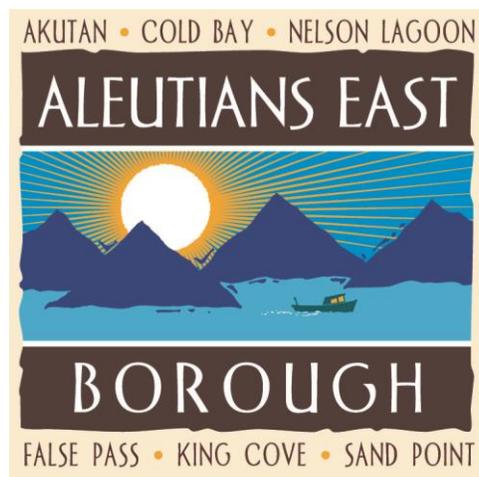
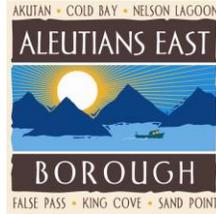


Aleutians East Borough Assembly Workshop



Workshop: Thursday, December 12, 2013 – 9:00 a.m.

Roll Call & Establishment of a Quorum



Agenda

Assembly Meeting

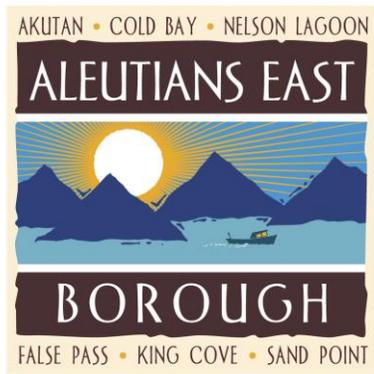
(packet available on website www.aleutianseast.org)

Date: Thursday, December 12, 2013

Time/Location: Workshop: 9:00 a.m. - Millennium Hotel, Redington Room 3, 4800 Spenard Rd, Anc.

ASSEMBLY WORKSHOP AGENDA

1. Roll Call & Establishment of Quorum.
2. Presentation, Consultant Susan Harvey – Proposed AEB Code Amendments, Proposed Resource Permit Fee & Penalty Schedules for permits below:
 - a. Commercial Recreation
 - b. Research
 - c. Sand, Gravel, and Rock Mining
 - d. Mineral & Coal Exploration and Small Mining Operations
 - e. Offshore & Direct Marketing Seafood Processing
 - f. Onshore Seafood Processing
 - g. Large Mining Operations
 - h. Oil & Gas
3. Presentation, Alaska Permanent Capital Management. – AEB Investments Review.
4. Presentation, Newhouse & Vogler – AEB Draft Fiscal Year 2013 Audit Review.



Aleutians East Borough

Resource Development Land Use Permitting System

Proposed DRAFT Planning Commission Recommendation For Assembly Approval December 12, 2013 Workshop, Anchorage

The Aleutians East Borough (AEB), with grant funds from the Coastal Impact Assistance Program, has begun a three year process to develop a Resource Development Land Use Permitting System. The goal of the project is to develop responsible resource use or extraction opportunities that will create local jobs and revenue while protecting community values and the environment. Harvey Consulting, LLC is assisting us with this project.

This binder of material includes work completed on Tasks 2, 3, and 6 of this project.

- Task 2: Refine Aleutians East Borough Code Title 40, Chapter 20 Planning, Platting and Land Use, Resource Development
- Task 3: Develop Resource Development Land Use Permit Applications to Meet AEB Code, Title 40, Chapter 20
- Task 6: Develop Fee & Penalty Schedule for AEB Land Use Permits

On November 14, 2013, the Planning Commission approved the Task 2 and 6 work products. The Planning Commission recommends that the Assembly adopt the proposed changes to the Aleutians East Borough Code and adopt the proposed fee and penalty schedules for AEB's Land Use Permits.

Assembly approval is not required on the Resource Development Land Use Permit Applications (Task 3). The permit forms will be approved by the Planning Commission on December 18, 2013. The draft application form is currently under Planning Commission review and has been provided in the packet for the Assembly to help inform the process. The Planning Commission welcomes input from the Assembly and public on the draft forms that can be considered at the December 18, 2013 Planning Commission meeting.

