

SUBJECT:AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING TITLE 23 REAL PROPERTY, AND A RESOLUTION AMENDING THE LAND AND RESOURCE MANAGEMENT DIVISION POLICY AND PROCEDURES MANUAL.

AGENDA OF:November 18, 2025

Assembly Action: Adopted without objection 12/02/25 - BJH

AGENDA ACTION REQUESTED: Present to the Assembly for consideration.

Route To	Signatures
Originator	X Lisa Gray Signed by: Lisa Gray 10 / 13 / 2025
Land & Resource Management Manager	X Joe Metzger Signed by: Joe Metzger 10 / 20 / 2025
Community Development Department Director	X Jillian Morrissey Signed by: Jillian Morrissey 10 / 20 / 2025
Finance Director	 Redeemable Signature X Cheyenne Heindel Signed by: Cheyenne Heindel
Borough Attorney	 Expired certificate X Nicholas Spiropoulos Signed by: Nicholas Spiropoulos 10 / 23 / 2025
Borough Manager	X Michael Brown Signed by: Michael Brown 10 / 23 / 2025
Borough Clerk	X Brenda J. Henry for Signed by: Brenda Henry

ATTACHMENT(S): Resolution Serial No. 25-108 (2 pp)
 Ordinance Serial No. 25-124 (5 pp)
 Land and Resource Management Division
 Policy and Procedure Manual Addendum (42 pp)

SUMMARY STATEMENT: The intent of this legislation is to update Title 23 and the Land and Resource Management Policy and Procedure Manual (PPM) to allow Borough land sales to be offered online. The Land and Resource Management Division has offered several Borough land sales online and they were a great success. Offering land sales online was convenient for the public to participate and it increased the competition.

Currently, Title 23 and PPM allow for competitive land sales via sealed bids or outcry land auctions. The proposal seeks to add online sales as an additional method. Alongside this, several amendments are proposed including housekeeping measures to align the PPM with current code, correct formatting and grammar, and providing clarification where needed. In sections that are outdated, more significant amendments were needed, and those sections are highlighted below:

PPM Part Twenty-Five - Eliminates provisions allowing the creation of private easements and private rights-of-ways on public lands.

PPM Part Thirty - Removes embedded fee schedule and refers instead to the Schedule of Rates and Fees approved by the Assembly.

PPM Part Forty-Five - Updates procedures for Tax and Special Assessment (LID) Foreclosures, providing clearer guidance.

Highlighted changes to Title 23 include adding another method for determining fair market value. This change would allow the Manager to negotiate in good faith to determine fair market value, provided it is not less than the value assigned by the certified tax rolls. Another change is to reduce the time records are retained after the Borough ceases to have an interest in the real property, aligning the retention period (10 years) with the records management schedule. Changes also broaden applicability through updated language.

Upon approval, MSB Title 23 and Land and Resource Management Division Policy and Procedures Manual will be updated, better organized, and aligned to serve the public.

RECOMMENDATION OF ADMINISTRATION: Adoption of legislation to amend Title 23 and the Land and Resource Management Division Policy and Procedures Manual.

Land and Resource Management Division

POLICY AND PROCEDURES MANUAL

APPROVED ON 9/20/16
ORDINANCE 16-100 AND RESOLUTION 16-068
UPDATED ON 12/03/2019
ORDINANCE 19-040 AND RESOLUTION 19-027
UPDATED ON 11/22/2023
ORDINANCE 22-127 AND RESOLUTION 22-105

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

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

AGRICULTURAL LAND SALES: Disposal
PART 5

1.1 Authority: 23.05.030
23.10.070
23.10.150

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

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

- A. the date, time and place of awarding/naming the successful bidder/buyer for the parcel(s) in the disposal; and
- B. the period during which bids/applications will be accepted; and
- C. a statement of the interest to be conveyed, terms and conditions of disposal, the terms of payment and length of contract, purchaser and borrower qualifications required, contract performance requirements, and any other special conditions or limitations; and
- D. maps for each parcel identifying the vicinity where the parcel is located and the immediate area; and
- E. additionally the following information will also be provided for each parcel:
 1. approximate size in acres;
 2. minimum sale price;
 3. any special reservations and conditions, such as easements or non-development buffers, which will be imposed upon the parcel at time of conveyance; and
 4. land capability soils information, if available.

4.1 Purchaser qualification.

A. In addition to meeting the qualifications of applicants and bidders required by MSB 23.10.090, in order to be eligible to purchase property at an agricultural sale, a prospective purchaser must register prior to the sale and must sign a statement worded substantially as follows:

"I hereby acknowledge and affirm that if I am the successful purchaser, I will use the land acquired at this sale for agricultural purposes as required by the sale program set forth in the covenants, conditions and restrictions and all agricultural land use district regulations in which boundary the parcel is located and which have been disclosed to me. I further acknowledge and affirm that I will abide by the provisions of applicable federal, state and borough laws, and regulations. I understand that if I am the successful purchaser, I will be required to submit information required by the program and meet the borough's lending requirements to qualify for any financing offered by the borough to purchase the parcel. I further understand that the classification of the property as "agricultural land" only identifies the land as being "presently or potentially valuable for production of agricultural crops."

The borough makes no warranties, either express or implied, nor assumes any liability whatsoever regarding the social, economic, or environmental aspects of the property, to include without limitation, the soil conditions, water drainage, physical access, availability of personal use wood supplies now or in the future, or natural or artificial hazards, which may or may not exist, or merchantability, suitability, or profitability of the property for any use or purpose."

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

1. ability to obtain financing and repay debt, including credit reports and income verification if borough financing is requested; or
2. evidence of Alaska residency by providing the physical location of Alaska residence and by submitting a copy of one of the following:
 - a. current Alaska voter registration card issued for more than 30 days; or
 - b. current Alaska driver's license issued for more than 30 days; or

- c. current Alaska hunting or fishing license issued for more than 30 days; or
 - d. current year Alaska permanent fund filing receipt; or
 - e. an affidavit signed by two individuals who swear and attest they have known the individual to be a resident of Alaska for more than the 30 previous days.
- 3. United States citizenship by submission of a copy of one of the following:
 - a. certified copy of certificate of birth in U.S. or U.S. possession; or
 - b. U.S. passport; or
 - c. U.S. Immigration Service issued form for one of the following:
 - i. certificate of U.S. citizenship; or
 - ii. certificate of naturalization; or
 - iii. U.S. citizen ID card; or
 - d. certification of birth abroad issued by U.S. Department of State; or
 - e. Native American tribal document; or
 - f. current voter's registration card.
- C. The borough manager will require proof of the authority to conduct business in the state of Alaska if the prospective purchaser is a corporation, partnership, limited liability company, joint venture, or some other entity which is not acting in the capacity of an individual, and proof that the individuals have authority to act on behalf of the entity.
- D. The borough manager may refuse to approve borough financing based on the analysis of the prospective purchaser's ability to repay debt, which may take into consideration prior delinquency in payment of taxes, rents, default in payments toward any contracts or loans, or for other good cause.

