

EXPLANATORY NOTES ON PROVISIONS OF THE MODEL CODE ORDINANCE FOR THE ACQUISITION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL LANDS



This chapter addresses the purpose, content and possible optional language of specific provisions of the model code ordinance presented in Chapter Two.

In the following pages, key provisions of the model code ordinance have been pulled out and examined. Excerpts of the key provisions are provided in shaded text

boxes. Each excerpt is followed by explanatory notes that analyze and clarify the intent of each provision.

Section 1. Rights and powers of city.

The city shall have and may exercise all rights and powers in the acquisition, ownership, holding and disposal of real property in any manner not prohibited by law.

Notes:

This provision is the general authority upon which this ordinance is based.

Section 2. Acquisition of land.

A. The city may acquire, own, and hold real property or an interest in real property inside or outside the city boundaries by purchase, lease, exchange, transfer, donation, condemnation or declaration of taking under the city's power of eminent domain, or any other legal method. Unless otherwise directed by the city council, the mayor has authority to negotiate the terms of acquisitions, subject to council approval. Except as provided in subsections B and C of this section, and unless otherwise provided by law, all acquisitions shall be by resolution approved by a majority vote of the total membership of the city council. Real property shall be held in the name of "City of _____".

Notes:

This subsection generally lists the ways in which the city can acquire land. The list is not all-inclusive. The provision states that the mayor can negotiate acquisitions, but the acquisition is not approved until a resolution is passed by a majority vote of the city council. All acquisitions shall be by resolution except for lands received under

subsections B and C of this section. A resolution is recommended as the primary way in which the city acquires land since most acquisitions will be of a routine nature. Keep in mind that when the city purchases land, any appropriation of funds for that purpose will need to be approved through an ordinance process [AS 29.25.010(a)(4)].



Section 2. Acquisition of land. (continued)

B. Upon passage of a resolution approved by a majority vote of the total membership of the city council, the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property when that property to be acquired is conveyed from the Native Village Corporation in partial satisfaction of the requirements of Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA). When the conveyance is for full and complete satisfaction of the requirements of ANCSA Section 14(c)(3), a non-code ordinance shall be passed which shall include: a statement identifying the amount of land to be acquired; a legal description; a statement that the conveyance, in conjunction with any previous partial reconveyances, is in complete satisfaction of the ANCSA 14(c)(3) obligation; a finding that the lands are sufficient for existing and foreseeable community needs; and a statement of facts supporting that finding.

Notes:

This provision allows partial reconveyances of ANCSA 14(c)(3) lands to be approved by resolution, but the final agreement [when the city and village corporation agree on the amount and location of the acreage that represents a full and complete satisfaction of the requirements of ANCSA 14(c)(3)] must be accomplished through passage of a non-code ordinance. The reasons for approving the final ANCSA 14(c)(3) agreement by non-code ordinance are:

- 1) An ordinance process is a lengthier process, requiring several readings of the ordinance, posting of the ordinance, and a public hearing. Approval by resolution does not necessarily involve public review or a public hearing; and
- 2) If the ANCSA 14(c)(3) agreement is for less than 1,280 acres, the city is essentially disposing of an interest in the difference between what acreage they will be receiving and a potential entitlement of 1,280 acres. Therefore, it is the

Department's interpretation that if the city is disposing of an interest in land, such a disposal must go through a non-code ordinance process.

For the Final ANCSA 14(c)(3) agreement, approval by resolution would probably be acceptable if the city and Native village corporation agree to reconvey a total of 1,280 acres or more to the city under ANCSA 14(c)(3). However, for the purposes of simplifying this model ordinance language and providing the required public hearing and posting requirements, we recommend that all final 14(c)(3) agreements be approved through a non-code ordinance process.

Also in section 2(b), it is specified that the mayor may act upon behalf of the city to execute those documents required in the acquisition of real property or interest in real property. The city may wish to word this so that the city council can select someone other than the mayor (e.g., city manager, or other city official) to act on behalf of the city for acquisition of real property.



Section 2. Acquisition of land. (continued)

C. The city may exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the city in accordance with AS 09.55.240 - 09.55.460. The exercise of the power of eminent domain or declaration of taking shall be by ordinance which shall be submitted to the qualified voters at the next regularly scheduled general election or a special election called for that purpose. A majority of the votes on the question is required for approval of the ordinance.

