

# ALASKA STATUTE 44.33.755 AND MUNICIPAL TRUST LAND REGULATIONS



*“affecting community expansion lands for villages not incorporated as municipalities, under ANCSA 14(c)(3) and Alaska Statutes 44.33.755.”*

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# TABLE OF CONTENTS

<b>Alaska Statute 44.33.755.</b> .....	<b>1</b>
<b>Alaska Administrative Code</b>	
<b>Chapter 190 Municipal Trust Land</b> .....	<b>2</b>
Article 1 Tender, Acceptance, and Conveyance of Municipal Trust Land.....	2
Article 2 Official Recognition of Village Entities Under AS 44.33.755 (b).....	9
Article 3 Ascertaining the Views of Village Residents Where No Organized Village Entity is Recognized.....	12
Article 4 Management of Municipal Trust Land .....	16
Article 5 Disposal by State of Municipal Trust Land .....	18
Article 6 Disposition of Land and Funds upon Incorporation of a Municipality in a Native Village .....	23
Article 7 General and Miscellaneous Provisions .....	25
<b>Chapter 194 Real Property From Dissolved Municipalities</b> .....	<b>31</b>

## ALASKA STATUTE 44.33.755. LAND CONVEYED IN TRUST

- (a) The commissioner
- (1) shall accept, administer, and dispose of land conveyed to the state in trust by village corporations under 43 U.S.C. 1613(c)(3) (Sec. 14(c)(3) of the Alaska Native Claims Settlement Act) for the purposes specified in that section;
  - (2) may, with the concurrence of an appropriate village entity recognized by the commissioner under (b) of this section or, in the absence of an appropriate village entity, under procedures prescribed by regulations of the commissioner, accept, administer, and dispose of land conveyed in trust by a state or federal agency and by the dissolution of a municipality under AS 29.06.450 -29.06.530.
- (b) Transfer of land by sale, lease, right-of-way, easement, or permit, including transfer of surface resources, may be made by the commissioner only after approval of an appropriate village entity such as the traditional council, a village meeting, or a village referendum. This approval shall be by resolution filed with the department.
- (c) Within one complete state fiscal year after the incorporation of a municipality in the village or of a municipality that includes all or part of the village, land acquired under this section shall be conveyed without cost to the municipality, and the municipality shall succeed to all the entrusted interest in the land.
- (d) Separate accounts shall be maintained in the name of each village for the land, including the revenue from the land, acquired from each village corporation under this section.
- (e) Upon the conveyance of land to a municipality under this section, the commissioner shall account to the municipality for all profits including interest generated from the land. The municipality may then request the governor to submit a request to the legislature for an appropriation for the amount due the municipality.
- (f) Title to or an interest in land acquired by the department under this section may not be acquired by adverse possession or prescription. Notwithstanding (a) - (e) of this section, on the dissolution of a municipality under AS 29.06.450 - 29.06.530, unimproved land that was owned by the municipality on the date of its dissolution and received by the municipality from the state under a municipal land grant entitlement program is transferred to the commissioner of natural resources.
- (g) For the purposes of this section, "municipality" includes only first and second class cities incorporated under the laws of the state.

## ALASKA ADMINISTRATIVE CODE

### Chapter

- 190. Municipal Trust Land. (3 AAC 190.010 - 3 AAC 190.990)
  - 194. Real Property From Dissolved Municipalities. (3 AAC 194.010 - 3 AAC 194.900)
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## CHAPTER 190 MUNICIPAL TRUST LAND

### Article

1. Tender, Acceptance, and Conveyance of Municipal Trust Land. (3 AAC 190.010 -3 AAC 190.065)
2. Official Recognition of Village Entities Under AS 44.33.755 (b). (3 AAC 190.110 -3 AAC 190.150)
3. Ascertaining the Views of Village Residents Where No Organized Village Entity is Recognized. (3 AAC 190.210 - 3 AAC 190.290)
4. Management of Municipal Trust Land. (3 AAC 190.310 - 3 AAC 190.340)
5. Disposal by State of Municipal Trust Land. (3 AAC 190.410 - 3 AAC 190.490)
6. Disposition of Land and Funds upon Incorporation of a Municipality in a Native Village. (3 AAC 190.510 - 3 AAC 190.550)
7. General and Miscellaneous Provisions. (3 AAC 190.910 - 3 AAC 190.990)

Editor's note: As of Register 151 (October 1999), the provisions of former 19 AAC 90 were relocated by the regulations attorney under AS 44.62.125 (b)(6) to 3 AAC 190, in accordance with ch. 58, SLA 1999.

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## ARTICLE 1 TENDER, ACCEPTANCE, AND CONVEYANCE OF MUNICIPAL TRUST LAND

### Section

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|--------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 10. Municipal trust land.                                                            | 40. Less-than-fee interests.                                                   |
| 15. Procedure for tender, acceptance, and conveyance.                                | 45. Completion of municipal trust land conveyance requirements.                |
| 20. Standards to be applied by commissioner in determining whether to accept tender. | 50. (Repealed).                                                                |
| 25. Form of document of conveyance.                                                  | 55. Procedure to clear corporation land title for conveyance to third parties. |
| 30. Form of agreement to convey land.                                                | 60. (Repealed).                                                                |
| 35. Partial tender.                                                                  | 63. Notification of subsurface owner.                                          |
|                                                                                      | 65. Unincorporated villages within existing political subdivisions.            |

### **3 AAC 190.010. Municipal trust land**

All land conveyed to and accepted by the State of Alaska in trust for future cities under sec. 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA), AS 44.33.755 , and this chapter is to be known for so long as it is held by the state in trust as "municipal trust land." Title to municipal trust land will be held in the name of the State of Alaska in trust for any municipal corporation established in and for the village with reference to which the land was conveyed to the state. Municipal trust land will be managed under this chapter and is not considered part of the state public domain. Laws applicable to the management and disposal of state public domain land or to land held by incorporated municipalities do not apply to municipal trust land.

History: Eff. 9/21/79, Register 71

Authority: ANCSA, sec. 14(c)(3)

AS 44.17.030

AS 44.33.755

### **3 AAC 190.015. Procedure for tender, acceptance, and conveyance**

Land and interests in land will be accepted by the commissioner as municipal trust land in accordance with the following procedure:

- (1) A village corporation having an obligation under sec. 14(c)(3) of the Alaska Native Claims Settlement Act to convey land to the State of Alaska in trust for any municipality which might in the future be incorporated in and for the Native village corresponding to that corporation may make one or more written tenders to the commissioner of specifically identified land in satisfaction of that obligation. Where land status circumstances present technical reasons for postponement of a final tender which would fully satisfy the acreage obligation, a tender or tenders which will partially satisfy the obligation are encouraged by the commissioner, especially where certain land needed for public community facilities can be identified for conveyance.
- (2) Upon receipt of a written tender, the commissioner will begin consultation and evaluation procedures to determine whether the land tendered should be accepted. If the tender only partially satisfies the sec. 14(c)(3) obligation, the commissioner will accept or reject the tender within 90 days after receipt. If the tender is for complete satisfaction of the sec. 14(c)(3) obligation, the commissioner will accept or reject the tender within 180 days after receipt. The commissioner will, in his or her discretion, extend either deadline with the written concurrence of the village corporation. Before making a determination to accept a tender, the commissioner will consult with the recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290. In determining whether to accept the tender, the commissioner will take into account the views expressed by the recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290. The commissioner will apply the standards in 3 AAC 190.020 in evaluating the tender. The commissioner will, in his or her discretion, reject a written tender without

consultation with the recognized village entity or the village residents upon a determination that the tendered lands are not subject to the provisions of sec. 14(c)(3) of ANCSA.

