

Chapter 20.04

DEFINITIONS

Sections:

[20.04.010 Definitions.](#)

20.04.010 Definitions.

The following terms used in this title have the following meanings:

“Agricultural use” means the use of land for raising and harvesting crops, for the feeding, breeding and management of livestock, for dairying, or another farm use, or any combination of these.

“Borough land” means land or interests in land in which the borough holds legal and/or equitable title.

“Dedication” means the deliberate grant of land by an owner to the public for any general and [public use](#), with the owner reserving no other rights than such as are compatible with the full exercise and enjoyment of the [public uses](#) to which the property has been devoted. A [dedication](#) is not subject to FNSBC [7.04.030\(D\)](#).

“Fair market value” means the estimated price that land would bring in an open market and under the then-prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels. The borough assessor shall determine [fair market value](#) unless the mayor determines in writing that a fee appraiser shall determine [fair market value](#).

“Fair rental value” means the estimated rental price that land would rent for in an open market and under the then-prevailing market conditions in a lease between a willing lessor and a willing lessee both conversant with the property and with prevailing general rent levels. The borough assessor shall determine [fair rental value](#) unless the mayor determines in writing that a fee appraiser shall determine [fair rental value](#).

“General grant land entitlement” means a grant of land pursuant to AS [29.65](#).

“Geophysical hazard” includes, but is not limited to, a hazard such as an earthquake, slumping, flooding or erosion.

“Public purpose” or *“public use”* means a present or future purpose or use that will promote the health, safety, morals, general welfare, security, prosperity and happiness of the residents of the borough as a community at large rather than as individuals.

“Public utility” means an agency that is licensed, authorized, and regulated to provide utility services for [public use](#).

“Public utility easement” means a portion of land reserved for the purpose of providing utility services by an agency or [public utility](#).

“*Publish*” means appearing at least once in a newspaper of general circulation distributed in the borough.

“*Retained borough land*” means [borough land](#) that the assembly has designated for retention by the borough in accordance with FNSBC [20.24.030](#).

“*Subdivision*”:

1. Means the division of a parcel of land into two or more lots or other divisions for the purpose of sale or building development, includes resubdivision, and relates to the process of subdividing or to the land subdivided;

2. Does not include cadastral plats, cadastral control plats, open-to-entry plats, or remote parcel plats created by or on behalf of the state regardless of whether these plats include easements or other public [dedications](#).

“*Timber of commercial quality*” means white spruce or mixed white spruce stands of a minimum DBH of 10 inches which can produce a 20-foot log. (Ord. 88-047 § 4, 1988; Ord. 86-056 § 2, 1986. 2004 Code § 25.25.030.)

Chapter 20.08

PURPOSE

Sections:

[20.08.010 Purpose.](#)

20.08.010 Purpose.

The purpose of this title is to comply with AS [29.35](#) that requires the assembly to establish by ordinance a formal procedure for acquisition and disposal of land and interests in land by the borough. (Ord. 86-056 § 2, 1986. 2004 Code § 25.25.010.)

Chapter 20.12 LAND ACQUISITION

Sections:

[20.12.010 Methods of land acquisition.](#)

[20.12.020 Assembly resolution authorizing the land acquisition.](#)

[20.12.030 Offer to acquire land.](#)

[20.12.040 Acquisition for fair market value.](#)

[20.12.050 Exercise of the power of eminent domain – Limitation.](#)

20.12.010 Methods of land acquisition.

A. The primary methods the borough may use to acquire lands inside or outside the borough boundaries are:

1. Negotiated purchase or lease; each lease shall incorporate or is deemed to have incorporated the following clause: “Unless the assembly by resolution provides otherwise, this lease shall automatically terminate without penalty on June 30th of any year during which the Fairbanks North Star Borough assembly fails to appropriate funds sufficient to make the lease payments on the leased property for the following fiscal year”;
2. Negotiated exchange involving [borough land](#);
3. [Dedication](#), grant or gift;
4. Deed in full or partial satisfaction or settlement of a debt owed to the borough, legal action with the borough, or judgment in favor of the borough; and
5. Exercise of the powers of eminent domain and declaration of taking in accordance with AS [29.35](#) and FNSBC [20.12.050](#).

B. This section does not prohibit the borough from acquiring lands by any other lawful means. (Ord. 2005-67 § 2, 2005; Ord. 86-056 § 2, 1986. 2004 Code § 25.05.010.)