Notes:

This provision requires that receipt of land through the city's powers of eminent domain be in accordance with Title 29. In second class cities, this type of acquisition of land requires the ordinance to be approved by a majority of votes by qualified voters. For home rule and first class cities, such a vote is not mandatory. Therefore, for home rule and first class cities, the second and third sentences of subsection 2(c) could be deleted and replaced with the following:
 "The exercise of the power of eminent domain or declaration of taking shall be by ordinance."

Section 2. Acquisition of land. (continued)

D. The city council may approve and authorize the purchase of real property or interest in real property by contract of sale, deed of trust, or lease.

Notes:

This provision outlines the methods of payment that the city can use in the acquisition of land. Contract of sale is used when the purchase will be for cash, and deed of trust is used when the payments will be spread out over a period of time (terms). Purchase of interests in land would also be for cash or terms.

Section 2. Acquisition of land. (continued)

B. Prior to approval of the purchase of property under subsection D of this section, the mayor shall furnish the city council with an abstract of title, an appraisal of the real property, and a review of any problems in acquisition. The validity of any acquisition or purchase of real property by the city is not affected by the failure to furnish the city council with such materials.

Notes:

The intent of this provision is to ensure that property bought by the city has clear title, is purchased for a fair value, and the city council has been made aware of any problems that may have arisen throughout the negotiation process. If the city council purchases property without those materials, that will not be cause for a third party (anyone who was not involved in the transaction) to invalidate the sale. This provision prevents the mayor from blocking an acquisition of property by refusing to follow city council direction. It might also be wise to include a provision that requires an environmental assessment before approval.



Section 3. Economic development sites. (optional provision)

The city may acquire, own, and hold real property, either inside or outside the city.

Notes:

Although it was already established in section 2(A) of this model ordinance that a city can acquire and hold property outside

city boundaries, this section emphasizes that the city can own such properties for future economic development.

Section 4. Temporary use of city lands. (optional provision)

The mayor has the authority to issue special land use permits for the exclusive temporary use of city lands. A special land use permit does not convey an interest in the land and may be revoked for cause with 30 days notice. Unless otherwise agreed to in writing, the land will be restored to its original condition upon expiration or revocation of the permit. Easements will not be granted under a special land use permit.

Public comment shall be sought before the issuing of a special land use permit in those situations where, in the opinion of the mayor, a hazardous or obnoxious use might significantly affect the surrounding area. Notice of the proposed action shall be published and a period for public comment shall be provided. When significant adverse comment is received, a public hearing shall be held.

A special land use permit shall not be granted for a term, exceeding one year. Special land use permits are neither transferable nor renewable. Upon expiration, a special land use permit may be re-issued for a term not exceeding one year.

If a fee is charged for the issuance of a special land use permit, the fee schedule shall be established by the city council.

Notes:

This optional section is one of the ways in which the city can make land available for use without conveying an interest in the land. Temporary use of land allows an exclusive use of the land by an applicant for a period of one year or less. This gives the city a formal process for managing use of city lands.

As an example: A private operator needs a place to store equipment during the construction phase of a project within the community. The city has some vacant land near the construction site that would be ideal for this purpose. The private operator applies for a temporary use permit to use the site and is granted a permit from the city. Once the permit is in effect, the operator has exclusive use of the site for up to one year. No one else will be able to park his or her vehicles on the site or otherwise use the site until the temporary use permit has expired.

The intent in having a temporary land use permitting system is to allow the city to handle short-term uses (for example, events) on city land by a relatively simple permit instead of having to go through a leasing process. If a lease were used, it would need to be approved through the non-code ordinance process because a lease is a disposal of an interest in land. According to this model ordinance, if an applicant wishes to have exclusive use of city land for one year or less, it is handled through the temporary use permit system. An exclusive use proposed for more than a year would be handled with a lease or deed to the land through the land disposal process.

A sample temporary land use permit application is included in Chapter Five of this handbook. Additional procedures may need to be developed depending on the needs of the city involved.



Section 5. Casual use of city land. (optional provision)

- A. No permit or lease is required for casual uses of city land.
- B. Any use under this section is at the risk of the user. The city assumes no responsibility for such use.
- C. The city shall notify the public of the location of city lands that are not open to casual use.

