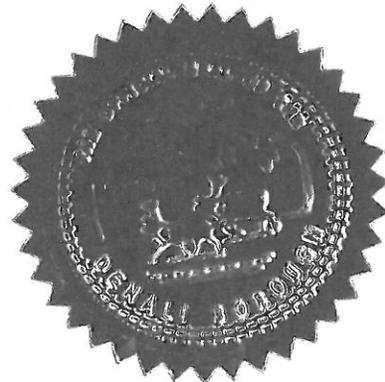
NOW, THEREFORE BE IT RESOLVED: that the Denali Borough Assembly supports the Denali Borough Mayor proceed with public outreach to establish a site location for the facility.

BE IT FURTHER RESOLVED: that the Denali Borough Assembly requests a report from the mayor showing suggested site location and a Best Estimate Fiscal Impact Statement for building and operating the facility in the Healy area.

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this 13th day of May, 2015.

J. Clay Walker
Clay Walker, Denali Borough Mayor

ATTEST: Gail Pieknik
Gail Pieknik, Denali Borough Clerk



Healy Transfer Station

Best Estimate Fiscal Impact Statement for building and operating a waste transfer facility
at the Borough owned site at Mile Post 253 of the Parks Highway

Development Estimate

Description	Total
Site clearing - To be procured with overall site construction	\$32,000.00
Gravel pad - Assumes an approximately 200' x 200' pad.	\$45,000.00
Concrete retaining walls and raised gravel pad -	\$70,000.00
Chain link fence - Base quote plus time escalation (age of quote)	\$32,000.00
Gatehouse - Includes base 2011 cost for gatehouse plus 5% per year increase	\$41,000.00
Houshold hazerdous waste covered enclosure -	\$10,000.00
Appliance waste trailer - 6'5" x 14' double axle utility trailer	\$4,500.00
#4 x 30 yard roll off containers - Approximately \$15,500/container	\$60,800.00
Gravel driveway -	\$15,000.00
Site electrical plus hookup - GVEA new construction - Up to 150' free	\$6,000.00
Recycling shed - Based on an approximately 600 square foot structure	\$30,000.00
Engineering - Provided by contractor	\$27,000.00
*All procurement to follow Denali Borough Code 3.35	
Sub total	\$373,300.00
Contingency @ 15%	\$55,995.00
Total	\$429,295.00

Annual Operations Estimate

Item	Total
Electricity	-600.00
Phone/Internet	-700.00
Fuel Oil	-600.00
Gray water	-250.00
Plowing	-3,600.00
Labor	-21,300.00
Hauling Estimates - public hauler estimate of \$350 per load from Healy	-73,435.56
Total Expenses	(\$100,485.56)
<u>Operating Revenue</u>	
Estimate based on Cantwell Transfer Station 3 year average acceptance times 470% increase in year-round population (2010 Census)	
Tipping Fees	57,810.00
Net Income / (Loss)	(\$42,675.56)