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

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

6.1 Right to Farm Statute and Farm Conservation Plan.

- A. All agricultural property sold by the borough is intended to maximize agricultural capability to the extent feasible and practical and to protect existing agricultural development pursuant to Alaska Statute 9.45.235 and borough code. The prospective purchasers will be informed that technical planning assistance is available through the local soil and water conservation district in cooperation with the United States Department of Agriculture, Natural Resource Conservation Service.
- B. Purchaser shall submit a Borough Farm Conservation Plan for inclusion in the case file that will run with the land until/unless specifically changed.
- C. Continuous fallow is recognized as an agricultural use for the protection of the long-term viability of the nation's food supply by preventing conversion of soils of local importance for agricultural uses to non-agricultural uses. Fallow provides a mechanism to prevent the inappropriate conversion of agricultural land into sprawling, low-density development to safeguard against a "no net loss" of agricultural lands.
 1. Recognized fallow uses and activities are defined as:
 - a. land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; and
 - b. land used for agricultural activities to lie dormant because of adverse agricultural market conditions; and
 - c. allowing naturally occurring grasslands and nonindustrial private forestland.

7.1 Construction of Real Property Improvements.

- A. Each agricultural land sale program includes terms and conditions under which construction of real property improvements will be authorized. The agricultural land sale programs will encourage responsible development and may authorize the construction of fixed, permanent, or immovable structures reasonably required for or related to agricultural production, within designated areas. This designated improvement area(s) must be

identified by the purchasers or owners who shall submit a location map(s) on a form approved by the manager and acceptable for recording, prior to construction of any such improvements within the area(s); however, the purchasers or owners shall not be required to designate the area(s) by a specific time frame under the terms and conditions of the sale.

- B. The designated areas when calculated together may not exceed five (5) acres in size, except as set forth below. The areas may include home site(s), well and septic location(s), and the farmstead areas normally required for yards, driveways, parking, barns, animal pens, outbuildings, and other similar uses.
- C. Areas larger than five (5) acres may be authorized by the borough manager and designated if unusual or large scale real property improvements are necessary for agricultural development of the parcel conveyed.
- D. Changes in the location or size of the designated real property improvement area are subject to approval of the borough manager. The borough manager may approve a change if the change is consistent with the agricultural use of the property.
- E. The method for designating and amending the real property improvement sites will be set out in the terms and conditions of the agricultural land sale program and will be enforced by covenants, conditions, and restrictions.
- F. Processing and recording fees may be charged to the owners that request the designated improvement sites be amended.

8.1 Sale.

- A. Borough-owned property 10 acres or greater where 50% or more of the soils are classified by Natural Resource Conservation Service as land capability class II, class III, class IV, or Natural Resource Conservation Service classified soils of local importance; and where other lands adjoining the property are either classified agricultural lands or in agricultural production, shall be considered for an agricultural classification and an agricultural sale program.
- B. Lands sold with an agricultural classification may be sold:
 1. As a conveyance of only agricultural rights.
 - a. Agricultural rights for parcels will be valued under MSB 23.10.060 with a minimum of \$250 an acre.

- b. Under an agricultural rights conveyance, development rights will be retained by the borough to protect and promote the agricultural use and development of the land in perpetuity.
 - c. The assembly may establish other conditions of sale which are best designed to promote the agricultural use and development of the subject lands.
- 2. As a fee simple conveyance with agricultural covenants.
 - a. Fee simple conveyance for parcels with agricultural covenants will be valued under MSB 23.10.060 with a minimum of \$500 an acre.
 - b. The agricultural covenant will be perpetual, run with the land, and restrict or limit the use of the land for agricultural purposes.
 - c. The assembly may establish other conditions of sale which are best designed to promote the agricultural use and development of the subject lands.
- C. A farm unit may consist of more than one parcel of record and is to be considered a single farm unit.
- D. The terms and conditions of financing offered by the borough to purchase agricultural parcels shall include, among other things, a prohibition against the transfer of ownership during the term of the loan without the specific written consent of the borough.

9.1 Subdivision of the farm unit previously conveyed by the borough, which includes only agricultural rights land or lands sold with agricultural covenants, conditions and restrictions.

- A. Parcels greater than 80 acres and classified as agricultural property shall not be subdivided to less than 40 acres.
 - 1. A farm unit may be subdivided no more than one time with no more than four parcels created from the original farm unit. Any such subdivision must meet the subdivision code and regulations of the Matanuska-Susitna Borough Platting Division.

2. A farm unit consisting of a total aggregate of 40 acres or less may not be subdivided.
3. The terms and conditions of the financing offered by the borough to purchase agricultural parcels shall include, among other things, a prohibition against subdivision or the transfer of ownership without the specific consent of the borough during the duration of the loan term.

9.2 Subdivision of a farm unit previously conveyed by the borough with only agricultural rights for creation of a five (5) acre home site.

- A. Parcels sold in a borough agricultural land sale are to be considered a single farm unit as delineated in the sale brochure or online sale terms and conditions and accompanying documents.
- B. Subdivision is allowed for a home site if the assembly grants a release from the terms of the sale and shall be for an amount of land sufficient for a farm residence and/or farm related facilities, with a maximum of no more than five (5) contiguous acres, provided that the land is situated and conforms to all planning, platting, subdivision, and other regulations of the borough.
- C. If assembly approval is provided for subdivision, all subdivided home sites shall include a restriction such that any subsequent sale shall require the home site and parcel from which it was created to be sold jointly in order to avoid an agricultural rights only property from having no home site. This provision shall be implemented through the use of covenants and deed restrictions for the home site and remainder parcel.
- D. If assembly approval for subdivision is obtained, the manager shall have the authority to approve applications for the subdivision of agricultural property be submitted to the platting authority and the recording thereof.
- E. The land for the subdivided home site(s) shall then be sold and granted to the purchaser as fee simple for an amount determined by an estimated fair market value appraisal of the fee simple estate (land only) minus the estimated fair market value of the agricultural rights (land only) indicated by the fee appraisal.
- F. Upon subdivision of the farm unit, designated real property improvement areas will remain in the location and size most recently authorized by the borough manager unless amended as provided under the terms and conditions of the agricultural sale program.

9.3 Subdivision of a farm unit previously conveyed by the borough with agricultural covenants, conditions and restrictions.

- A. Parcels sold in a borough agricultural land sale are considered a single farm unit as delineated in the sale brochure and related documents and shall not be subdivided for a period of ten years from the date the sale documents are recorded.
- B. After ten years, the farm unit may be subdivided provided no parcel so subdivided is less than 40 acres in size and no more than four parcels are to be created from the original farm unit boundary. Any such subdivision must meet the subdivision code and regulations of the Matanuska-Susitna Borough Platting Division.
- C. Upon subdivision of the farm unit, designated real property improvement areas will remain in the location and size most recently authorized by the borough manager unless amended as provided under the terms and conditions of the farm sale program.

9.4 Property classified agricultural land and sold prior to December 3, 2019, shall adhere to the subdivision policies by the instrument that conveyed title, the contractual covenants, conditions, and restrictions, governing legislation and the land sale brochure for the parcel.