20.12.020 Assembly resolution authorizing the land acquisition.

An assembly resolution authorizing the acquisition shall be required before the borough may acquire land except that a resolution shall not be required if the acquisition is for a [fair market value](#) and the acquisition is:

1. Pursuant to a [dedication](#) of a right-of-way or [public utility easement](#);
2. Pursuant to a grant previously approved by the assembly;

3. Pursuant to a [general grant land entitlement](#) previously approved by the assembly;
4. Pursuant to a deed in full or partial satisfaction or settlement of a debt owed to the borough, legal action with the borough, or judgment in favor of the borough; or
5. For a right-of-way or easement necessary for the development of a service area improvement, borough facility or [borough land](#) disposal previously approved by the assembly. (Ord. 86-056 § 2, 1986. 2004 Code § 25.05.020.)

20.12.030 Offer to acquire land.

An offer to acquire land for the borough shall be in writing and shall be signed by the mayor or the manager of the division of land management. (Ord. 2013-85 § 6, 2013; Ord. 86-056 § 2, 1986. 2004 Code § 25.05.030.)

20.12.040 Acquisition for fair market value.

The assembly may authorize the mayor to acquire land for more than [fair market value](#) only if the resolution authorizing the acquisition contains a finding that the acquisition is for a compelling [public purpose](#) or use and a statement of the facts on which the finding is based. (Ord. 86-056 § 2, 1986. 2004 Code § 25.05.040.)

20.12.050 Exercise of the power of eminent domain – Limitation.

Exercise of the power of eminent domain by the borough is prohibited unless the property acquired thereby is actually used by the borough or the public. Eminent domain is not to be used to further private economic development. (Ord. 2005-67 § 3, 2005. 2004 Code § 25.05.050.)

Chapter 20.16
LAND MANAGEMENT

Sections:

[20.16.010 Managing authority.](#)

[20.16.020 Lease of borough land.](#)

[20.16.030 Easement on borough land.](#)

[20.16.040 Sale of borough sand, gravel or timber resources.](#)

[20.16.050 Temporary use of borough land.](#)

[20.16.060 Casual use of borough land.](#)

[20.16.070 Trespass on borough land.](#)

[20.16.080 Use of borough land for temporary access.](#)

[20.16.090 Use of borough land for mining.](#)

20.16.010 Managing authority.

A. Unless the mayor otherwise designates a specific department, land used for a specific purpose or function that is managed by a department, division, or component unit of the borough shall be managed by that division, department or component unit. The division of land management shall be the managing authority of all other [borough land](#).

B. The managing authority shall manage [borough land](#) in accordance with this title, the management plans, and with procedures adopted by the mayor and made available to the public by the managing authority.

C. A managing authority may promulgate rules and regulations and issue licenses for the use of [borough land](#). A managing authority may not sell [borough land](#) except that the division of land management may lease [borough land](#) as provided by FNSBC [20.16.020](#)(B) and grant easements as provided by FNSBC [20.16.030](#)(B). (Ord. 2013-62 § 2, 2013; Ord. 99-020 § 12, 1999; amended during 1993 republication; Ord. 86-056 § 2, 1986. 2004 Code § 25.10.020.)

20.16.020 Lease of borough land.

A. "Lease" means an agreement granting exclusive possession or use of [borough land](#) for a specific period of time and in accordance with specific terms.

B. An assembly resolution authorizing the lease shall be required before the mayor may grant a lease. The resolution shall identify and disclose any known existing mining claims on the property and other

known third party interests impacting or impacted by the proposed lease, and indicate whether the borough has notified the proposed lessee of the claims or interests.

C. The borough may provide for competitive bidding to lease [borough land](#) that is suitable for a commercial or industrial use. The competitive bidding shall be conducted according to bidding requirements of FNSBC Title [16](#).

D. The assembly may authorize the mayor to lease [borough land](#) for less than [fair rental value](#) only if the resolution authorizing the lease contains a finding that the lease is for a compelling [public purpose](#) or use and a statement of the facts on which the finding is based. The mayor shall periodically reappraise leased [borough land](#) to determine [fair rental value](#).

E. The term of the lease shall be based on the nature of the improvements to be made by the lessee and shall be long enough to allow for amortization of improvements made by the lessee, plus a period of not more than 10 years. A lease for a term in excess of 10 years shall be recorded. A lease may contain a provision granting the lessee of [borough land](#) the right to renew the lease.