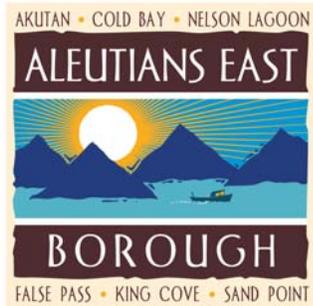
Presentation By

Susan Harvey

Aleutians East Borough Resource Development
Land Use Permitting System

Aleutians East Borough Internal Working Document

Resource Development Land Use Permitting System



Proposed DRAFT Recommendation

For AEB Planning Commission & Assembly Review

- Task 2: Refine Aleutians East Borough Code Title 40, Chapter 20 Planning, Platting and Land Use, Resource Development**
- Task 3: Develop Resource Development Land Use Permit Applications to Meet AEB Code, Title 40, Chapter 20**
- Task 4: Develop Standard Operating Procedures for Reviewing and Approving Resource Development Land Use Permits**
- Task 5: Develop Standard Stipulations to include in Resource Development Land Use Permits**
- Task 6: Develop Fee & Penalty Schedule for AEB Land Use Permits**

**Prepared for:
Aleutians East Borough**

**Prepared by:
Harvey Consulting LLC
Solstice Alaska Inc.**

November 2013

This work was funded with qualified Outer Continental Shelf oil and gas revenues by the Coastal Impact Assistance Program, Fish and Wildlife Service, and the U.S. Department of the Interior.

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EXECUTIVE SUMMARY

The Aleutians East Borough (AEB), with grant funds from the Coastal Impact Assistance Program, has begun a three year process to develop a Resource Development Land Use Permitting System. The goal of the project is to develop responsible resource use or extraction opportunities that will create local jobs and revenue while protecting community values and the environment. The AEB Municipal Code (AEBMC) will be revised to include the new system.

Task 1 Public Input. The first task of the project (Task 1) was to obtain resident's opinions and recommendations on resource development land use regulations through community meetings. Four communities were visited with 32 residents attending meetings. To supplement community meetings, consultants designed, implemented, and tallied the results of an on-line opinion survey. Task 1 was completed and a final report was issued (February 2013).

Task 2 Code Revision. The second task of the project (Task 2) is to use information gathered in Task 1, along with AEB's existing Comprehensive Plan, and Coastal Zone Management Plan to assist the AEB Planning Commission and AEB staff in developing a proposed revision to the AEB Code at Title 40, Chapter 20, Planning, Platting and Land Use for AEB Assembly approval. The AEB code revision will provide additional specificity on permit form types, standard operating procedures for reviewing and approving applications, authority to establish standard stipulations to protect coastal resources, an inspection/audit compliance program and a fee/penalty schedule. While working on Title 40, Chapter 20, Planning, Platting and Land Use code revisions, the consultants determined that other sections of the code needed to be updated and revised to achieve the projects goals and ensure consistency. Proposed revisions to Title 1 (General Provisions), Title 2 (Administration), and Title 45 (Powers and Functions) were also developed as part of this project.

Despite repeat efforts by AEB staff to seat a Planning Commission, as of April 2013 there was insufficient interest and nominations to seat a complete Planning Commission to actively participate in the Task 2 work. AEB staff and consultants sought the advice of the AEB Counsel. The AEB Counsel recommended that AEB staff and consultants draft a recommendation for AEB Assembly approval; therefore, during April through August 2013, AEB staff and consultants worked on developing a proposed revision to the AEB Code for AEB Assembly approval. A Planning Commission was seated in September 2013. Additional time was needed to coordinate a date that was acceptable to all participants. The workshop was postponed by AEB to October 10, 2013. A joint Planning Commission and Assembly Workshop was held on October 10, 2013, with a follow-up meeting on October 15, 2013 to review action items and obtain additional input. All AEB communities had the opportunity to participate in the workshop via teleconference.

The code revision (Task 2) must be reviewed by both the Planning Commission and the Assembly. Assembly approval is required and is scheduled to be completed by December 2013.

Tasks 3 and 6 also scheduled for completion in December 2013 were addressed at the October 10 & 15, 2013 Planning Commission workshops. Additionally Tasks 4 and 5, originally scheduled for a March 2014 completion were accelerated and addressed at the October 10 & 15, 2013 Planning Commission workshops.