Notes:

This optional provision is another way the city can make land available for use without conveying an interest in the land. In this instance, however, use of the site is not exclusive to one applicant but available to the general public. This provision basically clarifies the type of uses that are allowed on city lands without a permit. A definition of "casual use" and a short sample list of uses fitting this category are included in section 11 of the model code ordinance.

Subsection B of Section 5 does not

serve to relieve the city of all liability involved in the casual use of city lands. However, it does put users of the site on notice so as to require a higher standard of care on their part.

Subsection C requires the city to notify the public regarding the location of city lands that are not open to casual use. The city may also want to include in the ordinance the minimum posting requirements for the information required under parts B and C of this section.



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Section 4. Disposal of real property.

A. The city may dispose of real property or an interest in real property which has been found to be no longer necessary for municipal purposes. All disposals shall be by non-code ordinance. The minimum time between introduction and adoption of ordinances for disposals other than by sealed bid or public outcry or lottery shall be _____ longer than required for other non-code ordinances. The ordinance shall include:

1. A finding that the real property or interest in real property is no longer necessary for municipal purposes and a statement of facts upon which such a finding is based;
2. A legal description of the property;
3. Type of interest in property to be disposed of as defined in section 11;
4. The purpose of the disposal;
5. The method of disposal as identified in section 7;
6. The value of the property or the value of the interest in property as determined under subsection B of this section;
7. The procedure for conducting the disposal and the time, place and manner in which the proposed disposal shall occur.

Notes:

This subsection states that the city can only dispose of real property (or interests in real property) that is no longer necessary for municipal purposes. Such disposals can only be done through a non-code ordinance process.

In the third sentence of subsection A, a city is given an option to add the amount of time between introduction and adoption of a non-code ordinance for non-competitive types of land disposals. The reason for this is to allow adequate public review time prior to passage of the ordinance allowing the

disposal. The city's usual non-code ordinance timetable (from introduction to passage) may be too short (e.g., 5 days) to allow adequate public review.

For example, if a city has adopted only the minimum time requirements for passing an ordinance as set out in AS 29.25.020, the city only needs 5 days between the introduction of the ordinance and the public hearing regarding the proposed ordinance. Adoption of the ordinance could also take place on the same day as the public hearing. This timetable is shown below:

Day 1	Day 2	Day 7
Introduction of ordinance.	Public hearing notice + summary of proposed ordinance.	Public hearing held on proposed ordinance. The city council could also hold a meeting on the same day to pass the ordinance.

For competitive types of disposals (e.g., sealed bid, public outcry auction, or lottery), this model code ordinance allows passage in accordance with the usual city non-code ordinance timetable, but adds public review time after the non-code ordinance is passed (refer to section 10 of the model code ordinance). The reason is this: since the disposals are to be competitive, it may not be necessary to have extensive public review before the disposal is authorized. However, the public should have adequate time to look over the lands to be disposed of (by competitive means) in case they are interested in bidding on a particular lot.

A city may wish to standardize the time between introduction and passage of non-code ordinances for both non-competitive and competitive types of disposals. If this is the case, the third sentence of section 6, part A could read: "The minimum time between introduction and adoption of ordinances for all disposals shall be ____ days longer than required for other non-code ordinances."

In addition to timeframe considerations, a city may not want the public hearing regarding a non-code ordinance on the same night the ordinance can be passed. If this is the case, a city could insert another sentence under section 6, part A that reads: "The ordinance approving the disposition may not be considered for passage at the same meeting at which the public hearing is held." Or, the city could further specify a minimum period of days between the public hearing and the meeting that will be held to consider adoption of the ordinance.

Also within subsection A are requirements for what information must be

contained in the city's land disposal non-code ordinances. Following is more information regarding items 1, 3, and 4 of subsection 6A. Disposal of real property (items #2 and #7 are fairly self-explanatory, and items #5 and #6 are explained below under the discussions for section 7 and section 6B, respectively):

Subsection 6A.1: This item requires a finding of fact by the city that the property (or interest in property) to be disposed of is no longer necessary for municipal purposes. This is necessary because the disposition of city property is a matter affecting the public interest. If this item were not required, the city council could be in a position of taking a risk by disposing of lands that should have been kept in city ownership for possible public use either now or in the foreseeable future.

Subsection 6A.2: The most common methods of disposal of interest in real property that the city will be considering include: deed, lease, or easement.