F. The mayor may require a proposed lessee to cause the [borough land](#) to be surveyed at the proposed lessee's own expense.

G. The proposed lessee shall submit to the mayor a property improvement plan that includes a schedule for proposed improvements. When the lease terminates, the lessee shall remove all improvements made pursuant to the improvement plan except those improvements that the lease specifies shall become the property of the borough, and the lessee shall restore the land to the same condition it was in at the time the lease was executed. Improvements that are not removed by the lessee at the expiration of the lease shall become the property of the borough. (Ord. 2015-56 § 2, 2016; Ord. 86-056 § 2, 1986. 2004 Code § 25.10.030.)

20.16.030 Easement on borough land.

A. "Easement" means a nonpossessory interest in [borough land](#) that entitles the holder to a specified limited use.

B. An assembly resolution authorizing the easement shall be required before the mayor may grant an easement except that a resolution shall not be required if the easement:

1. Is necessary for the development of a service area improvement or borough facility previously approved by the assembly; or
2. Is in accordance with the state cooperative easement agreement. If an easement is necessary to provide public access to public or private land adjacent to [borough land](#) that is subject to the agreement, then the mayor shall designate and dedicate an easement across the [borough land](#) and submit the easement to the State Division of Lands, Department of Natural Resources, for review and approval. The borough shall not develop or sell [borough land](#) that is subject to the agreement unless the State Division of Lands, Department of Natural Resources, approves the easement.

C. A person seeking an easement shall pay to the borough the easement fee as required by the fee schedule established by the mayor. The mayor may waive the easement fee for a public agency or a [public utility](#).

D. The borough may grant an access easement for a [public purpose](#) or a private purpose. If a private access easement is granted, the borough shall reserve the right to unilaterally amend the private access easement to create a public access easement.

1. A public access easement shall comply with the survey, monumentation, platting and construction requirements contained in the borough [subdivision](#) ordinances, except that the mayor may exempt from the construction requirement a public access easement designated pursuant to the state cooperative easement agreement.

2. The grantee shall, at the grantee's own expense, cause the private access easement to be surveyed and mapped and it may be platted. The grantee shall, at the grantee's own expense, cause a public access easement to be surveyed, mapped and platted.

E. A [public utility easement](#) shall not be exclusive. The borough shall retain the right to allow other uses of the easement and the right to require other utility users to enter into maintenance agreements with the original easement holder.

1. The grantee shall, at the grantee's own expense, cause a [public utility easement](#) to be surveyed and mapped.

2. A utility easement shall be granted for a length of time that is reasonably related to the useful life of the particular improvement. The easement shall be conditioned on continued need and use and the mayor shall revoke the easement if the easement holder abandons or ceases to use the easement. The revoked easement shall revert to the borough.

3. The borough may grant a utility easement only if there is no existing easement suitable for the purposes for which the easement is requested. If the easement would be located over an area of conflicting planned use, then the applicant shall demonstrate that there is no practicable alternate route or location. (Ord. 86-056 § 2, 1986. 2004 Code § 25.10.040.)

20.16.040 Sale of borough sand, gravel or timber resources.

A. The mayor may grant to a person an extraction license that allows a person to extract a maximum of 2,000 cubic yards of borough sand or gravel per year, or a maximum of 10,000 board feet of borough greenwood timber per year, or a maximum of 20 cords of dead and down firewood per year. An extraction license does not convey an interest in land.

B. If the mayor determines an extraction license may substantially affect the surrounding area then the mayor shall [publish](#) notice of the proposed use. The notice shall include a description of the proposed use and notice of a two-week period during which public comment on the proposed use will be

accepted by the mayor. If the mayor receives substantial public comment adverse to the proposed use then before issuing the license the mayor shall hold a public hearing on the proposed use.

C. The applicant shall pay to the borough both the extraction license fee as required by the fee schedule established by the mayor and the [fair market value](#) of the extracted materials as determined by the mayor. The mayor may waive the license fee for a public agency.

D. If the mayor determines an extraction license may cause damage to the [borough land](#) then the mayor 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 shall not release the bond until the licensee has complied with all conditions of the license.

E. The mayor may inspect the [borough land](#) at any time to ensure compliance with license conditions. The mayor may, for cause and without notice to the licensee, immediately revoke an extraction license. A user of borough resources whose extraction license has been revoked shall within a reasonable time restore the land to reasonably the same condition it was in at the time the license was executed.