- (3) The commissioner will accept or reject a tender by a written decision. If the determination is not consistent with the views expressed by the recognized village entity or the village residents, under 3 AAC 190.110 - 3 AAC 190.290, then the commissioner's written decision will include a statement of the reasons why those views have not been accepted. The decision will be sent by certified mail, return receipt requested, to the local village corporation and recognized village entity, and published and posted publicly in the manner provided by 3 AAC 190.910, except that the posting period will be at least 30 days. The decision becomes final 30 days after the date of its receipt by the village corporation or the recognized village entity, the date of publication, or the date of posting, whichever date is latest, unless an appeal was timely filed under 3 AAC 190.940.
- (4) If the village corporation and either the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, consent in writing, the commissioner will, in his or her discretion, waive the publication and posting requirements of (3) of this section and accept the tender. Such a waiver and immediate acceptance will occur only if a disaster or other emergency has occurred or exists and where an expedited transfer of title to the specific parcel of land is necessary to alleviate a threat to life, property, or the welfare of persons in the village. Under such circumstances, the decision to accept a tender of a specific parcel of land becomes final immediately, without a waiting period.
- (5) A document that conveys, or agrees to convey, land, may be executed by the village corporation either before or after the decision to accept the tender becomes final. In either case, the commissioner will inspect the document and will accept delivery of the document upon a determination that it is consistent with the accepted tender and complies with 3 AAC 190.025 or 3 AAC 190.030, as appropriate. The commissioner will accept delivery of the document by written endorsement on the face of the document and will cause it to be recorded promptly under AS 34.15. Unaccepted documents will be returned to the village corporation.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: ANCSA, sec. 14(c)(3)

AS 44.17.030

AS 44.33.755 (a)

### **3 AAC 190.020. Standards to be applied by commissioner in determining whether to accept tender**

In determining whether to accept or reject a tender of land under this chapter, the commissioner will, after consulting with the recognized village entity or with the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, and with the borough if the land is located in an organized borough, evaluate the land included in the tender to determine whether its acceptance would be in the best interests of any future city that might be incorporated in respect to the Native village. In making a decision, the commissioner will consider, as a minimum, the following standards and considerations:

- (1) whether all tenders of the village corporation collectively include all improved land on which the Native village is located which is subject to reconveyance under sec. 14(c)(3) of ANCSA;
- (2) whether all tenders of the village corporation collectively include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential to meet all present or foreseeable public community needs of any first or second class city which might be established in the Native village, including (without limitation) community expansion and appropriate rights-of-way for public use;
- (3) whether, considering future land-use patterns which would be created by acceptance of the tendered land, the effect upon community growth and development of accepting that land would not significantly impair the economic viability of the village corporation or deprive it of a reasonable entrepreneurial opportunity;
- (4) whether acceptance of the land tendered to the state in trust is consistent with the views of the village residents, as expressed by the recognized village entity or (if applicable) by the village residents in a village meeting resolution or a village referendum;
- (5) whether with respect to land which is located within a borough or other municipality having municipal powers, the tenders include all land conveyed or to be conveyed to the village corporation under ANCSA which is clearly essential within the foreseeable future to the proper execution of municipal powers; and
- (6) whether acceptance of the land by the state in trust would be consistent with the good faith execution of the commissioner's responsibility to any future municipality that might be incorporated in the Native village.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: ANCSA, sec. 14(c)(3)

AS 44.33.755 (a)

### **3 AAC 190.025. Form of document of conveyance**

Before or upon a determination by the commissioner to accept a tender of land by a village corporation under 3 AAC 190.020, the village corporation must execute and deliver to the commissioner a quitclaim deed to the State of Alaska. The deed must be in a form that, in the commissioner's judgment, will effectively pass title to the surface estate to the State of Alaska upon its acceptance of delivery by the commissioner. The deed must be accompanied by a certification that title is held by the village corporation, that there has been no previous conveyance of the land, and that there are no liens, encumbrances, charges, or claims (other than those arising under ANCSA) affecting the surface rights to the land being conveyed which were created by or are the result of any action taken by the village corporation. The commissioner will signify acceptance by placing a written endorsement upon the face of the deed. Except in the case of less-than-fee interests (described in 19 AAC 90.040), the deed must convey all present and after-acquired title held by the corporation in the surface estate.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (a)

### **3 AAC 190.030. Form of agreement to convey land**

If a tender has been accepted, and the village corporation demonstrates to the satisfaction of the commissioner that it is presently unable to execute a deed that complies with 3 AAC 190.025, the commissioner will, in his or her discretion, in place of immediate delivery of such a deed, accept a written agreement to convey land. Acceptance of the agreement to convey will be signified by written endorsement and execution of the agreement by the commissioner. An agreement to convey land must (1) be in a form that may be recorded under AS 34.15 and that sufficiently identifies the land that is subject to the agreement, (2) convey a right to enter the land, and (3) contain other terms and provisions relating to the future conveyance of title to the land to the state in trust which the commissioner determines are appropriate.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (a)

### **3 AAC 190.035. Partial tender**

The commissioner will, in his or her discretion, accept a tender of land from a village corporation which only partially satisfies that corporation's obligation under sec. 14(c)(3) of ANCSA. If a partial tender is accepted, the commissioner will credit that land against the corporation's remaining obligation. The final tender, together with other previous partial tenders, must fully satisfy the requirements of sec. 14(c)(3) of ANCSA, as amended by Public Law 96-487, sec. 1405, and must fully satisfy the standards set out in 3 AAC 190.020.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (a)

### **3 AAC 190.040. Less-than-fee interests**

The commissioner will, in his or her discretion, accept less-than-fee interests in land under this chapter. If conveyance of a less-than-fee interest is necessary because less-than-fee interest was conveyed to a village corporation by the United States, the acreage subject to such a less-than-fee interest will be credited against the corporation's obligation under sec. 14(c)(3) of ANCSA and under 3 AAC 190.045. The commissioner will, in his or her discretion, accept other less-than-fee interests and credit them under 3 AAC 190.045 only upon a written determination, made after consulting the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, that there is an appropriate reason to accept less than the entire fee interest in land that the village corporation has tendered and that the interests of any future city would not be prejudiced by that acceptance. The commissioner will not accept a conveyance that contains a reversionary clause or condition subsequent created by the village corporation.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (a)

### **3 AAC 190.045. Completion of municipal trust land conveyance requirements**

The commissioner will issue a Certificate of Satisfaction to the village corporation upon a determination under 3 AAC 190.020 and sec. 14(c)(3) of ANCSA that the village corporation has fully discharged its obligation under sec. 14(c)(3) of ANCSA, as amended. The certificate will be in a form that the village corporation may record under AS 34.15.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.33.755 (a)

### **3 AAC 190.050. Notification of commissioner of proposed village corporation land transactions**

Repealed 11/19/88.

### **3 AAC 190.055. Procedure to clear corporation land title for conveyance to third parties**

At any time before the completion of a village corporation's conveyance of all ANCSA, sec. 14(c)(3) land to the state in trust, the commissioner will, in his or her discretion, and upon the request of the corporation, execute a written disclaimer of interest under ANCSA, sec. 14(c)(3), and under AS 44.33.755 , for any specific parcel of land or interest in it which the corporation proposes to convey to a third party. The decision to request a disclaimer of interest is solely that of the corporation. In determining whether to execute a waiver of interest under this section, the commissioner will evaluate the specific parcel with reference to the standards set out in 3 AAC 190.020, and will consult the recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290. If the commissioner decides to issue a disclaimer of interest contrary to the views of the recognized village entity or the village residents, the commissioner will issue a written determination that includes a specific statement of the reasons why those views have not been accepted. A final disclaimer of interest will not be issued until after the commissioner's determination has been published and posted, and becomes final, in the manner prescribed by 3 AAC 190.015(3).