10.1 Enforcement of Agricultural Use and Program Requirements.

- A. The requirements of agricultural use and the terms and conditions of the agricultural land sale programs will be enforced by the instrument that conveys title, contractual covenants, conditions, and restrictions, by adoption of an agricultural land use district for the area prior to the sale, or any combination of methods deemed appropriate for the particular program.
- B. The requirements of any financing offered by the borough to purchase the agricultural parcels will be enforced based on the terms and conditions of the deed of trust and secured note.
- C. In the event the parcel is located within the boundary of an agricultural land use district, or such other zoning which may exist, all development, including construction of real property improvements, shall conform to the regulations applicable to the district or zone within which it is located.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

[PRIVATE EASEMENTS AND RIGHTS-OF-WAY: PURCHASES]

PART 25

- [1.1] [AUTHORITY:] [23.05.030]
[23.05.060]
[23.10.060]
[23.10.080]
[23.10.110]
- [2.1] [THIS SECTION APPLIES TO THE GRANTING OF PRIVATE EASEMENTS OR RIGHTS-OF WAY ON BOROUGH LANDS.]
- [3.1] [REQUESTS FOR EASEMENTS OR RIGHTS-OF-WAY SHALL BE IN WRITING PURSUANT TO THE APPLICATION PROCEDURE.]
- [4.1] [THE BOROUGH MAY REQUIRE A LEGAL DESCRIPTION APPROVED BY A REGISTERED SURVEYOR, AND ILLUSTRATION OR AS-BUILT DRAWING OF THE EASEMENT LOCATION AS NECESSARY.]
- [5.1] [EASEMENTS OR RIGHTS-OF-WAY SHALL BE GRANTED IN THE BEST INTEREST OF THE BOROUGH.]
- [6.1] [THE LOCATION OR ALIGNMENT OF EASEMENTS OR RIGHTS-OF-WAY SHALL BE ACCORDING TO COMMONLY ACCEPTED INDUSTRY PRACTICE, AND IN A MANNER THAT WILL CAUSE THE LEAST IMPACT TO BOROUGH LANDS AND RESOURCES. THE BOROUGH WILL SEEK TO PROMOTE LOCATIONS THAT PROVIDE THE GREATEST PUBLIC GOOD WITH THE LEAST PRIVATE HARM. THE COMMUNITY DEVELOPMENT DIRECTOR MAY REQUIRE THAT AN ALIGNMENT STUDY BE COMPLETED AND APPROVED BY THE BOROUGH PRIOR TO THE GRANTING OF AN EASEMENT. A BEST INTEREST FINDING MAY BE REQUIRED.]
- [7.1] [EASEMENTS OR RIGHTS-OF-WAY SHALL BE GRANTED AT FAIR MARKET VALUE (FMV) AS DETERMINED BY THE ADOPTED FEE SCHEDULE.]
- [7.2] [AN INTERDEPARTMENTAL REVIEW IS INITIATED AND PUBLIC NOTICE OF THE ACTION SHALL TAKE PLACE IN ACCORDANCE WITH THE PUBLIC NOTICE PROCEDURE.]

[PRIVATE EASEMENTS AND RIGHTS-OF-WAY: PURCHASES]

PART 25

[7.3] [EASEMENTS OR RIGHTS-OF-WAY WHICH IMPACT A LARGER PARCEL MAY BE REQUIRED TO BE VALUED BY AN APPRAISAL AS DETERMINED NECESSARY BY THE COMMUNITY DEVELOPMENT DIRECTOR.]

[7.4] [VIOLATION OF THIS SECTION OR FAILURE TO OBTAIN PRIOR APPROVAL OF THE COMMUNITY DEVELOPMENT DIRECTOR SHALL RESULT IN RECORDING OF A NOTICE OF NON-COMPLIANCE OR LIEN AGAINST THE AFFECTED TAKING.]

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

FEE SCHEDULE

PART 30

- 1.1 Authority: 23.05.060
- 1.2 [THE FEES HEREIN STATED ARE IN ACCORDANCE WITH MSB RESOLUTION 19-027, ADOPTED ON DECEMBER 3, 2019, AND CANNOT BE CHANGED WITHOUT ASSEMBLY APPROVAL.] Fees are in accordance with assembly approved Schedule and Rates and Fees.
- 2.1 An application and processing fee [OF \$500.00] is required with every application submitted for using borough land unless this charge is inapplicable by the terms of an adopted program or permit procedure.
- 3.1 In addition to the application and processing fee, [THE FOLLOWING PERMIT FEES SHALL APPLY:] permit fees, easement fees, and extraction fees apply in accordance with the assembly approved Schedule of Rates and Fees.
 - A. Designated special use and management area permits will be issued based on a schedule for each area.
 - [B.] [COMMERCIAL LAND USE PERMITS;]

[BASE RATES	
[7-12 MONTHS	\$1,000.00]
[6-MONTH OR LESS (SEASONAL)	\$ 500.00]
 [ONE ROUND TRIP CROSSING]	\$ 250.00]
 [PLUS PER PERSON / PER DAY FOR ONE ROUND-TRIP CROSSING (THIS FEE IS IN ADDITION TO BASE RATES)	\$ 2.00]

[PER ACRE CHARGE FOR EXCLUSIVE USE OF BOROUGH LAND:
IF A COMMERCIAL PERMITTEE REQUESTS EXCLUSIVE USE OF BOROUGH LAND, AN ADDITIONAL FEE SHALL BE CHARGED PER ACRE OR SQUARE FOOT OF EXCLUSIVE USE (WHICHEVER IS APPROPRIATE), SAID FEE SHALL BE NO LESS THAN TWELVE PERCENT (12%) OF THE ASSESSED PARCEL VALUE PER ACRE, OR TEN PERCENT (10%) OF FAIR MARKET VALUE AS DETERMINED BY THIRD PARTY APPRAISAL.]

30-1

FEE SCHEDULE**PART 30**

[C.] [NON COMMERCIAL LAND USE PERMITS: \$ 500.00]

[D.] [DESHKA SEASONAL CAMP PERMITS: \$ 75.00]

[E.] [CHRISTIANSEN LAKE FLOAT PLANE DOCKAGE/SEALED BID: \$ 500.00]

[F.] [EVENT PERMITS:]

[THIS FEE IS A DAILY USE FEE AND APPLIES TO 'NOT-FOR-PROFIT' ORGANIZERS.]

[20 PEOPLE OR LESS, NO PARTICIPANT ENTRY FEE \$ 10.00]
[20 PEOPLE OR LESS, WITH PARTICIPANT ENTRY FEE \$ 25.00]

[21-50 PEOPLE REGARDLESS OF PARTICIPANT ENTRY \$ 50.00
FEE BOROUGH MUST BE NAMED AS "ADDITIONALLY INSURED"]

[51-100 PEOPLE REGARDLESS OF PARTICIPANT ENTRY \$ 100.00
FEE BOROUGH MUST BE NAMED AS "ADDITIONALLY INSURED"
EVENT ORGANIZER MUST PROVIDE MINIMUM OF ONE (1) PORTA-CAN]

[100 PEOPLE OR MORE, WHETHER NON-COMMERCIAL \$ 250.00
OR COMMERCIAL, REGARDLESS OF SIZE OR PARTICIPANT
ENTRY FEE MUST NAME BOROUGH AS "ADDITIONAL ISSURED."
EVENT ORGANIZER MUST PROVIDE MINIMUM OF TWO (2)
PORTA-CANS + ONE (1) ADDITIONAL PORTA-CAN PER EVERY
ADDITIONAL 100 ATTENDEES]

[G.] [FILMING PRODUCTION PERMITS: \$ 500.00]
THIS FEE IS A DAILY USE FEE. BOROUGH MUST BE NAMED
AS "ADDITIONALLY INSURED."
MINIMUM OF TWO-WEEK ADVANCE REQUEST REQUIRED.
(EXCLUDES MSB RECREATION SERVICES TRAILS OR RECREATION
FACILITIES WHICH ARE AUTHORIZED BY MSB REC SERVICES DIVISION]