F. The assembly may by resolution authorize the commercial sale of borough sand, gravel, or greenwood timber resources. A commercial sale means a sale that would not qualify for an extraction license.

G. The assembly shall by resolution fix the terms of a commercial sale of borough sand, gravel or greenwood timber resources. The resolution shall include the date of sale, whether the sale is by outcry or sealed bid auction, the manner in which payment is to be made, the restoration conditions, and any other term the assembly deems appropriate.

H. The mayor shall cause notice of the sale of borough sand, gravel or greenwood timber resources to be [published](#) four times in the 30-day period preceding the date of the sale. The notice shall contain a brief description of the [borough land](#) from which the resource is to be removed and the terms of the sale as fixed by the assembly by resolution. The mayor shall sell the borough resources offered for sale to the highest bidder who performs all the terms of the sale. The mayor may promulgate rules and regulations for conducting a commercial sale.

I. After review and comment by the State Department of Transportation/Public Facilities, the mayor may issue an extraction license or the assembly may authorize a commercial sale that allows a person to extract gravel from joint use material extraction sites on [borough land](#) as established by the cooperative agreement between the state and the borough.

J. The assembly may by resolution authorize the mayor to sell borough commercial saw-timber, firewood, sand and gravel resources by the use of over-the-counter sales if these resources were first offered for sale at an auction and did not sell at the auction. Resources offered for sale over the counter may be purchased on a first-come, first-served basis at the division of land management. The mayor may promulgate rules and regulations for conducting an over-the-counter sale. (Ord. 2013-85 § 8, 2013; Ord. 2012-31 § 2, 2012; Ord. 86-056 § 2, 1986. 2004 Code § 25.10.050.)

20.16.050 Temporary use of borough land.

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

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

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

D. If the mayor determines a temporary use may cause damage to the [borough land](#) then the mayor shall require 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 shall not release the bond until the user has complied with all conditions of the license.

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

F. The mayor shall not renew a temporary use license, but the mayor may reissue another license if the applicant has complied with the provisions of this section and the terms of the prior license. (Ord. 88-047 § 2, 1988; Ord. 86-056 § 2, 1986. 2004 Code § 25.10.060.)

20.16.060 Casual use of borough land.

A. "Casual" use means a use of [borough land](#) that is nonexclusive and involves only minimal disturbance to the land. Examples of a casual use are hiking, backpacking, hunting, fishing, camping for less than 14 days, picnicking, cross-country skiing, snow machining, berry picking, brushing survey lines or trails where roots are not disturbed, livestock drives, and the use of all-terrain vehicles off an established road or right-of-way but on an existing trail.

B. The casual use of [borough land](#) does not require a license or permit.

C. The casual use of [borough land](#) does not create an interest in [borough land](#).

D. The mayor may close any and all [borough land](#) to casual use by issuing a written order that contains a finding that an emergency exists and a statement of the facts on which the finding is based. The mayor shall [publish](#) notice of the location of [borough land](#) that the mayor has closed to casual use.

E. This section applies only to vacant, undeveloped [borough land](#) managed by the division of land management.

F. This section does not authorize casual use of [borough land](#) if the use conflicts with federal, state or other applicable law imposing, or authorizing a legal user to impose, access restrictions or other limitations on [public use](#). (Ord. 2015-30 § 2, 2015; Ord. 2013-62 § 3, 2013; Ord. 86-056 § 2, 1986. 2004 Code § 25.10.070.)

20.16.070 Trespass on borough land.

A. “*Trespass*” means the unauthorized use or possession of [borough land](#).

B. A person shall not trespass on [borough land](#). If the mayor has knowledge of a trespasser, then the mayor shall take steps to remove the trespasser. Unless the mayor provides otherwise, the trespasser shall restore the [borough land](#) to the same condition it was in at the time just before the trespass began. The trespasser shall pay all costs incurred by the borough as a result of the trespass.

C. The borough may grant a lease or an easement to an unintentional trespasser because of extreme hardship that will be suffered by the trespasser. A noninclusive example of such an extreme hardship is where a residential structure is unintentionally built on [borough land](#). (Ord. 86-056 § 2, 1986. 2004 Code § 25.10.080.)

20.16.080 Use of borough land for temporary access.

A. The mayor may grant a temporary access license for access across [borough land](#) when such access is necessary for construction, resource extraction, or other temporary activities on adjoining land.

B. The temporary access licenses provided for herein in this section shall be subject to such conditions as the mayor shall consider necessary to ensure the prudent use of borough resources while allowing access across [borough land](#).

