

Denali Borough, Alaska
ORDINANCE 11-07
INTRODUCED BY: ASSEMBLY MEMBER ROBERT KOHLSDORF

AN ORDINANCE AMENDING DENALI BOROUGH CODE CHAPTER 4.10 TITLED
MANAGEMENT OF BOROUGH REAL PROPERTY

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 Denali Borough Code Chapter 4.10 Sections 4.10.020 and 4.10.060 as follows:

4.10.020 Management plans.

A. For purposes of this chapter, the Mayor is the administrator.

1. The Mayor may, at his pleasure, designate a representative to act as administrator.

[A]B. The administrator, under the advisement of the managing authority of borough lands, shall prepare for each parcel of borough land a written management plan that:

1. Identifies the uses, including public uses, for which the parcel is suited;
2. Evaluates the economics of the identified uses;
3. Identifies whether the parcel may pose danger to public health, safety, or welfare because of a geophysical hazard; and
4. Makes recommendations regarding the retention, management, development, and sale of the parcel.

[B]C. The administrator shall publish notice of and hold at least one public meeting to hear public comment on the management plans.

[C]D. At least once every five years the administrator shall review and update the management plans that are then in effect.

4.10.60 Sale of resources on borough land.

A. The administrator 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. If the extraction for the project is for a public purpose, a larger extraction may be allowed. An extraction license does not convey an interest in land.

B. If the administrator determines an extraction license may substantially affect the surrounding area, then the administrator shall publish notice of the proposed use. The notice shall include a description of the proposed use. Notice shall be of a 30-day period, during which public comment on the proposed use will be accepted by the administrator. If the administrator receives substantial adverse public comment to the proposed use then, before issuing the license, the administrator shall hold a public hearing on the proposed use.

C. The applicant shall pay the borough both the extraction license fee as required by the fee schedule established by the administrator and the fair market value of the extracted materials as determined by the administrator. The assembly may authorize the administrator to 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.

D. If the administrator determines an extraction license may cause damage to the borough land then the administrator 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 administrator shall not release the bond until the licensee has complied with all conditions of the license.

E. The administrator may inspect the borough land at any time to ensure compliance with license conditions. The administrator may, for cause, revoke an extraction license. The administrator shall give notice of the cause of the revocation and give the licensee a reasonable amount of time to correct the problem. 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, establish the terms of a commercial sale of borough sand or gravel resources. A commercial sale means a sale that would not qualify for an extraction license.

G. The resolution shall include the date of sale, whether the sale is by outcry or sealed bid auction, the manner in which payment is made, the restoration conditions, and any other term that the assembly deems appropriate.

H. The administrator shall cause notice of the sale of borough sand or gravel 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 established by the assembly by resolution. The administrator shall sell the borough resources offered for sale to the highest bidder who performs all the terms of the sale. The administrator may promulgate rules and regulations for commercial sale. These rules must be approved by the assembly. The assembly may authorize the administrator to sell sand or gravel to nonprofit organizations for less than fair market value.

I. After review and comment by the state Department of Transportation/Public Facilities, the administrator may issue an extraction license or the assembly may authorize a commercial sale that allows a person to extract gravel from a joint use

material extraction site on borough land as established by the cooperative agreement between the state and the borough.

J. Nothing in this chapter grants a holder of an extraction license exemption from any tax burden associated with the removal of resources from Denali Borough lands.

K. A holder of an extraction 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.

L. The Denali Borough assumes no responsibility for hazardous use, accident, injury, or death incurred during any phase of the extraction process.

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

DATE INTRODUCED: APRIL 13, 2011

FIRST READING: MAY 11, 2011

PUBLIC HEARING: MAY 11, 2011

PASSED and APPROVED by the DENALI BOROUGH ASSEMBLY this 13TH day of JULY, 2011.


DAVID M. TALERICO, MAYOR

ATTEST: 
GAIL PIEKNIK, BOROUGH CLERK



PASSED UNANIMOUSLY
ABSENT: HOLMES, EVANS and WALKER