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: ANCSA, sec. 14(c)(3)

### **3 AAC 190.060. Review by regional corporations**

Repealed 11/19/88.

### **3 AAC 190.063. Notification of subsurface owner**

Upon receipt of a tender of conveyance, the commissioner will notify the subsurface owner of the receipt of the tender. The commissioner will also send to the subsurface owner a copy of the determination to accept or reject the tender.

History: Eff. 11/19/88, Register 108

Authority: ANCSA, sec. 14(c)(3) and (5) AS 44.33.755 (a)

### **3 AAC 190.065. Unincorporated villages within existing political subdivisions**

In the case of a village corporation for a Native village lying wholly or partially within a borough or unified home-rule municipality incorporated under state law, the commissioner will interpose no objection to an ANCSA sec. 14(c)(3) reconveyance by the corporation to the borough or unified home-rule municipality rather than to the state in trust if the commissioner finds, after presenting the reconveyance proposal to the recognized village

entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, that the entity or residents approve of the proposal. The proposal may be for either partial or total satisfaction of the corporation's obligation under sec. 14(c)(3) of ANCSA. If the proposal is for the total obligation, the commissioner will construe the approval by the recognized village entity or the village residents under 3 AAC 190.110 -3 AAC 190.290, and the subsequent reconveyance to the borough or unified home-rule municipality by the village corporation, as a final and complete discharge of any further potential trust obligation of the state under sec. 14(c)(3) of ANCSA and AS 44.47.150 on behalf of a future municipal corporation in the Native village. After the reconveyance, the commissioner will issue a Certificate of Satisfaction to the village corporation as provided in 3 AAC 190.045.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: ANCSA, sec. 14(c)(3)  
AS 44.33.755

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## **ARTICLE 2 OFFICIAL RECOGNITION OF VILLAGE ENTITIES UNDER AS 44.33.755 (B)**

### **Section**

- 110. Recognized village entities.
- 120. Minimum eligibility requirements.
- 130. Priorities among entities eligible for official recognition.
- 140. Recognition procedure.
- 150. Change of recognized village entity.

### **3 AAC 190.110. Recognized village entities**

With respect to each village covered by AS 44.33.755, the commissioner will, in his or her discretion, upon petition by any person or group, or upon the commissioner's own motion, officially recognize an "appropriate village entity" within the meaning of AS 44.33.755 (b). After its recognition, a recognized village entity will be consulted by the commissioner in accordance with the provisions of this chapter. In the case of an action or decision concerning village corporation or municipal trust land located where no recognized village entity exists, the commissioner will consult with the residents of the village and ascertain their views under the procedures set out in 3 AAC 190.210 - 3 AAC 190.290.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755 (b)

### **3 AAC 190.120. Minimum eligibility requirements**

To be eligible for consideration for recognition as an "appropriate village entity," an entity must, at minimum, meet all of the following standards:

- (1) the entity must be an active organization (but not necessarily a formal organization having its own independent legal identity) which represents, in a traditional or democratic manner, the collective views of the bona fide residents of the village; and
- (2) there must be no substantial and particularized objection by any bona fide resident to the entity's suitability to represent accurately and effectively the collective views of the bona fide residents of the village; however, such an objection will only constitute a bar to eligibility if it is substantial in the judgment of the commissioner and if it addresses itself to the entity's overall suitability rather than only to the entity's position on a specific substantive issue.

History: Eff. 9/21/79, Register 71

Authority: AS 44.33.755 (b)

### **3 AAC 190.130. Priorities among entities eligible for official recognition**

- (a) If more than one entity is determined by the commissioner to be eligible under the standards for recognition in 3 AAC 190.120, then, as a general rule, the commissioner will give preference among eligible entities according to the following, in descending order of priority:
  - (1) a traditional village council, as defined in 3 AAC 190.990;
  - (2) a village council organized under the Indian Reorganization Act (Act of June 13, 1934, 48 Stat. 984, as amended);
  - (3) a joint village entity consisting of representatives of more than one existing local entity or group for the specific purpose of functioning as a recognized village entity under this chapter;
  - (4) any other entity meeting the minimum eligibility requirements of 3 AAC 190.120.
- (b) If no entity listed in (a) of this section has been recognized under 3 AAC 190.110 then the commissioner will hold a meeting or referendum of village residents, to ascertain the views of the residents under 3 AAC 190.210 - 3 AAC 190.290.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

### **3 AAC 190.140. Recognition procedure**

- (a) Any entity wishing to be recognized by the commissioner under this chapter may initiate proceedings to obtain formal recognition by filing with the commissioner a written petition for recognition.
- (b) Upon receipt of a petition for recognition, or upon his or her own motion, the commissioner will make an informal preliminary determination of whether the entity might be able to meet the minimum eligibility requirements set out in 3 AAC 190.120. Upon a preliminary determination that the requirement might be met, the commissioner will publish and post a written notice, as provided in 3 AAC 190.910, advising the public of the potential recognition of an entity, soliciting comments on the petition or potential recognition, and stating that any other entity that wishes to be considered for recognition must, within 30 days after the date the notice is posted, file a petition for recognition.
- (c) No less than 40 days nor more than 60 days after the notice is posted and published, if no other entity has filed a petition and no adverse written comments have been submitted on the initiating petition, the commissioner will, in his or her discretion, either deny recognition or issue a written Statement of Intent to Recognize the entity under consideration. The Statement of Intent to Recognize will be posted and published in the same manner as the original notice.
- (d) Except as provided otherwise in this subsection, if more than one entity has filed a petition for recognition with respect to a particular Native village, or if adverse written comments are received by the commissioner in response to the original notice or the Statement of Intent to Recognize, then the commissioner will schedule an informal hearing in the village. The informal hearing will be held after public notice in the village, as provided in 3 AAC 190.910, and anyone present may state views as to the propriety of recognizing an entity under consideration. The commissioner need not maintain a formal written record or tape-recording of the informal hearing. If, after an informal hearing, a written Request for Formal Decision-Making Procedure, signed by at least 10 bona fide residents of the village or by 15 percent of the bona fide residents of the village, is filed, then the commissioner will initiate a formal decision-making procedure under 3 AAC 190.950. The commissioner will, in his or her discretion, elect to proceed with a formal decision-making procedure without first holding an informal hearing under this section.
- (e) The commissioner might, on his or her own motion, initiate a village meeting under 3 AAC 190.220 to obtain the collective views of the village residents on any proposed recognition of a village entity under AS 44.33.755 (b). The collective views of the residents will be obtained and documented in the same manner as prescribed in 3 AAC 190.240. If a simple majority approve the proposed recognition, and the entity is otherwise qualified under 3 AAC 190.120, the commissioner will recognize the entity as the "appropriate village entity" under AS 44.33.755 (b). This procedure will, in the commissioner's discretion, be combined with the informal hearing process described in (d) of this section.

- (f) Upon compliance with the procedures prescribed by this section, the commissioner will make a single final written determination upon all petitions for recognition pending in respect to the village.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

### **3 AAC 190.150. Change of recognized village entity**

The commissioner will, in his or her discretion, review the official recognition of a village entity upon receipt of a petition signed by 15 percent of the residents of the village, or upon request of the village entity itself, or upon the commissioner's own initiative, at any time. If the commissioner determines that there should be a change in the recognized village entity, the procedure for recognizing another entity is that prescribed in 3 AAC 190.140(b) - (e).