C. A temporary access license is nonexclusive and is valid for a period no greater than five years from the date of issue. A temporary access license may be reissued with the same conditions, upon application by the licensee, if there are no substantial changes in the projected plan of operations and all conditions of the previous license have been met.

D. The applicant shall pay to the borough the temporary access license fee required by the fee schedule established by the mayor.

E. A temporary access license is transferable subject to the written approval of the mayor and subject to the agreement of the transferee to abide by all terms and conditions of the temporary access license. Within 30 days of receipt of written notification of a transfer, the mayor shall provide written approval

or disapproval. The licensee remains liable for all license conditions until the transfer has been approved or the mayor receives written notice canceling the license.

F. The licensee shall reimburse the borough for [timber of commercial quality](#) which is used or destroyed by the licensee on [borough land](#). The amount of reimbursement shall be determined by the mayor based upon accepted forestry practices for the appraisal of timber value.

G. The mayor may inspect the [borough land](#) at any time to ensure compliance with conditions of the license.

If a licensee fails to demonstrate good faith efforts to comply with the conditions of the license, and after receiving written notice, fails to remedy such default within the time specified in the notice, the mayor may revoke the license upon 30 days' notice, and require the posting of a bond before issuing a new license. (Ord. 88-047 § 3, 1988. 2004 Code § 25.10.090.)

20.16.090 Use of borough land for mining.

A. The mayor may grant to a mining claim owner or operator a mining use license for mining on [borough land](#) where surface disturbance will be greater than a "casual" use as defined in FNSBC [20.16.060](#). A mining claim owner or operator who has obtained a mining use license and is complying with the conditions of the license shall be presumed by the mayor to have made arrangements with the borough, as the surface owner, to pay for damages before mining begins as required by AS [38.05](#). With the exception of reimbursement for valuable surface resources, the mayor shall accept reclamation as payment for damages on undeveloped [borough land](#) which has not been leased or sold.

B. The mayor shall formulate conditions for mining use licenses to ensure that mining activities do not result in the creation of hazards or undue degradation of [borough land](#). As used in this section, "*undue degradation*" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character.

C. A mining use license is nonexclusive and is valid for a period no greater than five years from the date of issue. A license may be reissued with the same conditions, upon application by the licensee, if there are no substantial changes in the projected plan of operations and all conditions of the previous license have been met.

D. The applicant shall pay to the borough the mining use license fee required by the fee schedule established by the mayor.

E. If the applicant has demonstrated a lack of good faith efforts to comply with the conditions of a prior license, the mayor shall require that the applicant post a bond or other suitable guarantee of payment at the Fairbanks North Star Borough in an amount sufficient to pay for the cost of restoring the land to the extent required by the conditions of the license before issuing another license. The mayor shall not release the bond until the licensee has complied with all conditions of the license.

F. A mining use license is transferable subject to the written approval of the mayor and subject to the agreement of the transferee to abide by all terms and conditions of the mining use license. Within 30 days of receipt of written notification of a transfer, the mayor shall provide written approval or disapproval. The licensee remains liable for all license conditions until the transfer has been approved or the mayor receives written notice from the licensee requesting cancellation of the license.

G. The mayor may require the licensee to reimburse the borough for [timber of commercial quality](#) which is used or destroyed by the mining operation on [borough land](#). The amount of reimbursement shall be determined by the mayor, based upon accepted forestry practices for the appraisal of timber value.

H. The mayor shall require the licensee to submit an annual plan of operations and summary of previous work done on [borough land](#) during the term of the license.

I. The mayor may inspect the [borough land](#) at any time to ensure compliance with conditions of the license. If a licensee fails to demonstrate good faith efforts to comply with the conditions of the license, and after receiving written notice, fails to remedy such default within the time specified in the notice, the mayor may revoke the license, upon 30 days' notice, and require the posting of a bond before issuing a new license.

J. License conditions may be appealed to the borough assembly by the applicant or licensee as follows:

1. A notice of appeal shall be filed in duplicate with the borough clerk and shall contain:

- a. The appellant's name, mailing address, and telephone number;
- b. Detailed and specific allegations of error in the license conditions being appealed;
- c. A statement of the result desired by the appellant.

2. The appellant shall pay an appeal fee as provided in a fee schedule to be approved by the assembly. A notice of appeal which does not conform with the requirements of this subsection shall be denied. No further proceedings shall be made on a defective notice of appeal until the defect is corrected.