[H.] [ROVING VENDOR PERMIT
ANNUAL PERMIT FEE] \$ 150.00

[6.1] [EASEMENT AND RIGHTS OF WAY FEES:]

[A.] [PUBLIC UTILITY EASEMENTS:]

FEE SCHEDULE

PART 30

[UTILITY TRANSMISSION/DISTRIBUTION ACROSS BOROUGH OWNED LAND FOR SERVICE TO NON-BOROUGH PROPERTY] FMV BY SQ.FT. OF EASEMENT AREA, OR 125% OF ASSESSED VALUE OF EASEMENT AREA

[UTILITY SERVICE TO BOROUGH OWNED LAND NO CHARGE]

[B.] [PRIVATE UTILITY EASEMENTS FMV BY SQ.FT. OF EASEMENT AREA]

[C.] [ROADS, DRIVEWAYS, AND TRAILS:]
[PRIVATE FMV BY SQ.FT. OF
[PUBLIC EASEMENT AREA]
NO CHARGE]

[7.1] [COMMERCIAL TIMBER RESOURCE, VEGETATION HARVEST, AND EARTH MATERIAL EXTRACTION FEES:]

[A.] [MINIMUM PRICES SHALL BE BASED ON FAIR MARKET VALUE (FMV) FOR: ALL TIMBER SALES, INCLUDING SALVAGE AND STUMPAGE CONTRACTS; AND EARTH MATERIAL EXTRACTION CONTRACTS; AND HARVEST OF NATURAL VEGETATION AND NON-WOOD PRODUCT CONTRACTS.]

[B.] [A \$500.00 FEE IS DUE FOR EACH TIMBER SALE, EARTH MATERIAL AND NATURAL VEGETATION/NON-WOOD PRODUCTS CONTRACT EXTENSION.]

[8.1] **4.1** For [OVER-THE-COUNTER] land sale programs, [A PROCESSING] fees pursuant to terms of the specific offering is required [WITH THE SUBMISSION OF EACH BID].

[9.1] [PERSONAL USE FIREWOOD AND EARTH MATERIAL EXTRACTION: \$25.00 PER HOUSEHOLD]

[A.] [FIREWOOD PER CORD \$25.00 / CORD]
[10 CORD MAX / HOUSEHOLD / YEAR)]

[B.] [EARTH MATERIAL, GRAVEL & PEAT \$3.00 /CUBIC YD.]

[10.1] [ASSIGNMENTS OF ALASKA DIVISION OF LAND LEASES.
IN ADDITION TO OTHER APPLICATION FEES, A DOCUMENT FEE OF \$250.00 FOR A TITLE REPORT WILL BE DUE UPON ACCEPTANCE OF APPLICATION.]

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: Leases

PART 35

1.1 Authority: 23.05.030
23.10.180

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

2.2 "Lease" in this chapter means a contract for the use and possession of the surface estate for a specified period of time and under specific terms. Because a lease conveys a property interest in land, it is necessary to prepare a recommendation for assembly approval. Applications for leases must undergo interdepartmental review prior to public notice procedures provided in MSB 23.05.025. Borough-owned land must be classified prior to leasing. Classification must be completed in accordance with Part 20 of this Manual.

2.3 A "development plan" shall be provided stating proposed development and use of the leased land. Incorporated in the development plan shall be performance benchmarks which at the discretion of the borough will become conditions of the lease. A development plan will be consistent with the classification of the land, and it becomes a binding part of the lease contract.

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

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

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

REAL PROPERTY: Leases

PART 35

- 3.3 Where land use patterns are congested or when competitive interest exists, the Community Development Director may decide to offer a lease of any term by competitive bid or by other means allowed under code.
- 3.4 All persons to be named in the lease document must sign the lease application.
- 3.5 In all competitive offerings in which a development plan is required, the legal publication will stipulate that in order for a person to enter into the lease, a development plan meeting the requirements of the regulations and the community development director must be submitted to the land & resource management division on or before the date stipulated in the legal publication.

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

- 3.6 Lease disposal of unclassified land may be made only when in conformance with a local comprehensive plan or special use district.
- 3.7 The awarding of a lease for whatever purpose does not constitute a waiver of any requirement for permits or other authorizations as may be required for certain uses, whether it be state, federal, or municipal entity. A lease may be revoked if necessary permits are not acquired by the lessee.
- 3.8 A lease made at less than fair market value annual rental will require a best interest finding and will provide for unrestricted public use and access.
- 3.9 All leases of land which are made at less than fair market value shall terminate if the use changes from the approved development plan or if the use is not consistent with the use approved for the lease, and shall be conditioned upon unrestricted public enjoyment of the benefits of the project. For instance, public access through a hydropower site may be restricted for safety reasons, but if the benefit of the project (electricity) will be made available through a public utility, a lease may be negotiated for less than fair market value.

The Community Development Director shall determine whether or not a lease by application at fair market value to an eligible person may contain the reverter clause or the requirement for public access.

REAL PROPERTY: Leases

PART 35

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

- A. The long-term management strategy for the land has not yet been decided or has been determined to best be achieved by retention in borough ownership;
- B. The proposed use of the land is contingent upon the possession of other permits not under the control of the borough, (i.e., guiding area permits);
- C. The nature of the proposed use requires that the borough retain the greatest control over the long-term development and operation of the facility (i.e., oil and gas industrial lease tracts);
- D. The facility, although owned and operated by a private interest, provides an important public service (i.e. power generation site).

4.1 The filing of an application vests no rights in the applicant to a lease or to use of the land while under application. Unauthorized use constitutes trespass. Upon becoming aware of a verified trespass, the land and resource management division shall serve notice, both by regular and certified/return receipt mail when practical upon the known trespasser and thereafter proceed with appropriate action, including terminating processing the application.

4.2 The trespasser shall be notified of the trespass violation and that all unauthorized improvements placed on the premise are to be removed within 60 days of noticing. If notice is not complied with, the case is then turned over to the Borough Attorney's office for action.

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

6.1 All leases shall be guided and enforced by 23.10.010, 23.10.020, 23.10.030, 23.10.040, 23.10.060, 23.10.080, and 23.10.090.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

OWNERSHIP: Tax and Special Assessment (LID) Foreclosures

PART 45

1.1 Authority: 2.38.020
 3.15
 23.05.030
 23.10.220
 AS 29.45.290-500

2.1 Definitions:

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

[JUDGMENT AND DECREE OF FORECLOSURE: THE COURT CLERK DELIVERS A CERTIFIED COPY OF THE JUDGMENT AND DECREE TO MUNICIPAL CLERK. THE CERTIFIED JUDGEMENT AND DECREE CONSTITUTE A TRANSFER TO THE MUNICIPALITY.]

[RIGHT OF REDEMPTION: PROPERTIES TRANSFERRED TO THE MUNICIPALITY ARE HELD BY THE MUNICIPALITY FOR AT LEAST ONE YEAR. DURING THE REDEMPTION PERIOD A PARTY HAVING AN INTEREST IN THE PROPERTY MAY REDEEM IT BY PAYING THE LIEN AMOUNT PLUS PENALTIES, INTEREST, AND COSTS, INCLUDING ALL COSTS INCURRED UNDER AS 29.45.440(A). A CERTIFICATE OF REDEMPTION IS ISSUED AND RECORDED.]

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

Tax and LID sale: The sale of a tax and LID-foreclosed property to collect delinquent taxes from the proceeds of sale; conducted when the taxpayer

45-6

OWNERSHIP: Tax and Special Assessment (LID) Foreclosures

PART 45

has failed to redeem the property within the statutory period and the borough has been conveyed the property by clerk's deed.