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

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## **ARTICLE 3 ASCERTAINING THE VIEWS OF VILLAGE RESIDENTS WHERE NO ORGANIZED VILLAGE ENTITY IS RECOGNIZED**

### **Section**

- 210. Applicability.
- 220. Procedure for convening meeting of village residents.
- 230. General procedure for conducting meetings of village residents.
- 240. Village meeting resolution.
- 250. Request for reconsideration.
- 260. Initiation of village meeting by residents.
- 270. Village referendum.
- 280. Participation by bona fide village residents only.
- 290. Vacant villages.

### **3 AAC 190.210. Applicability**

If the commissioner is to make a decision or determination under this chapter concerning a village for which no village entity is formally recognized under 3 AAC 190.110 - 3 AAC 190.150, the commissioner will first consult with a meeting of village residents. A meeting of village residents will be convened and conducted under the procedures set out in 3 AAC 190.210 - 3 AAC 190.290. After the first meeting of village residents held under 3 AAC 190.210 - 3 AAC 190.290, the commissioner will, in his or her discretion, consult with and obtain the views of the residents by the village referendum method set out in 3 AAC 190.270, rather than convening a meeting, if use of the referendum method has been approved by a prior village meeting.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755 (b)

### **3 AAC 190.220. Procedure for convening meeting of village residents**

If consultation with a meeting of village residents is required, the commissioner will give notice of the village meeting in the manner required by 3 AAC 190.910.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030

### **3 AAC 190.230. General procedure for conducting meetings of village residents**

A meeting of village residents convened by the commissioner under this chapter will be conducted under the general direction of the commissioner, who may designate a chairman pro tempore to preside over the meeting.

History: Eff. 9/21/79, Register 71  
Authority: AS 44.17.030  
AS 44.33.755 (b)

### **3 AAC 190.240. Village meeting resolution**

If prior approval of a village acting through a meeting of village residents is required, the prior approval must be in the form of either a written village meeting resolution adopted under this section, or a village referendum adopted under 3 AAC 190.270. A resolution must bear the signatures of all of the village residents in attendance who wish to be recorded as supporting or opposing the resolution. A village meeting resolution that has the support of the simple majority of those who have signed it will be regarded by the commissioner as the official position of the village meeting concerning the proposed action to which it refers.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (b)

### **3 AAC 190.250. Request for reconsideration**

The position of the village residents expressed in a resolution adopted by a village meeting under 3 AAC 190.240 will be treated by the commissioner as final unless a request for reconsideration is made by a village resident who signed the resolution as a member of the majority. In order to be effective, a request for reconsideration made to the commissioner must be received, or postmarked if transmitted by mail, within 10 days after the date of the meeting at which the resolution was adopted. If a disaster or other emergency has occurred, or exists, reconsideration may be waived in a resolution adopted by a meeting of village residents under this chapter, if expedited transfer of title involving municipal trust land is necessary to alleviate a threat to life, property, or the welfare of persons in the village. If reconsideration is requested, the commissioner will reconvene the village meeting, upon notice, at least 20 but not more than 45 days after receiving the request. No request for reconsideration of the vote of the residents may be made respecting a position adopted by the village residents in a meeting held as a result of a request for reconsideration.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

### **3 AAC 190.260. Initiation of village meeting by residents**

No meeting of village residents has any legal effect under this chapter unless it is convened by the commissioner in the manner required by this chapter. Village residents who wish to initiate a village meeting for any purpose falling within the scope of this chapter may do so by making a written request for one to the commissioner signed by at least 10 percent of the village residents. Upon receiving the request, the commissioner will initiate the procedure to convene a meeting.

History: Eff. 9/21/79, Register 71

Authority: AS 44.33.755 (b)

### **3 AAC 190.270. Village referendum**

- (a) For a village as to which no village entity is formally recognized under 3 AAC 190.110 - 3 AAC 190.150, the commissioner will, in his or her discretion, consult with and ascertain the views of village residents by the use of a village referendum if
- (1) a meeting of the village residents has, within the immediately preceding two years, adopted a resolution authorizing the use of a village referendum as an alternative to a village meeting;
  - (2) no notice to rescind has been filed under (c) of this section; and
  - (3) the commissioner determines, in his or her discretion and on a case-by-case basis, that the views of the village residents regarding a specific proposed action or determination can be obtained effectively by referendum.

- (b) A village meeting resolution authorizing subsequent village referenda must contain a listing of the names and mailing addresses of all bona fide village residents eligible to vote on a village referendum.
- (c) If a notice to rescind a village meeting resolution authorizing village referenda has been signed by at least 10 percent of the bona fide residents of the village and filed with the commissioner, then the commissioner will not initiate a village referendum, but will instead treat the resolution authorizing use of referenda as rescinded and will initiate a meeting of the village residents to consider, among other things, the approval of a new village meeting resolution authorizing village referenda.
- (d) A village referendum must be taken by mail. The commissioner will mail a written statement of the specific proposed action or determination to each person listed in the authorizing village meeting resolution as a bona fide village resident of the village, giving each an opportunity to vote upon the proposition and return his ballot to the commissioner within 30 days. A majority vote of the ballots timely cast and returned to the commissioner will determine the outcome of the proposition; however, if the majority vote cast is less than 25 percent of the village residents listed on the authorizing village meeting resolution, the proposition fails. Individual votes will be kept confidential. The tabulated results of the balloting will be mailed to each listed resident.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

### **3 AAC 190.280. Participation by bona fide village residents only**

Only persons who are bona fide residents of the village, as that term is defined in 3 AAC 190.990, on the date of a meeting or referendum may vote on a proposition or sign a resolution. A person whose claim as a bona fide village resident is challenged by another bona fide village resident may cast a challenged vote at a village meeting, or sign a resolution or referendum under protest. A challenged vote will be given weight by the commissioner, if at all, only if its inclusion in the tabulation of votes would determine the outcome of votes on the proposition. If it is necessary to determine the validity of a challenged vote, the commissioner will

- (1) attempt to resolve the dispute by informal discussion and mediation at the time and place where the dispute first arises;
- (2) failing successful discussion and mediation, hold an informal hearing to resolve the dispute;
- (3) instead of or after the steps in (1) and (2) of this section, initiate formal decision-making procedures under 3 AAC 190.950(3).

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755 (b)

### **3 AAC 190.290. Vacant villages**

If a village, with respect to which a village corporation has an obligation under ANCSA, sec. 14(c)(3), is vacant of bona fide residents at a time when the commissioner is obligated under this chapter to respond to a corporation's tender or to make any other decision regarding municipal trust land under this chapter, the commissioner will recognize under 3 AAC 190.110 - 3 AAC 190.150 an appropriate village entity, if any, which might exist for that village. If no such entity qualifies for recognition, the commissioner will recognize as the village entity pro tempore, a group consisting of all persons enrolled under sec. 5 of ANCSA to that village who are at least 18 years of age or who, if less than 18 years of age, are the head of a household. The commissioner will consult with and obtain the views of this group in a village meeting convened and conducted in accordance with 3 AAC 190.220 - 3 AAC 190.280 at a place in Alaska where the majority of that group resides or can conveniently assemble at their own expense. If the commissioner determines that a meeting in Alaska of a majority of the group is impossible or impracticable, the commissioner will obtain the views of the group by mailed referendum.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (b)

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## **ARTICLE 4 MANAGEMENT OF MUNICIPAL TRUST LAND**

### **Section**

- 310. Inventories of landholdings.
- 320. Advisory land planning.
- 330. Planning, platting, and zoning.
- 340. Trespass.