3. The borough clerk shall schedule appeals for hearing by the borough assembly. Notice of the hearing shall be sent to the appellant and the mayor not later than 10 days prior to the date of the hearing.

4. The borough assembly shall hear evidence presented by the appellant and the mayor.

5. The borough assembly shall make a final determination regarding the license stipulations at issue in the appeal and instruct the mayor to prepare a resolution accomplishing the assembly's determination to be considered at the next regularly scheduled borough assembly meeting.

6. During the period of appeal, the appellant may proceed with operations as long as the appellant operates in compliance with the conditions included in the license by the mayor.

K. If agreement cannot be reached between the borough and the applicant or if a mining operator refuses to arrange to pay for damages and the applicant or operator intends to proceed with mining

without a license, the mayor may, in accordance with AS [38.05](#), request the director of the Alaska Department of Natural Resources to determine a surety bond to be posted by the operator, prior to entering [borough land](#), in sufficient amount to pay for the cost of restoring the land to the same extent required of other mining use licensees on [borough land](#). (Ord. 88-047 § 3, 1988. 2004 Code § 25.10.100.)

Chapter 20.20

LAND SALE

Sections:

[20.20.010 Policy.](#)

[20.20.020 Mayor authorized to sell borough land.](#)

[20.20.030 Terms of the land sale.](#)

[20.20.040 Notice of the land sale.](#)

[20.20.050 Tax foreclosure sale.](#)

[20.20.060 Auction sale.](#)

[20.20.070 Lottery sale.](#)

[20.20.080 Over-the-counter sale.](#)

[20.20.090 Direct sale.](#)

[20.20.100 Exchange sale.](#)

[20.20.110 Cooperative sale.](#)

[20.20.120 Combination sale.](#)

[20.20.130 Conveyance of the land.](#)

[20.20.140 Statement of expenses and revenues.](#)

[20.20.150 Release of agricultural covenants and restrictions.](#)

20.20.010 Policy.

It is the intent and goal of the borough to offer for sale to the general public for *fair market value*, except as provided by FNSBC [20.20.030](#)(C), all patented, unretained, general grant lands. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.010.)

20.20.020 Mayor authorized to sell borough land.

A. The mayor may sell unretained *borough land* according to the terms fixed by the assembly by ordinance except that the mayor shall not sell approved but unpatented general grant land without fully disclosing the unpatented status of the land to the purchaser and without obtaining the consent of the State of Alaska Director of Lands, Department of Natural Resources. The ordinance shall identify and disclose any known existing mining claims on the property and other known third party interests

impacting or impacted by the proposed sale, and indicate whether the borough has notified the proposed buyer of the claims or interests.

B. The mayor shall not sell borough land to a person who is delinquent in the payment of any tax, debt or obligation owed to the borough.

C. Without specific approval by ordinance the borough shall not develop or otherwise subdivide borough land for the purpose of public sales if the development or subdivision would require the borough to construct roads. (Ord. 2015-56 § 3, 2016; Ord. 2013-85 § 9, 2013; Ord. 86-056 § 2, 1986. 2004 Code § 25.15.020.)

20.20.030 Terms of the land sale.

A. The assembly shall by ordinance fix the terms of all sales of borough land. The ordinance shall contain the date of the sale, the method or methods of sale, the manner in which payment is to be made, the interest to be conveyed, the instrument of conveyance to be used, and any other term the assembly deems appropriate.

B. The assembly may authorize payment to be made over time only if:

1. The down payment, payment schedule and rates of interest are reasonable; and
2. The period for total payment does not exceed 10 years, or 20 years if the land is sold for agricultural use.

C. The assembly may authorize the mayor to sell land for less than fair market value only if the land is to be offered for sale at an auction, or if the ordinance authorizing the sale contains:

1. A finding that the sale for less than fair market value is in the best interests of the borough;
2. A statement of the facts on which the finding is based; and
3. The period of time during which the offer may be accepted.

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

E. The assembly may authorize a land development incentive as part of the terms of a land sale as follows:

1. Within a three-year period following the date of closing, a purchaser shall be eligible to receive a 10 percent discount on the remaining principal balance owed on the parcel if:
 - a. The current assessed value of the improvements constructed on the parcel as shown on the borough property tax assessment equals or exceeds (i) \$25,000 in the case of designated recreational parcels, or (ii) \$50,000 in the case of designated residential or commercial parcels; or

b. The promissory note and deed of trust are satisfied in full through the approval of construction financing in an amount equal to or exceeding (i) \$25,000 in the case of designated recreational parcels, or (ii) \$50,000 in the case of designated residential or commercial parcels.