Subsection 6A.5: On the surface, this item appears straightforward. However, when the city is disposing of lands at less than fair market value or if preference provisions are being used, it is important for the city to state: 1) how a public purpose is being met by the disposal; and 2) how these "special" provisions of the disposal will meet a legitimate governmental objective. For example, if lands are being disposed in a non-competitive manner (e.g., less than fair market value and having residency requirements), it must be evident what public purpose is being achieved by not making these lands available to the general public (including non-residents of the community) at fair market value.



"... the disposition of city property is a matter affecting the public interest."



Section 6. Disposal of real property. (continued)

B. The value of the property or interest in property shall be fair market value as determined by an appraisal prepared by a qualified appraiser or assessor, or the city council may determine the fair market value by any other means it deems appropriate.

Notes:

This subsection gives the city council considerable flexibility in how they may determine fair market value of the property to be disposed. Following is a brief list of alternatives the city may want to consider in determining fair market value:

- 1) The city can hire a professional appraiser to determine the value of the property.
- 2) The city, if within a borough, can

determine the value of a particular property by obtaining that information from the borough assessor.

3) The city can estimate the value of the land based on sales of similar lands in nearby communities.

4) In lieu of the above possibilities, the city council can reach a consensus on a fair price for lands within their community.

Section 7. Methods of disposal.

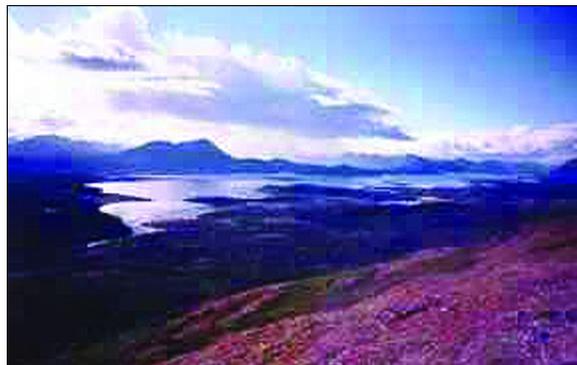
A. All disposals shall be conducted in a fair and impartial manner. Procedures for conducting all disposals shall be set out in the non-code ordinance authorizing each disposal.

Notes:

Section 7 outlines general requirements for the different types of land disposals that the city may elect to conduct. Subsection B lists competitive disposal

methods while subsections C-G include non-competitive disposal methods.

Subsection A is self-explanatory.



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Section 7. Methods of disposal. (continued)

B. Competitive disposal. The city may conduct the following types of competitive disposal:

1. Sealed bid auction. The minimum bid for a sealed bid auction shall be the fair market value of the property or interest in property as determined under section 6B.

2. Public outcry auction. The minimum bid for a public outcry auction shall be the fair market value of the property or interest in property as determined under section 6B.

3. Lottery. In the case of a lottery, the price of the property or interest in property may be established by the city council.

Notes:

This subsection basically indicates the types of competitive disposals that may be conducted by the city and the minimum bid or price (with respect to the fair market value) that will be allowed for these disposals. For disposals by lottery, the code ordinance is worded so that the city council is not necessarily locked into setting a fair market value on the property to be disposed. In this model ordinance, a lottery is the method to determine who will get a parcel of land if more than one party applies for the parcel through a non-competitive disposal. Therefore, because some types of non-competitive disposals will be for less than fair market value, the model code allows "tie-breaker" types of lotteries to dispose of land for less than fair market value. In totally competitive land disposal programs, the city would probably want to set the minimum at a

fair market value as established by the city council.

In addition to the three types of competitive disposal methods listed in this model ordinance, a city may also wish to include, as another competitive disposal method, disposal of land through a proposal process. For example, this type of disposal method is useful if the city has a tract of land it wants to dispose of for industrial development. Although the proposal process can be fairly involved, it would allow the city to determine which proposals would most benefit the community in terms of economic development, local hire, etc. Additional information on disposal by proposals can be found in "The Municipal Advisor" newsletter (a copy is located in the appendix to this handbook).



“... reverter clauses can only be enforced by a positive action.”