### **3 AAC 190.310. Inventories of landholdings**

For each village as to which municipal trust land is accepted by the state, the commissioner will maintain a separate inventory of landholdings. This inventory of landholdings will include, at a minimum

- (1) the land status history of each parcel of municipal trust land;
- (2) an account of the number of acres of land that have been conveyed by the village corporation to the state in trust under sec. 14(c)(3) of ANCSA, and this chapter, including separate determinations of (A) acreage credits made under 3 AAC 190.035, (B) acreage as to which the corporation conveyed less than its entire fee interest in the land under 3 AAC 190.040, and (C) acreage as to which only equitable title has been conveyed under an agreement to convey land under 3 AAC 190.030;

(3) documentation of the creation and administration of each third party interest in the land;  
and

(4) an account of revenues received in respect of the land.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755 (d)

### **3 AAC 190.320. Advisory land planning**

The commissioner will, using the resources of the municipal land trustee program, identify and evaluate the resource and location values of municipal trust land and will, in his or her discretion, after consultation with the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, formulate and adopt advisory community land-use plans to serve as guideposts for future management and disposal actions involving municipal trust land. Such advisory land-use plans will recognize and conform to any requirements of a planning, platting, and zoning authority as provided in 3 AAC 190.330.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755

### **3 AAC 190.330. Planning, platting, and zoning**

(a) Where municipal trust land is located within the boundary of any municipality having planning, platting, and zoning powers, it is subject to the regulations and ordinances of that municipality pertaining to planning, platting, and zoning.

(b) Where municipal trust land is located outside the boundary of any municipality having planning, platting, and zoning powers, it is subject to all statutes and regulations, if any, of the State of Alaska concerning planning, platting, and zoning which would apply to privately owned land similarly located.

History: Eff. 9/21/79, Register 71

Authority: AS 29.35

AS 38.05.037

AS 40.15.305

AS 44.17.030

AS 44.33.755 (a)

### **3 AAC 190.340. Trespass**

If the commissioner is advised as to the existence of trespass, waste, or other tortious or criminal actions or conditions taking place on or relating to municipal trust land, the commissioner, in his or her discretion, will take action, including, in appropriate cases, referring the matter to the attorney general for the initiation of legal proceedings, to curtail the action or condition, and to obtain compensation for it if appropriate.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755

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## **ARTICLE 5 DISPOSAL BY STATE OF MUNICIPAL TRUST LAND**

### **Section**

410. General.

420. Prior public notice.

430. Prior written approval of entity.

435. Rescission or modification of prior approval by entity or village residents.

440. Commissioner's approval required for disposal.

450. Disposals for fair market value.

460. Waiver of fair market value requirement.

470. Preference right based on equity.

480. Accounting of surcharged appraisal fees and allocable shares of survey and certain other expenses of land disposal.

490. No prescriptive rights.

### **3 AAC 190.410. General**

The commissioner will, in his or her discretion, dispose of municipal trust land or interests in it in any manner provided for by AS 44.33.755 (b), under the procedures set out in 3 AAC 190.410 - 3 AAC 190.490. No action purporting to create an interest or legal right to, or in respect of, municipal trust land has any legal effect whatsoever unless it is taken in strict compliance with AS 44.33.755 and this chapter.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755

### **3 AAC 190.420. Prior public notice**

No disposal authorized by AS 44.33.733 (b) will be made without prior public notice in the manner prescribed by 3 AAC 190.910, except that the posting period will be at least 30 days. This requirement will, in the commissioner's discretion, be waived by the commissioner with the prior approval, by resolution, of the recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, if a disaster or other emergency has occurred or exists, and if expedited transfer of title to a specific parcel of municipal trust land is necessary to alleviate a threat to life, property, or the welfare of the persons in the village.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755 (a)

### **3 AAC 190.430. Prior written approval of entity**

Before a disposal, the commissioner will obtain written approval, by resolution, of the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290. If the disposal is to the recognized village entity, the entity's resolution requesting the disposal will constitute the necessary approval. No disposal will be made based upon a resolution that was approved by the recognized village entity or the village residents more than 13 months before the proposed action. A written approval granted under this section which ultimately results in a disposal will be filed by the commissioner with the appropriate inventory of landholdings maintained under 3 AAC 190.310.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.33.755

### **3 AAC 190.435. Rescission or modification of prior approval by entity or village residents**

A recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, may rescind or modify a prior resolution of approval to dispose of municipal trust land or interests in it. The commissioner will, in his or her discretion, postpone, modify, or cancel a pending disposal action, as appropriate under the circumstances, if a recognized village entity timely files a resolution of rescission or modification with the commissioner or if the residents of a village not having a village entity recognized under 3 AAC 190.110 - 3 AAC 190.150 timely file a request, under 3 AAC 190.260, for the convening of a village meeting for the purpose of rescinding or modifying a prior resolution or referendum of approval.

A resolution of a recognized village entity or a request for a village meeting will be considered timely filed for the purposes of this section if it is received by the commissioner before a vesting of property rights in a prospective grantee of municipal trust land that had been previously approved for disposal by a recognized village entity, meeting, or referendum of village residents.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755

### **3 AAC 190.440. Commissioner's approval required for disposal**

The commissioner will not dispose of specific municipal trust land or interests in it if he or she finds that the disposal would be inconsistent with the good faith execution of the commissioner's trust responsibility to a first or second class city that might be incorporated in the Native village. A resolution of a recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, requesting and approving the disposal of specific municipal trust land does not unilaterally impose a duty upon the commissioner to make such a disposal. If the commissioner does not approve of a specific disposal as requested and approved by resolution of the recognized village entity or the village residents, the commissioner will, within 120 days after receipt of such a resolution, state to the recognized village entity or village residents, in a written decision, his or her reasons for deciding not to proceed with that specific disposal. The commissioner will cause a copy of that written decision to be posted publicly in the manner provided by 3 AAC 190.910(b) (2) for 30 days.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.33.755 (a)

### **3 AAC 190.450. Disposals for fair market value**

Except in the case of a disposal as to which a waiver has been issued by the commissioner under 3 AAC 190.460, all disposals of municipal trust land or interests in it will be for at least fair market value as defined in 3 AAC 190.990. The fair market value of a parcel will be determined by the commissioner in writing in advance of a final consultation with the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, concerning that specific parcel. In determining the fair market value of a parcel, the commissioner will, in his or her discretion, obtain an independent appraisal. If an independent appraisal is obtained, the appraisal fee will be added as a surcharge to the fair market value, and the disposal will not be made for less than the aggregated amount.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755

### **3 AAC 190.460. Waiver of fair market value requirement**

The commissioner will, in his or her discretion, and with the specific approval of the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, make a written waiver, in whole or in part, of the fair market value requirements of 3 AAC 190.450 as to the disposal of specific parcels of municipal trust land. If the disposal is to the recognized village entity, the entity's resolution requesting the disposal constitutes the necessary approval. A waiver of the fair market value requirement will, in the commissioner's discretion, be made under the following circumstances and subject to the following terms and conditions:

- (1) Disposal for public or charitable purposes. No waiver under this paragraph is effective unless it sets out with specificity the public or charitable purpose of the proposed use of the parcel for which disposal is proposed. When a parcel is disposed of pursuant to a waiver under this paragraph, the deed, lease, or other document of conveyance issued by the commissioner is valid only if it contains a condition subsequent which insures that if the land is used for any purpose other than the purpose set out in the condition, title and all other interests automatically revert to the state in trust or to any successor municipality established in the Native village in the future.
- (2) Disposal for village relocation or reestablishment purposes. A waiver under this paragraph is not effective except as to land conveyed to a person who is a resident or occupant of the Native village at the time of a general relocation or reestablishment of the village as determined and approved by the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290. The grantee shall, however, reimburse the state in trust for expenses that the state incurs related to the disposal, which are accounted for under 3 AAC 190.480.
- (3) Disposal based upon equitable interest. A waiver under this paragraph is not effective except as to a parcel of land conveyed to a person who has a valid claim of equitable interest in improvements located upon that parcel which is recognized under 3 AAC 190.470. The grantee shall, however, reimburse the state in trust for expenses that the state incurs related to the disposal which are accounted for under 3 AAC 190.480.
- (4) Disposal to village residents for residential expansion purposes. A waiver under this paragraph is not effective except as to a parcel of land conveyed to, or for the benefit of, a bona fide village resident, as defined by 3 AAC 190.900, of the respective Native village who seeks the parcel for development and use as a personal place of residence. The grantee shall reimburse the state in trust for expenses that the state incurs related to the disposal, which shall be accounted for under 3 AAC 190.480. If a parcel of municipal trust land is disposed of under a waiver under this paragraph, the deed, lease, or other document of conveyance issued by the commissioner will contain a condition subsequent that insures that if the land is used for any use other than residential use during a period of 10 years after the disposal, title reverts to the state in trust or to any successor municipality established in the Native village in the future.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755