2. The purchaser shall be responsible for providing evidence to the borough to obtain the development incentive. (Ord. 97-005 § 2, 1997; Ord. 86-056 § 2, 1986. 2004 Code § 25.15.030.)

20.20.040 Notice of the land sale.

The mayor shall cause notice of a land sale to be [published](#) four times in the 30-day period immediately preceding the date of the sale. The notice shall contain a brief description of the land, the general location of the land and the terms of the sale as fixed by the assembly by ordinance. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.040.)

20.20.050 Tax foreclosure sale.

Notwithstanding conflicting provisions of this title, the mayor shall sell and manage tax foreclosed property according to the requirements of AS [29.45](#) and Chapter [8.24](#) FNSBC. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.050.)

20.20.060 Auction sale.

The assembly may by ordinance authorize the mayor to sell [borough land](#) by the use of either an outcry or sealed bid public auction. The mayor shall sell the land to the highest bidder who performs all the terms of the sale. The mayor may promulgate rules and regulations for conducting an auction. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.060.)

20.20.070 Lottery sale.

The assembly may by ordinance authorize the mayor to sell [borough land](#) by the use of a lottery. Only natural persons may participate in a lottery sale. A natural person 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 a person may buy from lottery sales. The mayor may promulgate rules and regulations for conducting a lottery. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.070.)

20.20.080 Over-the-counter sale.

A. The assembly may by ordinance authorize the mayor 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 for sale over-the-counter may be purchased on a first-come, first-served basis at the division of land management. The mayor may promulgate rules and regulations for conducting an over-the-counter sale.

B. The division of land management shall periodically review the terms of sale of all land offered for sale over-the-counter and shall:

1. Adjust rates of interest to reflect the prevailing market conditions, provided the rate of interest shall be not more than six percentage points above nor less than two 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 manager of the division of land management. Price adjustments shall be made only under the guidance of an independent fee appraiser. The assembly shall be informed of the substance of the price adjustments made by the division of land management as the adjustments occur. Independent fee appraisals may be obtained by the division of land management at any time. (Ord. 2013-85 § 10, 2013; Ord. 99-020 § 12, 1999; amended during 1993 republication; Ord. 88-009 § 2, 1988; Ord. 86-072 § 2, 1986; Ord. 86-056 § 2, 1986. 2004 Code § 25.15.080.)

20.20.090 Direct sale.

A. The assembly may by ordinance authorize the mayor to sell [borough land](#) directly to the owner of land adjoining the [borough land](#) if there is no [public use](#) for the land and 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 ordinances.

B. As a condition of sale, the deed conveying the [borough land](#) shall contain a provision prohibiting the property from being sold unless and until it is incorporated into the adjoining property through all applicable borough ordinances. (Ord. 2006-14 § 2, 2006; Ord. 86-056 § 2, 1986. 2004 Code § 25.15.090.)

20.20.100 Exchange sale.

The assembly may by ordinance authorize the mayor to exchange [borough land](#) but only if the ordinance authorizing the exchange sale contains a finding that the exchange sale is in the best interests of the borough and a statement of the facts on which the finding is based. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.100.)

20.20.110 Cooperative sale.

The assembly may by ordinance authorize the mayor to develop and sell [borough land](#) in cooperation with a person or a public agency. This cooperation may include, but is not limited to, the sale of [borough land](#) subject to a preliminary [subdivision](#) plat, the sale to a private developer of [borough land](#) subject to a development contract, or a land disposal in cooperation with a public agency. A cooperative sale shall be conducted according to the bidding requirements of FNSBC Title [16](#), unless the cooperative sale is in cooperation with a public agency. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.110.)

20.20.120 Combination sale.

The assembly may by ordinance authorize the mayor to sell [borough land](#) by the use of any combination of the methods authorized by this chapter. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.120.)

20.20.130 Conveyance of the land.

A. After the buyer has paid to the borough the payments required by ordinance, the mayor 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 for [agricultural use](#) shall contain restrictions that:

1. Restrict the use to [agricultural use](#); and
2. Prohibit [subdivision](#). (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.130.)