Tax and LID deed: A quitclaim deed that conveys [TITLE TO] what interest the Borough has in a property purchased at a tax and LID sale[;]. [WHICH MAY NOT CONVEY ABSOLUTE TITLE, FREE AND CLEAR OF ALL PRIOR CLAIMS AND LIENS.]

- 3.1 The borough's purpose in selling tax and LID foreclosed properties is to collect delinquent real property taxes and LID and costs which are the combination of the real property tax, LID, penalties, interest, and management costs. The borough does not seek to retain tax or LID-foreclosed property in its ownership, unless a specific and meaningful public purpose can be demonstrated.
- 4.1 The finance department is responsible for filing the tax and LID lien foreclosure case, recording judgment, issuing redemption certificates and requesting and obtaining a clerk's deed as a result of a tax and LID-lien foreclosure.
- 4.2 [THE LAND AND RESOURCE MANAGEMENT DIVISION IS RESPONSIBLE FOR REVIEW OF THE PROPERTIES NOT REDEEMED WHICH ARE TO GO TO CLERK'S DEED, INCLUDING ANY SITE INSPECTION PRIOR TO FINANCE DEPARTMENT REQUESTING CLERK'S DEED. THE LAND MANAGEMENT DIVISION WILL BE GIVEN 60 DAYS' NOTICE IN WHICH TO CONDUCT ANY SITE INSPECTIONS. RECOMMENDATIONS WILL BE FORWARDED TO FINANCE REGARDING IMPROVEMENTS, HAZARDOUS BUILDING OR MATERIALS, ETC.] The land and resource management division is responsible for the interim management of tax and LID foreclosed properties between the time a Clerk's Deed is issued to the borough and the time the borough disposes of its interest in the tax foreclosed property; the sale of tax and LID-foreclosed properties; and determining which tax and LID-foreclosed properties, if any, should be retained in borough ownership for a public purpose.
- 5.1 [PRIOR TO THE FINANCE DEPARTMENT RECEIVING A CLERK'S DEED THE LAND AND RESOURCE MANAGEMENT DIVISION WILL REVIEW ALL PROPERTIES ON THE FORECLOSURE LIST TO

OWNERSHIP: Tax and Special Assessment (LID) Foreclosures

PART 45

DETERMINE WHICH PROPERTIES MAY BE IMPROVED, WHICH PROPERTIES MAY BE OCCUPIED, AND WHICH PROPERTIES MAY BE CONTAMINATED OR FOUND TO CONTAIN HAZARDOUS MATERIALS FROM ASSESSMENT AND OTHER PUBLIC RECORDS. ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION RECORDS WILL BE CHECKED FOR UNDERGROUND STORAGE TANKS, SPILLS, COMPLAINTS, ETC.]

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

6.1 Upon the borough receiving a Clerk’s Deed, the land and resource management division will proceed to develop and implement an interim management plan for the tax and LID-foreclosed property inventory. All costs associated with the interim management will be accounted for by [PARCEL FOR] adding to the sale price. AS 29.45.470(4) provides that costs of maintaining and managing the property incurred by the municipality include insurance, repairs, association dues, and management fees, that exceed amounts received by the municipality for the use of the property.

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

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

7.3 The land and resource management division submits a memorandum to the borough manager listing the tax and LID- foreclosed properties to be

OWNERSHIP: Tax and Special Assessment (LID) Foreclosures

PART 45

retained for a public purpose, and those to be sold and their values. The memorandum will also state what method will be used to sell the properties. [WHETHER THE PROPERTIES ARE TO BE SOLD BY PUBLIC OUTCRY AUCTION OR SEALED BID.] Upon approval by the borough manager the land and resource management division will prepare an ordinance listing properties to be retained for a public purpose and those to be sold.

- 7.4 A notice of the public hearing on the tax and LID- foreclosure ordinance is prepared by the land and resource management division published in accordance with the borough clerk's requirements for public hearings for ordinances.
- 7.5 The clerk or the clerk's designee sends a copy of the published notice of hearing of the ordinance by certified and first class mail to the former record owner of the property as listed on the assessment rolls within five days after the first publication of the notice of the public hearing.
- 8.1 Taxes, LID, penalties, interest, and costs may be paid up to execution of contract of sale or sale of the property [5 P.M. OF THE DAY PRIOR TO THE TAX FORECLOSURE SALE].
- 9.1 See respective Policy and Procedures Manual, Part 60, on conducting a public outcry auction, online competitive sale, or sealed bid for tax and LID-foreclosed properties.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: Acquisition and Exchange

PART 60

1.1 Authority: 23.10.275

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

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

23 Implementation via public solicitation. Once a need is identified for acquisition or exchange of real property, the community development department may prepare a scope of work for a proposal to be solicited through the purchasing division. Acquisitions or exchanges may be offered through a formal public solicitation.

A. The public solicitation shall contain at a minimum:

1. Intended use of the property and desired location proximity;
2. desired development characteristics, such as size of property, physical needs, proximity to utilities and condition of access; and

60-1

REAL PROPERTY: Acquisition and Exchange

PART 60

3. identified source of funding, or pool of borough land potentially available for exchange.
- B. Solicitation within a minimum radius of one mile of the needed site for public facility must be used in any proposal seeking acquisition or exchange of property under this procedure. The advertised period for the request for proposal shall not be less than 30 calendar days. Notwithstanding public notice requirements as adopted in MSB 23.05.025, community development shall, in conjunction with the advertising period, provide public notice of the offering for not less than 30 calendar days to a mailing area as described in public notice procedures.
- C. In addition to the requirements of MSB 23.10.090 and MSB 3.08, to have a responsible, responsive proposal, a proposer is required to include in the proposal document at a minimum:
 1. The property owner's willingness to sell;
 2. the proposed offer submitted by the property owner shall be effective for a period of 120 days from date of acceptance by the borough;
 3. the submission of a current title report;
 4. authorization of entry by the owner to allow inspection and assessment of the site for utilization; and
 5. verification of property ownership and/or authority to act on behalf of owner.
- D. Evaluation of responsible and responsive proposals received shall be weighed on the following minimum criteria:
 1. Location of the property offered with additional weight placed on properties located closer to the desired location;
 2. the potential for intended development of the property;
 3. a title report showing the ability to deliver marketable title, free

REAL PROPERTY: Acquisition and Exchange

PART 60

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

4. environmental and physical characteristics of the property offered which are acceptable to the borough.
- E. If less than two qualified and responsive proposals are received by the borough through the request for proposals, a best interest finding must accompany any recommendation to acquire or exchange a single property.

24 Implementation via Agent

- A. Once a need is identified for acquisition or exchange of real property, if the borough manager makes a determination that the use of a public solicitation is impracticable, will not serve the best interests of the borough, or will unduly restrict or impede the borough's bargaining position in acquiring/exchanging property, the community development department may act directly for the borough or hire a third party real estate agent or broker to act on behalf of the borough to acquire or exchange property.
- B. A third party real estate agent or broker may be instructed to represent the borough as an unnamed client and the borough may hire multiple agents or brokers.
- C. Notwithstanding MSB 3.08, hiring a third party real estate agent or broker and/or acquisitions or exchanges of land under this procedure may be accomplished through direct negotiation with a qualified individual or firm.