### **3 AAC 190.470. Preference right based on equity**

Upon first obtaining the general approval, by resolution of the recognized village entity or the village residents as provided in 3 AAC 190.110 - 3 AAC 190.290, that a specific parcel of improved municipal trust land should be made available for disposal under this section, the commissioner will, in his or her discretion, offer and grant, to any person who has a valid claim based upon equity in the improvements located on that parcel, a preference right to acquire that parcel. In order to be eligible for a preference right under this section, the claimant's equity must be based upon improvements existing on the parcel before tender of that parcel by the village corporation under 3 AAC 190.010 - 3 AAC 190.065. Before conveying land or an interest in land under this section, the commissioner will first give public notice of the proposed transaction as provided in 3 AAC 190.910. The notice will require that any person having an adverse equity interest in the improvements located on that parcel must file a claim with the commissioner within 30 days after publication of the notice in order that the adverse claimant's interests may be considered before disposal of the parcel. If a conflict arises between two or more claimants under this section, the commissioner will give each party an opportunity to present evidence to support his or her claim of equitable interest in the improvements before making a written decision concerning an award of a preference right. The commissioner will also give the recognized village entity or the village residents, as provided in 3 AAC 190.110 - 3 AAC 190.290, an opportunity to review the evidence presented by the parties in the conflict and to make a recommendation to the commissioner concerning the relative equities of the parties. A written decision of the commissioner as to the appropriate party having a sufficient interest superior to all others, if any, which justifies granting a preference right under this section, may be appealed to superior court by an aggrieved party.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755

### **3 AAC 190.480. Accounting of surcharged appraisal fees and allocable shares of survey and certain other expenses of land disposal**

The commissioner will account for appraisal and survey expenses, and for any other expenses that result in either a physical improvement to the land or an addition of economic value to the land, and which thereby increase the income that the state might derive, on behalf of the future municipality, from the disposal. Any such expense will be prorated acre-for-acre and allocated on that basis to each affected parcel. When attributable revenues are reported under 3 AAC 190.530 to a future municipality incorporated in the Native village, the net proceeds reported from each disposal will include deductions for all expenses that are to be accounted for under this section.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755

### **3 AAC 190.490. No prescriptive rights**

No title or interest in municipal trust land will be acquired by adverse possession or prescription.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 38.95.010  
AS 44.33.755

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## **ARTICLE 6 DISPOSITION OF LAND AND FUNDS UPON INCORPORATION OF A MUNICIPALITY IN A NATIVE VILLAGE**

### **Section**

- 510. Applicability.
- 520. Conveyance of title to municipal trust land.
- 530. Reporting of attributable municipal trust land proceeds.
- 540. Transfer of administration of third-party interests in municipal trust land.
- 550. Transitional management agreements.

### **3 AAC 190.510. Applicability**

The provisions of 3 AAC 190.510 - 3 AAC 190.550 apply in any instance in which a first or second class city is incorporated in, or encompasses in whole or part, a Native village in respect of which municipal trust land has been accepted by the state in trust.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: ANCSA, sec. 14(c)(3)  
AS 44.17.030  
AS 44.33.755

### **3 AAC 190.520. Conveyance of title to municipal trust land**

Within one complete state fiscal year after incorporation of the city, the commissioner will convey by one or more quitclaim deeds, without cost to the city, all municipal trust land held by the state in trust for the city. The conveyance is effective upon delivery and acceptance by the city of the deed or deeds.

History: Eff. 9/21/79, Register 71  
Authority: AS 44.33.755

### **3 AAC 190.530. Reporting of attributable municipal trust land proceeds**

Upon the conveyance of municipal trust land to a city under 3 AAC 190.520, the commissioner will account to the city in writing for all proceeds received by the state which are attributable to that municipal trust land. The accounting of proceeds will reflect, for each parcel of municipal trust land:

- (1) the gross receipts;
- (2) allocable costs pro-rated under 3 AAC 190.480;
- (3) the profits represented by the excess of gross receipts over prorated allocable costs; and
- (4) interest or other income earned on or imputed to the profits.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (e)

### **3 AAC 190.540. Transfer of administration of third-party interests in municipal trust land**

Upon the conveyance of municipal trust land to a city under 3 AAC 190.520, all prerogatives and responsibilities for administration of third-party interests for that land transfer automatically to the city. The commissioner will notify all affected third parties, in writing, to that effect, and will relinquish to the city all records maintained with respect to the third-party interests.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755 (c)

### **3 AAC 190.550. Transitional management agreements**

The commissioner will, in his or her discretion, enter into a transitional management agreement with a city established in the Native village in the future, in anticipation of the conveyance of municipal trust land under 3 AAC 190.520. Under the agreement, the city will have the opportunity to participate in any decisions relating to the administration of third-party interests.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.33.755  
AS 44.47.980

## ARTICLE 7 GENERAL AND MISCELLANEOUS PROVISIONS

### Section

- |                                                                          |                          |
|--------------------------------------------------------------------------|--------------------------|
| 910. Public notice procedure.                                            | 980. Non-discrimination. |
| 920. Meetings; procedure for rescheduling<br>noticed meeting or hearing. | 985. Severability.       |
| 930. Delegation of authority by commissioner.                            | 990. Definitions.        |
| 935. Combining of decision to accept and notice of disposal.             |                          |
| 940. Appeal to commissioner.                                             |                          |
| 950. Decision-making procedure in contested cases.                       |                          |
| 960. Conflicts of interest.                                              |                          |
| 970. General trustee's authority.                                        |                          |

### 3 AAC 190.910. Public notice procedure

- (a) Whenever public notice is required under a regulation in this chapter, unless the regulation specifically requires a different kind of notice, the public notice must contain, at a minimum
- (1) an informative summary of the proposed or requested action;
  - (2) a statement of the time, place, and nature of any meeting, hearing, or other proceeding to be held in respect to the proposed or requested action; and
  - (3) a reference to the legal authority under which the action is proposed or requested to be taken.
- (b) Publication and posting of public notice will consist of at least two of the following:
- (1) publication of a notice in the Tundra Times and one other newspaper of general circulation distributed within the village, if any, at least once, no more than eight and not less than two weeks before the date of the proposed action or proceeding;
  - (2) posting of a written notice in at least one conspicuous public location in the Native village for a substantially uninterrupted duration of at least one week within the time period during which publication is permitted under (1) of this subsection, or for at least one week immediately before any proposed meeting, hearing, or other proceeding, unless the village is a "vacant" village as described in 3 AAC 190.290; for a vacant village, posting of the written notice will occur in at least one conspicuous public location in the locality in Alaska, if any, where the majority of the group described in 3 AAC 190.290 resides; and
  - (3) publication of a notice through broadcast on the electronic media serving the area; such a notice will be broadcast at least twice a day on five or more days; the broadcasts will occur within a period of no more than eight and not less than two weeks before the date of the proposed action or proceeding.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755

