

SAMPLE DOCUMENTS AND PROCEDURES FOR TEMPORARY AND CASUAL USES OF MUNICIPAL LANDS



This chapter addresses two optional provisions to make municipal lands available for use without disposing of land or disposing of interests in the land.

code ordinance for temporary and casual

Within the DCCED model code ordinance are two optional provisions which deal with making municipal lands available for use without disposing of the land or interests in the land. These provisions were largely based on several provisions of the Fairbanks North Star Borough code ordinance #86-056 and on the borough's special land use permitting system.

Following are excerpts from the borough's

use of borough lands. Also included is a "special land use application and permit" form and further general requirements involved with the special land use permit. The excerpt from the borough's code which deals with casual uses of land is included primarily because it specifies what is considered a "casual use" of the land. This list may be helpful to reference if a city wishes to develop a similar provision in their ordinance.



False Pass, Alaska. Photo by Lotta Hines



**Excerpt from Ordinance No. 86-056;
"An Ordinance Relating to the Acquisition,
Management, and Sale of Land by the Borough";
Fairbanks North Star Borough**

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

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

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

D. If the mayor determines a temporary use may cause damage to the borough land, then the mayor shall require that the applicant post a bond with the borough to insure that the applicant restores the land to reasonably the same condition it was in at the time the license was executed. The mayor shall not release the bond until the licensee has complied with all conditions of the license.

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

F. The mayor shall not renew a temporary use license, but the mayor may reissue another license if the applicant has complied with the provisions of this section and the terms of the prior license.



FAIRBANKS NORTH STAR BOROUGH
DEPARTMENT OF LANDS
SPECIAL LAND USE APPLICATION AND PERMIT

Reference No. _____

1. APPLICANT

Name (Last) (First) (MI)

Street/P.O. Box City State Zip Phone

2. LAND LOCATION (Attach USGS map or sketch map at scale no smaller than 1"=1 mile showing area desired):

Township _____, Range _____, _____ Meridian, Section _____

Portion _____

Other Description _____

3. PROPOSED ACTIVITY (Attach additional sheets if necessary):

4. SPECIAL STIPULATIONS: (In addition to conditions on reverse side)
(General Requirements)

5. DATE OF INTENDED USE (Not to exceed one year): From _____
to _____.

6. DATE OF APPLICATION: _____, 20__.

7. CONTACT PERSON, if other than applicant: Name _____

Address Telephone No. Position/Title

8. _____
SIGNATURE OF APPLICANT OR AUTHORIZED REPRESENTATIVE:

Title Date

9. APPLICATION IS Granted Denied Granted as Modified

By _____
Title Date

10. BOND IS REQUIRED _____ Yes (See attached bond) _____ No

11. SUPPLEMENTAL INFORMATION _____



General Requirements

1. This permit conveys no interest in borough land. This permit is nonrenewable, but may be reissued upon application by the permittee at the borough's discretion. The permit reissuance period may not exceed one year. This permit is revocable immediately, with cause. Revocation without cause is effective upon 30 days notice. Permittee shall be afforded 30 days within which to remove his possessions. This permit is not transferable. It is issued to authorize specific activities requested by the applicant and which are not included in the category of "generally permitted uses."
2. Existing valid uses shall not be prevented or restricted by permittee's use of borough land.
3. This land use permit is subject to the following provisions:
 - a. Existing roads and trails shall be used wherever possible. If off-road travel is allowed, activities employing wheeled or tracked vehicles shall be conducted so as to minimize surface disturbance;
 - b. All activities shall be conducted so as to minimize disturbance of drainage systems, changing course or character of waterbodies, seeps or marshes;
 - c. Users shall not harass or disturb fish or wildlife resources;
 - d. Trails and campsites shall be kept clean. All garbage and foreign debris shall be removed, buried or safely burned before leaving the area;
 - e. All due care shall be taken to prevent or suppress any fire in the permitted area. Uncontrolled fires shall be reported immediately;
 - f. All survey monuments, and accessories such as witness corners, reference monuments and bearing trees shall be protected. Any damaged or destroyed markers shall be re-established in accordance with accepted survey practices; and
 - g. Permittee agrees to indemnify, save and hold the Fairbanks North Star Borough, its agents and employees, harmless and defend each (at permittee's sole cost and expense) from and against any claim or liability for any injury to any person or damage to any property or any other claim or liability whatsoever arising or resulting from any activity conducted by permittee, permittee's agents, contractors, or employees, whether such activity is expressly authorized by this permit or not.

Excerpt from Ordinance No. 86-056; "An Ordinance Relating to the Acquisition, Management, and Sale of Land by the Borough"; Fairbanks North Star Borough

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

- A. The casual use of borough land does not require a license.
- B. The casual use of borough land does not create an interest in borough land.
- C. The mayor may close any and all borough land to casual use by issuing a written order that contains a finding that an emergency exists and a statement of the facts on which the finding is based.
- D. The mayor shall publish notice of the location of borough land that the mayor has closed to casual use.





Pelican Boat Harbor, Commerce/DCRA