25 Property Evaluation

- A. Upon one or more parcels being identified for public purpose in accordance with 2.3 or 2.4 of this section, the community development department shall coordinate with the [CAPITAL PROJECTS] **Public Works** department to establish a team made up of a land manager, civil engineer, project manager, and transportation planner to internally evaluate the parcel(s), including at a minimum, the following criteria:

REAL PROPERTY: Acquisition and Exchange

PART 60

1. Access to/from site and cost to develop
2. Proximity to utilities and cost to develop
3. Environmental assessment and requirements
4. Geotechnical assessment
5. Site preparation cost / tree removal plan

B. Once internal evaluations are satisfactorily completed, the borough shall then select the appropriate contractors to conduct those assessments necessary. Contractors shall perform their assessments in conformance with the scope and limitations of local, state and federal industry standards.

26 Appraisal. Once a property has been identified in accordance with 2.3 or 2.4 of this section, or anytime the community development director deems necessary to appraise a property, the community development department may contract for a third party appraisal. The appraiser shall be selected by the borough based on the appraiser being able to meet borough qualifications, and Uniform Standards of Professional Appraisal Practice (USPAP) standards, and be licensed by the state of Alaska pursuant to A.S. 08.87.100. The borough shall submit payment for the appraisal and provide appraisal instructions to the appraiser. If the appraised value of the property is expected to exceed \$500,000 the appraisal must be done by a Member of the Appraisal Institute (MAI) certified appraiser.

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

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

27 The borough government may waive the requirements of 2.3 of this section, when acquiring property within a quarter mile of existing borough real property or borough facility when the purpose is to improve, make more feasible, or expand an existing facility. The valuation of such transactions may be conducted as contained within MSB 23.10.060(B).

REAL PROPERTY: Acquisition and Exchange

PART 60

28 Purchase Offer. Upon completion of the property evaluation, appraisal and/or environmental assessment, the borough shall provide the property owners with the information upon its receipt. The borough's offer at first contact shall be the full estimate of the market value supported by the value as determined in accordance with MSB 23.10.060 (B) with no further concession. The desired result will be to produce a settlement equitable to the parties.

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

210 Exclusions. Unless otherwise prohibited by code, this section does not apply to acquisitions or land exchanges when:

- A. The other party to the transaction is a public agency, such as federal, state, or local government and acquiring or exchanging real property is for the purpose or interest intended for use as a public right-of-way or public use easement; or
- B. Acquiring property near an existing facility or borough property for the purpose to improve, make more feasible, or expand an existing or new borough facility.

211 Exclusions shall not be applicable without the prior approval of the community development director. Violation of this section or failure to obtain prior approval of the community development director shall result in recording of a notice of non-compliance or lien against the affected taking.

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: Outcry Auction

PART 60

1.1 Authority: 23.05.030
23.10.190

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

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

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

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

4.2 The land management division will maintain a master [AUCTION] file for each auction. [, WITH DUPLICATES MADE AS NECESSARY.]

Each auction file should, [IN] at a minimum, contain:

- a) Successful bidder's list with sale prices;
- b) Auction brochure with all property information and maps as necessary;
- c) Bidder's list [(SIGN-IN SHEET)];
- d) Certification that auction was held;
- e) Delegation of authority to hold auction;
- f) Decisions and findings;
- g) Planning reports, classification orders and other enabling actions;
- h) Soil data or soil survey, if agricultural;
- i) Copies of complaints, appeals, advertising copy and public comments;
- j) Public hearing notice, legislation authorizing the auction, documentation for all decisions /changes concerning the auction.

60-26

Land & Resource Management Policy & Procedures (PPM)
The code authority cited is specific to this policy and procedure.
Other provisions of code may also apply.

Effective: 9/20/2016
Reso 16-068

IM 25-240
Ord. 25-124
Reso. 25-108

REAL PROPERTY: Outcry Auction

PART 60

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

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

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

1. Auction title and number, date, time and location including specific times, as applicable, for pre-qualification session, registration, and briefing;
2. Type of disposal, requirements, and restriction;
3. The terms of the sale including the required down payment, how interest rate will be determined, qualified applicant status;
4. Statutory and regulatory eligibility requirements;
5. General description of lands involved, including the number of parcels and the approximate size of each;
6. Sketch maps or plat reproductions, which should be of sufficient scale to locate the parcel, access to the parcel reserved easements, right-of-way, and any other dedications;
7. A statement explaining the order that the parcels will be up for bid (it may be by parcel number in ascending or descending order).

B. An auction sale notice is prepared. The notice shall contain, but need not be limited to, the following:

60-27

REAL PROPERTY: Outcry Auction

PART 60

1. A note explaining the availability of the brochure or online terms and conditions, and its purpose;
2. A statement on the right to postpone, adjourn, or annul the auction in part or in whole;
3. A reservation of the right to waive technical defects in the publication;
4. Who to contact for further information.

C. The land and resource management division or hired contractor will coordinate the following;

1. Locate a facility and prepare it for auction with arrangements made well in advance of the scheduled disposal date;
2. Provide adequate seating, based on anticipated and/or past participation, but including provisions for overflow;
3. At a minimum provide support personnel including the auctioneer, one [OR TWO] bid spotter[S], and a bid recorder. Other support personnel may include, [MINIMUM OF TWO] clerks, and [ONE] runners.
4. Provide a public address system if needed; the auctioneer's voice should be clear and sufficiently loud to reach all the people in the room;
5. Locate equipment; including [ADDING MACHINES, TYPWRITER, CALCULATORS] auction bid cards, registration sheets, extension cords, tables and chairs, assorted office supplies and a large writing surface;
6. Prepared in advance, disposal documents such as bid cards, deposit receipts, some contracts, etc;
7. If participation of other divisions or agencies is appropriate, notify affected entities.

60-28

REAL PROPERTY: Outcry Auction

PART 60

D. A delegation of authority is necessary if the auction is to be conducted by anyone other than the borough manager; a briefing may be held prior to the auction date for a review of sale procedures.

[E.] [BIDDERS SIGN FOR THEIR OUTCRY BID CARD PRIOR TO THE BEGINNING OF THE BIDDING. QUALIFIED BIDDERS AT LEAST A MINIMUM ON A 4"x6" CARD WITH THE ASSIGNED NUMBER WITH AT LEAST 3" HIGH NUMERALS.]

[F]E. If any person is purchasing as an agent, the name of the principal being represented must be noted. The power of attorney (POA) document shall be submitted according to the bid document terms and conditions. The POA document is retained if the person is a successful bidder; and becomes part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

Persons representing entities such as, partnerships, corporations, trusts, estates, joint ventures, must present proof that they are authorized to conduct the business on behalf of the entity. For example: the corporation must be authorized to conduct business under the laws of the state of Alaska, a corporate resolution affixed with the corporate seal authorizing the individual to bid and sign on behalf of the corporation and proof of good standing with the Department of Commerce and Economic Development at or before registration. The partnership agreement, either general or limited, must authorize the person to bid and sign on behalf of the partnership and the purchase of real estate must be an act authorized by the partnership agreement. Upon acceptance, the documents are held for the duration of the auction and are retained if the entity is a successful bidder becoming part of the sale case file. Unsuccessful bidders may recover their documents after the auction.