Section 7. Methods of disposal. (continued)

C. Disposal for public services.

The city council may dispose of real property or an interest in real property to a municipality, state, or federal entity or to a non-profit corporation or association, or a Native Tribal council, when the recipient is providing a necessary public service to residents of the municipality, without seeking bids and for less than the fair market value of the real property or interest in real property. If a disposal is made under this subsection, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6:

1. A finding that the disposal to the entity is for provision of a necessary public service and a statement of facts upon which such a finding is based;
2. A requirement that the conveyance of the property or property interest disposed include a condition that the title will revert to the municipality in the event the property is no longer used for the necessary public service justifying the disposal; and
3. In the event that the entity receiving the property or interest in real property is a Native tribal council, a requirement that the Native tribal council waive any immunity from suit for the purpose of enforcing the reversion provision.

Notes:

This provision allows the city to dispose of land or interest in land to specified types of entities if the entity is providing a necessary public service to residents of the municipality. The land or interest in land under this provision can also be disposed of at less than fair market value; however, this is up to the city council. The other key stipulations on this type of disposal are: property must be used for the purpose for which it was conveyed or title will revert back to the municipality; and Native tribal councils must waive any immunity from suit for the purpose of enforcing the reversion provision.

It should be noted that the language in many reverter clauses (fee simple determinable) does not require an action by the city for the reversion to take place. The disadvantage of this form of reverter is that with the automatic reversion the parties may

not be aware that the title has transferred and no record of a transfer exists in the chain of title to warn others of the problem. Since the transfer ownership in land in rural Alaska occurs infrequently the problem may go unnoticed for years. To eliminate any doubt that a parcel has reverted to the city, the city will likely need to document that the condition was not met and that the reversion has occurred through a quiet title action. Arguably this is a greater burden for the city than the use of a “fee simple with a condition subsequent” reverter in which the city serves notice to the grantee and a deed of reconveyance is issued. The documentation can be recorded thus eliminating the uncertainty in the title. This also has the advantage of allowing the city to choose whether or not to take action and acquire the property in the event that it is not in its best interest to do so.



Section 7. Methods of disposal. (continued)

D. Disposal for economic development.

The city council may dispose of real property or an interest in real property to any person or entity in furtherance of local trade or industry without seeking bids and for less than the fair market value of that real property or interest in real property as determined under section 6E. If a disposal is made to further economic development, the non-code ordinance authorizing the disposal must include in addition to the requirements in section 6E:

1. A finding that the property or property interest which is the subject of the disposal will be used in furtherance of local trade or industry; and
2. A requirement that the conveyance of the property or property interest disposed include a condition that title will revert to the municipality in the event the

Notes:

This provision allows disposal of property or interest in property to any entity in furtherance of local trade or industry. The city council can dispose of property under this provision for less than fair market value if the city so chooses. As with lands disposed

for public services, title to property disposed for economic development can revert back to the city if the property is no longer being used for the purpose for which it was conveyed.

Section 7. Methods of disposal. (continued)

E. Miscellaneous disposals.

The city council may settle disputed claims or litigation by authorizing disposal of real property or an interest in real property.

Notes:

This provision is included to allow a city to essentially dispose of an interest in

property where that interest may be legitimately disputed or the subject of a law suit.



Section 7. Methods of disposal. (continued)

F. Disposal to settle claims of equitable interest.

Upon a finding by the city council that it is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a person who has a valid claim of equitable interest in the property or in a substantial improvement located upon the property. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance.

Notes:

This provision allows the city to dispose of real property or interest in real property in order to settle valid claims of equitable interest. The city council can, if they so choose, dispose of this property for less than fair market value. The intent of this provision is to allow the city to clear up title problems.

As an example, city officials gave verbal approval to an individual to build his house on a vacant federal townsite lot. Since the house was built after the federal townsite survey was approved, the individual was not eligible for a deed to the lot from the federal townsite trustee. Subsequently, the federal townsite trustee deeded to the city all the lots

that had not been deeded to eligible individuals in the community. As a result, the city now owns the lot that the individual has built his house on. Through this provision in the land disposal ordinance, the city can dispose this lot to the individual who has been living on it. The city can also dispose of the lot for less than fair market value.

This provision also allows the city to dispose of real property or interests in real property to individuals who have substantial improvements on the property. Examples of substantial improvements include a house, cabin, or other habitable dwelling. This provision would normally apply to one lot per person or family.