### **3 AAC 190.920. Meetings; procedure for rescheduling noticed meeting or hearing**

No meeting under this chapter will begin after 10:00 p.m. If a meeting or hearing for which notice has been given cannot be held because of unforeseen logistical problems or due to the unavoidable absence of the commissioner or commissioner's designee, the meeting time will be postponed on an hour-to-hour basis that same day, and if necessary, the following day between 8:00 a.m. and 10:00 p.m. If the meeting cannot be held on the following day, the meeting will be postponed from day to day as is necessary.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755

### **3 AAC 190.930. Delegation of authority by commissioner**

The commissioner will, in his or her discretion, delegate in writing to the municipal land trust officer the commissioner's authority to make a decision or take an action authorized or contemplated by this chapter. Such a delegation of authority will be executed by the commissioner, and filed with the lieutenant governor's office, and will be revoked only in writing. If revoked, the written order of revocation will be filed with the lieutenant governor's office. A decision or action taken by the municipal land trust officer acting under a delegation of authority from the commissioner is subject to review by the commissioner in the manner prescribed in 3 AAC 190.940.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.010  
AS 44.17.030  
AS 44.33.755

### **3 AAC 190.935. Combining of decision to accept and notice of disposal**

At the discretion of the commissioner, a decision to accept a tender of land under 3 AAC 190.015 and a notice of disposal of municipal trust land under 3 AAC 190.420 will be combined into one decision and one public notice in order to expedite a conveyance and subsequent transfer of the same parcel of land.

History: Eff. 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755

### **3 AAC 190.940. Appeal to commissioner**

A decision made by the municipal land trust officer may be appealed to the commissioner by a person whose interests are adversely affected by the decision or action. The appeal must be postmarked, or otherwise delivered to the municipal land trust officer, within 30 days after the date of delivery of the decision, or the date of publication announcing it, or posting date announcing it, whichever is later. The municipal land trust officer shall transmit the appeal to the commissioner within 15 days after its receipt. Within 120 days after the filing of the appeal with the municipal land trust officer, the commissioner will act to modify, reverse, or affirm the decision and will issue a written decision setting out the reasons for the modification, reversal, or affirmation.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755 (a)

### **3 AAC 190.950. Decision-making procedure in contested cases**

If a dispute arises regarding a discretionary determination or proposed action to be taken by the commissioner, the following procedure is applicable unless another specific procedure is prescribed in respect to the dispute by another provision of this chapter:

- (1) the commissioner will, in his or her discretion, first attempt to mediate the dispute informally;
- (2) instead of, or after attempting, mediation, the commissioner will, in his or her discretion, call for written submissions by all interested parties; after receiving the written submissions, the commissioner will:
  - (A) make a written determination of the matter, or
  - (B) convene an informal public meeting, upon notice, wherein the views and arguments of all interested parties may be stated orally and on the record, or
  - (C) treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62 et seq., and request that a hearing officer be appointed by the governor's office;
- (3) instead of, or after the steps in either (1) or (2) of this section, the commissioner will, in his or her discretion, treat the matter as a formal administrative adjudication under the Alaska Administrative Procedure Act, AS 44.62, and request that a hearing officer be appointed by the governor's office.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108

Authority: AS 44.17.030

AS 44.33.755 (a)

### **3 AAC 190.960. Conflicts of interest**

Neither the commissioner, the deputy commissioner, the municipal land trust officer, nor any employee of the Department of Commerce, Community, and Economic Development, nor any relative of the first degree of such a person, nor any legal entity which is owned or controlled by such a person or relative, may acquire, directly or indirectly, any interest in municipal trust land or any interest in land held by a village corporation which has or had an obligation to convey land to the state in trust under this chapter, with the exception of land required to be reconveyed under ANCSA, sec. 14(c)(1) or (2), or as a part of any general distribution of land to shareholders of a village corporation. This prohibition remains in effect

- (1) as to municipal trust land, until one year following termination of the person's employment with the department; and
- (2) as to other land held by the village corporation, until one year following completion of the corporation's conveyance of all required municipal trust land to the state in trust.

History: Eff. 9/21/79, Register 71

Authority: AS 44.17.030

AS 44.33.755

**Editor's note:** As of Register 151 (October 1999), the functions of the former Department of Community and Regional Affairs were transferred to other state agencies. In accordance with ch. 58, SLA 1999 and AS 44.62.125 (b)(6), the regulations attorney revised 3 AAC 190.960, as of Register 161 (April 2002), to reflect changes in the names of state agencies.

As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic Development made by ch. 47, SLA 2004 and the corresponding title change of the commissioner of community and economic development.

### **3 AAC 190.970. General trustee's authority**

The commissioner reserves the authority to take any action in the exercise of his or her duties as a trustee which is not forbidden by law.

History: Eff. 9/21/79, Register 71; am 11/19/88, Register 108  
Authority: AS 44.17.030  
AS 44.33.755

### **3 AAC 190.980. Non-discrimination**

It is the policy of the commissioner respecting the acceptance, administration, management, and disposal of unimproved municipal trust land not to discriminate against any person because of sex, race, religion, color, national origin, marital status or changes in marital status, pregnancy, or parenthood.

History: Eff. 9/21/79, Register 71  
Authority: AS 18.80.210  
AS 18.80.240 (2)  
AS 44.33.755  
Art. I, Sec. 3, AK. Const.

### **3 AAC 190.985. Severability**

If any provision of this chapter or any application of it is held invalid or unenforceable, the remainder of this chapter and any other application of it is not affected by that holding.

History: Eff. 9/21/79, Register 71  
Authority: AS 44.17.030

### **3 AAC 190.990. Definitions**

In this chapter, unless the context requires otherwise, the following words and phrases have the following meanings:

- (1) "ANCSA" means the Alaska Native Claims Settlement Act of 1971, P.L. 92-203, 85 Stat. 688, as amended (43 U.S.C. 1601 et seq.);
- (2) "bona fide village resident" means a natural person who is at least 18 years of age or who is the head of a household if less than 18 years of age, as to whom residency in the village can be established on the date for which a determination of residency is required by application of the rules set out in AS 15.05.020 ;
- (3) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development of the State of Alaska acting as the trustee of municipal trust land, whose incumbent is responsible under AS 44.33.755 to accept, administer, and dispose of such land;

- (4) "fair market value" means the appraised price attributable to a parcel of municipal trust land, including the value of any survey which identifies and describes the land, which a willing and knowledgeable buyer would pay and which a willing and knowledgeable seller would accept, with respect to that parcel;
- (5) "improved land" means the land conveyed under ANCSA to village corporations which is so changed from its natural state through valuable additions made to the land or through regular use by the residents of the village, that failure to treat that land as municipal trust land would substantially and adversely affect the community as a whole, of which it forms a part;
- (6) "less-than-fee interest," where used in reference to land held by a village corporation, means an interest in land which is less than the entire estate in the land which was received by the village corporation from the United States under ANCSA; and, when used in reference to municipal trust land, means an interest in land which is less than the entire estate in the land which was received from the village corporation by the state in trust for any future city in the Native village;
- (7) "municipal land trust officer" means that position within the Department of Commerce, Community, and Economic Development whose incumbent is principally responsible, under delegation and general direction of the commissioner, to carry out municipal trust land program activities under AS 44.33.755 and the regulations of this chapter;
- (8) "municipal trust land" means land the legal or equitable title to which is held by the State of Alaska in trust for a future first or second class city under ANCSA, sec. 14(c)(3) and AS 44.33.755 ;
- (9) "person" means any qualified person, firm, corporation, cooperative association, partnership, or other legal entity legally capable of entering into an agreement or contract;
- (10) "state fiscal year" means the fiscal year described in AS 37.05.920 ;
- (11) "Tundra Times" means that state-wide newspaper which is owned and edited by Eskimo, Indian, Aleut Publishing Corporation, 639 I Street, Anchorage, Alaska 99501;
- (12) "village" or "Native village" means any unincorporated community, vicinity, or locality which was certified by the Secretary of the Interior under ANCSA as having selection rights under secs. 12(a) or 16(b) of ANCSA, as amended, and includes all those persons living in the same community, vicinity, or locality, irrespective of race or enrollment under sec. 5 of ANCSA, who have common community ties or interests;

- (13) "village council" means an active local social organization, which need not be a formal organization having its own independent legal identity, functioning in the Native village under tradition which is fundamentally representative of all residents of the Native village;
- (14) "village entity" means an organization or group officially recognized by the commissioner under 3 AAC 190.110 - 3 AAC 190.150 as being "an appropriate village entity" within the meaning of AS 44.33.755.