[G] F. The auctioneer must be plainly visible and audible. The recording sheet is displayed in the auctioneer's eyesight. There should be at least one spotter to catch any bids the auctioneer might miss. The auctioneer gives a brief introduction, explains the auction procedure and answers any questions. The auction proceeds in the order as

REAL PROPERTY: Outcry Auction

PART 60

listed in the disposal brochure or online terms and conditions. It is important that the auctioneer explain clearly how the auction is to proceed. The bidding increments to be used must be explained, as it is a discretionary power of the auctioneer to adjust the increments.

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

[I] H. [AFTER THE FINAL BID, THE RUNNER TAKES THE RECORDING SHEET TO THE AREA DESIGNATED FOR PROCESSING THE BID. THE AUCTION CONTINUES UNTIL ALL PARCELS HAVE BEEN OFFERED.] At the completion of the auction the successful bidder [TURNS IN THE BID CARD], completes the [PROMISSORY NOTE] required documents as stated in the brochure or online terms and conditions and receives a copy of the signed [PROMISSORY NOTE] documents.

[J] I. The auctioneer may eject any spectator or bidder whose conduct interferes with the orderly proceeding of the auction and may withdraw parcels from the auction.

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

[L] K. The documents necessary to close will be prepared and closing set-up in accordance with the terms and conditions of the bid document.

60-30

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: ONLINE COMPETITIVE SALE AND SEALED BID SALE

PART 60

1.1 Authority: 23.05.030
23.10.190

2.1 This section addresses the lease or sale of borough land, or an interest in borough land, by online competitive sale or by sealed bid which is defined as a public land sale or lease of land to the highest bidder.

2.2 In the event borough land or an interest in borough land is acquired through grant funding sources, sale or lease of that land or interest therein shall be subject to specific requirements of said grant funding for as long as the grant requirement remains active.

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

3.2 A bidder must meet any special requirements of the particular land sale or lease being bid.

4.1 Should the high bidder not qualify, the sale or lease may be offered and awarded to the next highest qualified bidder. The sale or lease price will be their high bid. If there are no willing and qualified bidders, the parcels may be offered over-the counter.

4.2 The land and resource management division will maintain a master bid file for each sale/lease.

The file should, at a minimum contain:

- a) successful bidder's list with sale prices;
- b) bid brochure or online terms and conditions with all property information and maps as necessary;
- c) list of bid envelopes received for a sealed bid sale;
- d) date that bids were opened for a sealed bid sale, or date online competitive sale closed;

REAL PROPERTY: ONLINE COMPETITIVE SALE AND SEALED BID SALE

PART 60

- e) public hearing notice and signed legislation authorizing the [SEALED BID LAND] sale and documentation for all decisions and changes with regard same;
- f) planning reports, classification orders and other enabling actions;
- g) soil data or soil survey, if agricultural; and
- h) copies of complaints, appeals, advertising copy, public comments and media reports;

5.1 Parcels for this chapter [,] shall be selected from land and resources approved for disposal.

6.1 Procedure for conducting a disposal of land [,] or an interest in land is as follows:

A. Upon any required approval by the manager or assembly, a bid brochure or online terms and conditions is prepared which presents pertinent information about the sale or lease to any interested party. The [BROCHURE] sale or lease information is made available to the public a minimum of four weeks prior to the land sale or lease closing bid date. Copies may be obtained from the borough land and resource management division or the borough website or third party website. Information contained in the brochure or online terms and conditions may include, but need not be limited to, the following:

1. land sale/lease title and bid or auction number, date, time, and location including specific times for pre-qualification session (if appropriate), bid submission and deadline, and bid opening date for a sealed bid sale;
2. type of disposal, requirements, and restrictions;
3. the terms of the sale or lease including the required down payment, how terms will be determined, qualified applicant status;
4. statutory and regulatory eligibility requirements;
5. general description of land involved; [, INCLUDING THE NUMBER OF PARCELS;]

60-44

REAL PROPERTY: ONLINE COMPETITIVE SALE AND SEALED BID SALE

PART 60

6. sketch maps or plat reproductions, which should be of sufficient scale to locate the parcel, and included in the bid document information statements regarding access to the parcel, reserved easement, right of way, and any other dedications.
- B. A sale notice is prepared. The notice shall contain, but need not be limited to, the following:
 1. a note explaining the availability of the brochure or website address for online sale, and its purpose;
 2. a statement on the right to postpone, adjourn, or annul the auction in part or in whole;
 3. a reservation of the right to waive technical defects in the publication or information on the website;
 4. who to contact for further information.

C.[D] If any person is purchasing as a buyer's representative, the name of the principal being represented must be noted on the bid form and a recorded power of attorney (POA) on a form provided in the bid brochure or provided by borough staff shall be presented with the bid and is reviewed by staff as to form and content. If determined to be legally acceptable, the POA is held for the duration of the auction. The POA is retained if the person is a successful bidder; and becomes part of the sale case file.

Persons representing entities such as, corporations, trusts, estates, joint ventures, must present proof that they are authorized to conduct the business on behalf of the entity. For example: The corporation must be authorized to conduct business under the laws of the state of Alaska, a corporate resolution affixed with the corporate seal authorizing the individual to bid and sign on behalf of the corporation, and proof of good standing with the Department of Commerce and Economic Development at or before registration. The partnership agreement, either general or limited, must authorize the person to bid and sign on behalf of the partnership and the purchase of real estate must be an act authorized by the partnership agreement. Upon acceptance, the documents are held for the duration of the auction and are retained if the entity is a successful bidder, becoming

REAL PROPERTY: ONLINE COMPETITIVE SALE AND SEALED BID SALE

PART 60

part of the sale case file. [UNSUCCESSFUL BIDDERS MAY RECOVER THEIR DOCUMENTS AFTER THE AUCTION.]

- D.[H]** If a successful bidder fails to: (a) make the required deposit, or does not otherwise meet the bid requirements, the parcel bidding is reopened and the next highest bid reviewed; or (b) sign a promissory note [AT A] during a tax and LID foreclosure sale, this process continues until a bid is accepted on all parcels, or there are no bids or parcels remaining.
- E.[I]** The apparent successful bidder will be given specific instructions by land and resource management staff for closing.
- F.[J]** Any aggrieved bidder must file an appeal with the borough manager in writing. The appeal must be reviewed in accordance with MSB 23.05.090.
- G.[K]** The documents necessary to close will be prepared and a closing set-up in accordance with the bid document and/or the terms and conditions of the declaration of intent or promissory note.
- H.[L]** [UPON RECEIPT OF THE EXECUTED DECLARATION OF INTENT OR SIGNED PROMISSORY NOTE IN TAX AND LID FORECLOSURE SALE,] All [OTHER] unsuccessful bid deposits [BEING HELD FOR THAT PARCEL] will be released to the unsuccessful bidders in accordance with the [BID BROCHURE] terms and conditions.

7.1 Sealed Bid Sale

- A.[C]** The bid envelopes will be dated and time stamped by the land and resource management division when received and registered in that day/time sequence.
- B.[E]** The [PURCHASING AGENT] staff member opening bids must be plainly visible and audible. A recording sheet is prepared for the bid recorder. The [PURCHASING AGENT] staff gives a brief introduction, explains the procedures and answers questions, and then proceeds by opening the bids in parcel number order.
- C.[F]** After the final bid for a parcel is opened the [PURCHASING AGENT] staff member will announce the apparent high bid and proceed to the next parcel.

REAL PROPERTY: ONLINE COMPETITIVE SALE AND SEALED BID SALE

PART 60

D.[G] Following opening of the final bids the [PURCHASING AGENT] staff member will announce that all bids are being taken under advisement.