Section 7. Methods of disposal. (continued)**G. Disposal for residential purposes.**

Upon a finding by the city council that there is a current residential housing shortage in the community and that making land available for residential purposes at less than market value is in the public interest, the city may convey real property or an interest in real property for less than fair market value to a domiciled city resident who seeks the parcel for development and use as a personal place of residence. That finding shall be incorporated in and made a part of the non-code ordinance that accomplishes the conveyance. When real property or interest in real property is disposed of pursuant to this subsection, the deed or lease must contain a condition subsequent which ensures that if the land is used for any purpose other than residential use for a period of ___ years after the disposal, title will revert to the city. In addition, disposals under this subsection shall include a requirement for the construction of a habitable dwelling within ___ years after the disposal or title will revert to the city.

Notes:

This subsection allows the city to convey real property or interest in real property for less than fair market value to a domiciled city resident that seeks the parcel for development and use as a personal place of residence. The intent of this provision is to make land available to residents for housing at a cost they can afford. A major stipulation in this type of disposal is that the property must be used for residential purposes for a certain number of years. If this condition is not met, the title reverts back to the city. This condition assures the city control over use of the land. The period of years is not specified in the model ordinance since this will vary depending on the needs of each community.

Another condition specifies that a habitable dwelling must be constructed and the applicant must reside in the dwelling for a specified period. If either of these conditions is not met, title will revert back to the city. Again, a specific period of time is not given in this model ordinance since the period used will be based on a specific community's needs. The major purpose of this condition is to minimize speculation practices.

In section 11 of the model code ordinance, "domiciled resident" is defined as:

"One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the city his/her permanent residence."

This definition basically means that a person had to have lived in the community 30 days immediately prior to passage of the ordinance, still maintains an address in the community, and will sign a statement that says he/she intends to make a permanent home in the community. The latter intent requirement can be difficult to disprove. However, the "prove-up requirements" built into the ordinance (i.e., must build a residence within ___ years and the land must be used for residential purposes) essentially accomplishes the same purpose. If the city has a zoning ordinance, these prove-up requirements may not be necessary to keep the land for residential purposes.

It may be argued that the city can make lands available for housing and at less than fair market value under other provisions of this ordinance. This provision specifies, however, that the use of the land must be for housing only. Other types of competitive disposals have not restricted the types of use to which the land may be put. Competitive disposals must also dispose of property for the "fair market value" as determined under section 6B. This provision is similar, therefore, to the other special types of non-competitive disposals (for example, public services, economic development, or settling of equitable interests).



"The intent of this provision is to make land available to residents for housing at a housing cost they can afford."



Section 8. Leases.

A disposal of interest in real property by lease shall follow the requirements of sections 6 and 7. The terms and conditions of leases shall be established by the city council for each such disposal.

Notes:

This section states that leases are subject to disposal provisions of sections 6 and 7. This section also states that

additional terms and conditions for leases shall be established by the city council.

Section 9. Easements.

The disposal of interest in real property by grant of easement shall follow the requirements of sections 7 and 8. The terms and conditions of easements shall be established by the city council for each such disposal.

Notes:

This section states that easements are subject to disposal provisions of sections 7 and 8. The most likely disposals

of easements will be for utility line easements (fuel or electricity) for privately operated utility companies.

Section 10. Notice of disposal.

A. A notice of the disposal shall be posted in three conspicuous public places within the city not less than _____ days before:

1. The date of the bid opening; or
2. The date of the lottery; or
3. The date of the auction; or
4. The date of the disposal.

Notes:

This subsection specifies the minimum posting requirements for competitive disposals. As discussed under section 6, the intent of this provision is to allow time between the passage of the non-code ordinance for competitive disposals and the actual disposal itself. This additional time period can be used by the public to look over any lots or parcels they may be interested in bidding on. As stated earlier in

these notes (section 6), the city may wish to standardize public notice requirements to be used for both competitive and non-competitive types of disposals.

Although not specified in this model ordinance, the city must publish a summary of the proposed ordinance authorizing any disposal in accordance with AS 29.25.020(b)(3)



Section 10. Notice of disposal. (continued)

B. The notice shall include:

1. A legal description of the property and the type of interest to be disposed;
2. The method of disposal as identified in section 7;
3. The assessed or estimated value of the property or interest in property;
4. The date of the proposed disposal and the time, place, and manner in which the proposed disposal shall occur.

Notes:

This subsection specifies what needs to be included on the notice for a proposed land (or interest in land) disposal.

Section 11. Definitions.