20.20.140 Statement of expenses and revenues.

At the conclusion of each sale of [borough land](#), the mayor shall deliver to the assembly a written statement that sets forth the expenses of conducting the sale and the revenues derived or to be derived from the sale. (Ord. 86-056 § 2, 1986. 2004 Code § 25.15.140.)

20.20.150 Release of agricultural covenants and restrictions.

Current owners of land sold by the borough, the title to which is subject to agricultural covenants and restrictions, may make application to the mayor to have the borough release by conveyance those covenants and restrictions (hereinafter "restrictions") subject to the following procedure:

A. Application. The owner shall apply using a form provided by the borough for release of the restrictions. The application should include the legal description of the property involved and be accompanied by the appropriate application and processing fee. The owner shall agree to be bound by procedures herein outlined.

B. Title Report. The owner shall provide the borough with a preliminary commitment for title insurance which lists any other parties with an interest in the property which could be affected by the proposed release. The borough will review the preliminary commitment and may require the applicant to secure a nonobjection to the proposed release by the listed party. The borough will not process an application where a listed party objects to the release.

C. Appraisal. Upon direction from the borough the owner will secure, at the owner's cost, a [fair market value](#) appraisal of the property completed by an appraiser licensed by the state of Alaska. The purpose of the appraisal will be to determine the difference between the [fair market value](#) of the property in its present state, i.e., subject to the restrictions, and the value of the property with the restrictions released. If an owner holds title to more than one adjacent parcel, a single appraisal may be secured to determine the value of each parcel.

1. The borough will review the appraisal and if it is acceptable proceed with the release process.
 2. If the borough has questions or disagrees with the value determination it may offer additional evidence to the owner to resolve any difference of value.
 3. After reviewing the borough's information, the owner and the borough agree upon a new value, then the release process may continue.
 4. If the applicant and the borough cannot come to agreement on value the borough will secure a second appraisal at its own cost. The borough's values and the applicant's value will then be averaged to determine the selling price.
 5. If at any time the applicant decides that the value(s) determined by the above process is unacceptable they may withdraw from the process and terminate their application. No paid fees will be refunded.
- D. Conveyance. After the applicant has paid to the borough the value difference determined through the appraisal process described in subsection (C) of this section, the mayor shall execute the deed releasing and conveying the covenants and restrictions to the owner. Cost of recording shall be borne by the applicant. (Ord. 2012-36 § 2, 2012. 2004 Code § 25.15.150.)

Chapter 20.24

DETERMINING WHICH BOROUGH LANDS MAY BE SOLD OR RETAINED

Sections:

[20.24.010 Nomination of borough land to be sold or retained.](#)

[20.24.020 Selection of borough land to be sold or retained.](#)

[20.24.030 Retained borough land.](#)

20.24.010 Nomination of borough land to be sold or retained.

A borough resident, including the mayor, may nominate [borough lands](#) to be sold or retained by filing a written nomination with the division of land management. The division of land management shall establish and maintain on the borough website an online list of parcels available for nomination with a brief description of the parcel and its approximate location. (Ord. 2013-85 § 11, 2013; Ord. 99-020 § 12, 1999; amended during 1993 republication; Ord. 86-056 § 2, 1986. 2004 Code § 25.20.010.)

20.24.020 Selection of borough land to be sold or retained.

The mayor shall, at a minimum, biennially in June present to the assembly a written summary of the parcels proposed for sale or retention and a list of all other nominated land. The summary shall also contain a plan for implementing the sale or retention of the proposed parcels. An ordinance implementing the plan in whole or in part may be introduced after a public open house and a committee of the whole worksession. (Ord. 2013-85 § 11, 2013; Ord. 86-056 § 2, 1986. 2004 Code § 25.20.030.)

20.24.030 Retained borough land.

A. The assembly shall by ordinance retain [borough land](#) if the assembly determines that the land poses a danger to public health, safety or welfare because of a [geophysical hazard](#).

B. The assembly may by ordinance retain [borough land](#) for a [public purpose](#) or [public use](#).

C. An ordinance required by this section shall contain the legal description of the property, and the address or a general description of the property sufficient to provide the public with notice of the location of the land.

D. Notwithstanding any other provision of this title, the mayor may not sell, lease, grant an easement on, grant an extraction license on, or otherwise transfer [retained borough land](#) unless authorized to do so by ordinance, except that the mayor may permit temporary or casual use of [borough land](#) without assembly authorization. (Ord. 2013-85 § 11, 2013; Ord. 86-056 § 2, 1986. 2004 Code § 25.20.040.)