8.1 Online Competitive Sale

- A. Bids may be accepted online by the borough or a third-party provider in accordance with the sale terms and conditions.**
- B. Bidders will be required to register online and comply with online terms and conditions.**

60-47

Land & Resource Management Policy & Procedures (PPM)
The code authority cited is specific to this policy and procedure.
Other provisions of code may also apply.

Effective: 9/20/2016
Reso 16-068

IM 25-240
Ord. 25-124
Reso. 25-108

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: Over-the-Counter Sales

PART 60

1.1 Authority: 23.05.030
23.10.210
23.10.220

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

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

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

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

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

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

A. Parcels are made available on a first-come, first-serve basis on a purchase request form described in the sale brochure **or when an offer is made at an online sale**.

B. The purchase price is defined as;

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

2. if the parcel was offered in a competitive sale for more than 24 months, the fair market value (FMV) may be established by the community development director; or

60-31

REAL PROPERTY: Over-the-Counter Sales

PART 60

3. the FMV determined by a fee appraisal ordered by the borough; or
4. as provided in Alaska statute and borough code and the competitive sale ordinance for tax and special assessment (LID) foreclosed parcels.

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

[D.] [A LIST OF ALL PARCELS TO BE AVAILABLE, SHOWING THE LEGAL DESCRIPTION, TAX PARCEL NUMBER, PURCHASE PRICE, AND THE INFORMATION FOR ACQUIRING A BROCHURE WILL BE MAILED TO ALL COMMUNITY COUNCILS PRIOR TO THE OPENING DATE OF THE SALE. A NOTICE OF THE OVER-THE-COUNTER SALE WILL ALSO BE PUBLISHED IN THE NEWSPAPER PRIOR TO OPENING DAY.]

[E.] D. Purchase request forms are submitted to the borough directly or online depending how the sale is being offered. No real estate commissions will be paid by the borough.

3.2 The dates for the over-the-counter sale will be listed in all advertisements [AND THE], sales brochure, or online sale terms and conditions.

4.1 General procedures for over-the-counter sales:

- A. Prior to the opening of an over-the-counter sale, the land and resource management division or online contractor advertises the sale and provides a brochure or online sale terms and condition including [OF] the parcels offered over-the-counter for public review [AT THE COUNTER].
- B. The dates and times for acceptance of the over-the-counter registration and purchase request are stated in the brochure or online.
- C. All parcels will be sold on a first-come, first-serve basis to a purchaser qualified pursuant to MSB 23.10.090.
- D. Prospective purchasers must submit a completed purchase request form or submit an offer to purchase online, a non-refundable purchase request fee or bid deposit, as applicable, [THE QUALIFICATION STATEMENT,]

60-32

REAL PROPERTY: Over-the-Counter Sales

PART 60

and any [OTHER] documents required by the sales brochure or online sale terms and conditions.

- E. When applicant is required to submit an original purchase request form in person and in the event that more than one applicant is waiting in line with purchase requests for the same parcel, and it cannot be determined who was first, those applicant names shall be taken by staff and a drawing will be held to determine priority. Applicants must remain on the premise until priority is determined.
- F. When applicant is required to submit an original purchase request form in person, mailed [Mail] applications are acceptable. The date and time of receipt of the application in the Land and Resource Management Division shall determine priority order. All applications by mail are required to include the same complete package and fees as someone applying in person. An incomplete package will be returned to the applicant. A new priority number will be issued when the completed package is resubmitted.
- G. Upon verification of qualified applicant status under MSB 23.10.090, the applicant will be notified by the land and resource management division according to the conditions stated within the over-the-counter sale brochure or online terms and conditions.
- H. If an applicant is deemed to be non-qualified under the qualified applicant and bidder procedure, the parcel will be offered to the next qualified applicant for the remaining time in the sale period.
- I. Prospective purchasers shall perform pursuant to the terms and conditions of the bid document.
- J. A parcel is not considered awarded until qualified status is verified and the appropriate down payment is made unless otherwise provided in a tax and LID foreclosure sale.
- K. A parcel may continue to be included in subsequent over-the-counter sales until one of the following occurs:
 1. The parcel is sold and the transaction closed.
 2. The parcel is withdrawn by the manager:

60-33

REAL PROPERTY: Over-the-Counter Sales

PART 60

- a. due to a request to dedicate to public purpose;
- b. to include the parcel in a competitive sale;
- c. for any other reason deemed to be in the borough's best interest.

L. Tax and LID foreclosed parcels will continue to be included in subsequent over-the counter sales on a first come, first served basis until sold.

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

60-34

Land & Resource Management Policy & Procedures (PPM)
The code authority cited is specific to this policy and procedure.
Other provisions of code may also apply.

Effective: 9/20/2016
Reso 16-068

IM 25-240
Ord. 25-124
Reso. 25-108

TITLE 23
LAND AND RESOURCE MANAGEMENT DIVISION
POLICY AND PROCEDURE MANUAL

REAL PROPERTY: Tax Foreclosed Properties

{Extinguished re-purchase rights}

PART 60

1.1 Authority: 23.10.210
23.10.220

2.1 This section addresses parcels where the borough has acquired clerk's deed through tax foreclosure and the right of repurchase has been extinguished. Land and resource management's objective is to put these properties back onto the tax rolls as quickly as possible.

2.2 Annually land and resource management identifies all parcels where the statutory right of repurchase has been extinguished.

[A.] [CONDITION OF TITLE IS REVIEWED AND WHERE FEASIBLE, EXCEPTIONS ARE CLEARED.]

[B.] A. Delinquent taxes, special assessments, and any other costs or fees are cleared according to borough policy and Alaska Statutes.

[C.] B. Departmental review is initiated to determine if:

1. The parcel is a substandard or a non-conforming division of land by today's standards, is in violation of federal, state, or borough laws or regulations, or reflects any other conditions where it may not be in the best interest of the borough or the public to offer the parcel for sale in its current state or without providing for special conditions or disclosure in the sale;
2. Additional reservations for trails, easements, roads, or other public purpose should be made when the parcel is sold and conveyed;
3. The parcel should be retained for a specific public purpose;
4. The soils, access, and parcel size suggest that agricultural use may be appropriate.

60-47

REAL PROPERTY: Tax Foreclosed Properties
{Extinguished re-purchase rights}

PART 60

D. Where issues are raised in the departmental review, land and resource management may recommend special conditions for any single parcel or adjacent parcels such as re-platting to combine two or more adjacent parcels, subdividing a larger parcel, or offering only to adjacent property owners.

2.3 Parcels acquired through tax foreclosure do not require classification prior to sale because borough classification may conflict with covenants and existing private property uses.

2.4 Public notice requirements have been met through prior tax foreclosure and sale procedures (AS 29.45.330-470.)

2.5 The minimum bid price is the fair market value requested from the borough assessor and approved by the manager.

2.6 Land and resource management prepares a recommended list of parcels, based on follow-up to the departmental review, to offer for competitive sale and submits the list to the manager for approval.

2.7 Upon approval by the manager, the sale brochure is prepared and the parcels are offered according to the appropriate competitive sale PPM. Parcels unsold at the completion of the sale may be offered in subsequent over-the-counter sales.

60-48

Land & Resource Management Policy & Procedures (PPM)
The code authority cited is specific to this policy and procedure.
Other provisions of code may also apply.

Effective: 9/20/2016
Reso: 16-068

IM 25-240
Ord. 25-124
Reso. 25-108