As used in this Chapter:

Abstract of title: A condensed history of the title to land together with a statement of all liens, charges, or liabilities to which the land may be subject.

Appraisal: An estimation of value of property by a qualified appraiser.

Casual use: The temporary, safe, non-exclusive and non-surface-disturbing use of city land and includes but is not limited to such uses as: hiking, hunting, fishing, short-term camping, picnicking, skiing, snowmachining or berry picking.

City boundaries: The city limits, established when the city is incorporated, inside which all city ordinances are enforceable.

Competitive disposal: A disposal of property wherein no preference is shown to any prospective bidder or group of bidders.

Condition subsequent: An event that occurs after transfer of title which will act to restore title to the maker of the condition.

Contract of sale: A contract between a willing seller and a willing buyer to transfer title to property.

Deed of trust: An instrument, taking the place and serving the uses of a mortgage, by which legal title to real property is placed in a trustee, to secure the repayment of a sum of money or the performance of other conditions.

Disposal: The act of giving away or selling; the transfer of interest in property.

Disputed claims: Claim for property that is protested by another, or for property which is also claimed by another.

Domiciled resident: One who has resided in the city for at least the thirty days previous, maintains an address in the city, and intends to make the City his/her permanent residence.

Easement: A right or privilege in another's land, such as the right to cross for a specific purpose. Easements allow passage across real property without granting any other ownership rights in that property.

Economic development: To promote the growth of the local economy; increase income of residents.

Eminent domain: The power of a municipality to convert private property to a public use.

Equitable interest: A claim (in property or other) which should be recognized in the interest of fairness or equity.

Evaluate: To judge the quality of.

Federal entity: The federal government or an agency thereof.

Hazardous use: A use involving danger; perilous; risky to human health and well-being.

Interest: In property: A right, claim, title, or legal share in that property. Refers to the "bundle of rights" which may be transferred or conveyed separately or in total. Methods of transfer include deed, lease, or easement.

Inventory: A list of property containing a description of each article of property.

Lease: Leases are used to dispose of specific interests in real property without transferring ownership of that property; A contract for exclusive possession of lands or tenements for a determinate period.



Legal description: That part of a conveyance document which identifies the land or premises intended to be affected by that conveyance.

Litigation: Contest in a court of justice for the purpose of establishing a right.

Lottery: A plan whereby the right to obtain interest in property, either by purchase or gift, is decided by luck or chance through some type of drawing of names.

Municipality: A unit of local government organized under the laws of the State of Alaska.

Non-code ordinance: An ordinance that is not part of the permanent city code.

Nonprofit corporation: An organization formed under the laws of the State of Alaska not to obtain a profit, but to supply an essential service to its constituents.

Obnoxious use: A use which people may find objectionable; disagreeable; offensive; displeasing.

Public interest: Something in which the public, the community at large, has some pecuniary interest (having to do with money), or some interest by which their legal rights or liabilities are affected.

Public outcry auction: Sale of property to the highest bidder, at a public auction, where each prospective buyer has the right to enter successive bids until a price is reached at which no higher subsequent bid is made.

Public service: Activities and enterprises which specially serve the needs of the general public.

Referendum: A method of submitting an important measure to the direct vote of the whole people.

Revert: With respect to property, title to go back to and lodge in former owner.

Sealed bid: A written offer to purchase property, placed in an envelope, and opened along with all other bids (if any) at a public bid opening.

State: The State of Alaska or an agency thereof.

Substantial Improvement: A major change or addition to land or real property that makes it more valuable.

Temporary use: An exclusive use of city land which has a duration of one year or less, involves minimal disturbance to the land, and does not allow permanent structures or improvements exceeding \$_____.

Valid Claim: A legally enforceable claim by a third party.

Notes:

This section contains definitions of terms used throughout the ordinance. A city may wish to reduce the number of terms defined within this section to only terms having legal effect or most necessary to the ordinance provisions. These terms would likely include: casual use, disputed claim, domiciled resident, equitable interest, hazardous use, interest (in property), obnoxious use, public interest, substantial

improvement, and temporary use. All other terms that are defined in section 11 could be kept separate from the ordinance itself.

One term defined within this section, "temporary uses", contains a blank for the maximum value of improvements that will be allowed on the land that is subject to a temporary use permit. This value stipulation is an option the city may or may not want to include.