History: Eff. 9/21/79, Register 71

Authority: AS 44.17.030

AS 44.33.755 (a)

**Editor's note:** As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic Development made by ch. 47, SLA 2004 and the corresponding title change of the commissioner of community and economic development.

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## CHAPTER 194 REAL PROPERTY FROM DISSOLVED MUNICIPALITIES

### Section

- 010. Acceptance of title to real property from dissolved municipalities.
- 015. Disposal of real property from dissolved municipalities.
- 020. Approval by appropriate village entity.
- 900. Definitions.

**Editor's note:** As to Register 151 (October 1999), the provisions of former 19 AAC 94 were relocated by the regulations attorney under AS 44.62.125 (b)(6) to 3 AAC 194 in accordance with ch. 58, SLA 1999.

### **3 AAC 194.010. Acceptance of title to real property from dissolved municipalities**

If a municipality is dissolved under AS 29.06.450 - 29.06.510, the commissioner, will in the commissioner's discretion, accept title to real property of the dissolved municipality. The purpose of this chapter is to provide a legal procedure for the commissioner's subsequent conveyance of title to real property to a local entity.

History: Eff. 11/26/95, Register 136  
Authority: AS 44.47.150

### **3 AAC 194.015. Disposal of real property from dissolved municipalities**

- (a) Upon approval by the dissolved municipality's voters under 3 AAC 196.020 or by approval of an appropriate village entity under AS 44.33.755 (a)(2), the commissioner will, in the commissioner's discretion, convey title to real property of a dissolved municipality to a local entity. A local entity designated in the transition plan for dissolution issued by the Local Boundary Commission under AS 44.33.812 and 3 AAC 110.900 may be
- (1) a council formed under the provision of 25 U.S.C. 473a;
  - (2) a council that operates in a community among its residents as a matter of federal law; or
  - (3) an incorporated nonprofit entity qualified to receive and spend an entitlement under AS 29.60.140.
- (b) The conveyance of real property under (a) of this section is subject to the conditions required by the Local Boundary Commission in the transition plan for dissolution.

History: Eff. 11/26/95, Register 136  
Authority: AS 44.47.150

### **3 AAC 194.020. Approval by appropriate village entity**

If voters of the dissolved municipality approve the plan for disposition of assets in an election administered by the director of elections under AS 29.06.510, that approval by the voters will satisfy the requirement under AS 44.33.755 (a)(2) for approval by an appropriate village entity.

History: Eff. 11/26/95, Register 136  
Authority: AS 44.47.150

### **3 AAC 194.900. Definitions**

In this chapter

- (1) "appropriate village entity" means an entity that has been officially recognized under AS 44.33.755 (b) and 3 AAC 190.110;
- (2) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development;

- (3) "local entity" means an active local organization having its own independent legal identity, functioning in the community, and being fundamentally representative of the residents of the community; "local entity" includes an appropriate village entity, a council formed under 25 U.S.C. 473a, and an incorporated nonprofit entity under AS 29.60.140 ;
- (4) "municipality" means a political subdivision incorporated under the laws of this state;
- (5) "real property" means land and those things permanently affixed to the land.

History: Eff. 11/26/95, Register 136

Authority: AS 44.47.150

**Editor's note:** As of Register 171 (October 2004), the regulations attorney made technical revisions under AS 44.62.125(b)(6) to reflect the name change of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic Development made by ch. 47, SLA 2004 and the corresponding title change of the commissioner of community and economic development

## Need more information?

The following publications are available:

- *Getting Started on ANCSA 14 (c) (3)*
- *An Overview of the Municipal Lands Trustee Program*
- *What is an "Appropriate Village Entity?"*

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Copies of these publications, as well as other information about the Municipal Lands Trustee (MLT) Program may be obtained by contacting:

**Lawrence Blood**

*Municipal Land Trust Officer*

OR

**Jimmy Smith**

*Local Government Specialist*

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**Mailing Address:**

Division of Community and Regional Affairs (DCRA)  
550 West 7<sup>th</sup> Avenue, Suite 1640  
Anchorage, AK 99501  
Phone: (907) 269 - 4527  
FAX: (907) 269 - 4539

Web page: [commerce.alaska.gov/dnn/dcra/PlanningLandManagement.aspx](http://commerce.alaska.gov/dnn/dcra/PlanningLandManagement.aspx)

*Prepared by the Municipal Lands Trustee Program, March 2013*

**ANCSA COMMUNITIES**  
Associated with the MLT program

**AHTNA**

Cantwell  
Chistochina  
Chitina  
\*Copper Center  
\*\*Gakona  
\*Gulkana  
\*\*Mentasta Lake  
\*\*Tazlina

**ALEUT**

Belkofski  
\*Nelson Lagoon  
Nikolski  
Unga  
Pauloff Harbor

**ARCTIC SLOPE**

\*\*Point Lay

**BERING STRAITS**

\*Council  
King Island  
Mary's Igloo  
\*Solomon

**BRISTOL BAY**

\*Chignik Lagoon  
\*Chignik Lake  
\*Egegik  
\*Ekuk  
\*Igiugig  
\*Iliamna  
\*Ivanof Bay  
\*Kokhanok  
\*Koliganek  
\*Levelock  
\*Naknek  
\*Pedro Bay  
\*Perryville  
\*Portage Creek  
\*South Naknek  
\*Twin Hills  
\*Ugashik

**CALISTA**

Akiachak  
Atmoutluak  
Bill Moore's  
Chuloonawick  
\*\*Crooked Creek  
\*Georgetown  
Hamilton  
Kasigluk  
\*\*Kipnuk  
\*\*Kongiganak  
\*\*Kwigillingok  
\*\*Lime Village  
\*Napamiut  
Newtok  
Ohogamiut  
\*\*Oscarville  
Paimiut  
\*Pitkas Point  
Red Devil  
\*\*Sleetmute  
Stony River  
Tuluksak  
\*\*Tuntutuliak  
Tununak  
Umkumiute

**CHUGACH**

\*Chenega  
English Bay  
Port Graham  
\*Tatitlek

**COOK INLET**

Chickaloon  
\*Knik  
\*Ninilchik  
\*Salamatof  
\*Tyonek

**DOYON**

Beaver  
Birch Creek  
Chalkyitsik  
\*Circle  
\*Dot Lake  
Eagle  
\*Evansville  
Healy Lake  
\*Manley Hot Springs  
\*Minto  
Northway  
Rampart  
\*Stevens Village  
\*Takotna  
\*Tanacross  
\*Telida

**KONIAG**

Afognak  
Ayakuiik  
\*Kaguyak  
\*Karluk  
Uganik  
\*Uyak  
\*Woody Island

**NANA**

Noatak

**SEALASKA**

Klukwan

\* Communities that have completed their 14 (c)(3) conveyance obligation.

\* \* Communities with partial reconveyance of land.