Task 3 Permit Applications. The third task of the project (Task 3) is to develop land use permit application forms for Resource Development Projects. These draft permit applications will also aid the Planning Commission and Assembly in better understanding the proposed permit program. Task 3 is scheduled to be completed by December 2013, and will be reviewed and approved by the Planning Commission in December 2013. Assembly approval of the permit applications is not required, although any input received from Assembly members will be included in the application development.

Task 4 Standard Operating Procedures. The fourth task of the project (Task 4) is to develop standard operating procedures for Resource Development Projects. The consultants decided to accelerate the schedule for drafting the standard operating procedures, to help inform the required AEBMC revisions needed. The process of developing standard operating procedures aided the consultants and AEB staff in identifying key issues to be addressed in the AEBMC. These standard operating procedures will also aid the Planning Commission and Assembly in better understanding the proposed permit program. Task 4 is scheduled to be completed by March 2014; however, the approval schedule will be accelerated and this work will be reviewed and approved by the Planning Commission in December 2013. Assembly approval of the standard operating procedures is not required, although any input received from Assembly members will be included in the standard operating procedure development.

Task 5 Standard Stipulations. The fifth task of the project (Task 5) is to develop standard stipulations for Resource Development Permits. The consultants decided to accelerate the schedule for drafting the standard stipulations, to help inform the required AEBMC revisions needed. The process of developing standard stipulations aided the consultants and AEB staff in identifying key issues to be addressed in the AEBMC. These standard operating procedures will also aid the Planning Commission and Assembly in better understanding the proposed permit program. Task 4 is scheduled to be completed by March 2014; however, the approval schedule will be accelerated and this work will be reviewed and approved by the Planning Commission in December 2013. Assembly approval of the standard stipulations is not required, although any input received from Assembly members will be included in the standard stipulation development.

Task 6 Fee and Penalty Schedule. The sixth task of the project (Task 6) is to develop a fee and penalty schedule for each Resource Development Permit Type. Task 6 is scheduled to be completed by December 2013, and will be reviewed and approved by the Planning Commission in December 2013. Assembly approval of the permit applications is not required, although any input received from Assembly members will be included in the application development. The fee and penalty schedule must be reviewed by both the Planning Commission and the Assembly. Assembly approval is required and is scheduled to be completed by December 2013.

Content of this Report. This report was developed to document the work completed in the development of Task 2-6 work. This report is intended to be an AEB internal document that that will serve as a reference document if questions come up in the future. This report summarizes the research completed to develop the AEB draft permits, develop a code revision language and to document key decisions made along the way. This report is not intended for distribution outside of AEB.

1. Resource Development Permit Types Considered

Based on input from Task 1, six (6) resource development permit types were identified and considered for inclusion in the AEB Code at Title 40, Chapter 20:

1. Commercial Recreation Land Use Permit;
2. Research Land Use Permit;
3. Sand, Gravel, and Rock Mining Land Use Permit;
4. Minerals and Coal Mining Land Use Permit;
5. Oil & Gas Land Use Permit; and,
6. Alternative Energy (geothermal, wind, hydroelectric) Land Use Permit.

After considerable review and discussion with AEB staff, six permit types were developed.

1. Commercial Recreation Land Use Permit;
2. Research Land Use Permit;
3. Sand, Gravel, and Rock Mining Land Use Permit;
4. Minerals and Coal Mining Exploration Land Use Permit;
5. Minerals and Coal Mining Operations Land Use Permit; and,
6. Oil & Gas Land Use Permit.

Alternative Energy permits were not developed, since most of the alternative energy projects will occur within AEB City Boundaries and addressed by cities that have been delegated platting and land use planning and permitting authority by the Borough. Alternative Energy projects completed within city boundaries would be subject to a city land use permit, and not a Borough land use permit.

At the October 2013 Planning Commission Workshops, the Planning Commission requested several changes: (1) the Minerals and Coal Mining Exploration Permit be revised to also include small mining operations to provide for expedited permits for small mining operations, (2) the addition of onshore and offshore seafood processing permits. Therefore, a total of 8 permit types have been developed.

1. Commercial Recreation Land Use Permit;
2. Research Land Use Permit;
3. Sand, Gravel, and Rock Mining Permit;
4. Minerals and Coal Exploration and Small Mining Operations Land Use Permit;
5. Offshore & Direct Marketing Seafood Processing Land Use Permit;
6. Onshore Seafood Processing Land Use Permit;
7. Large Mining Operations Land Use Permit; and,
8. Oil & Gas Permit.

2. Commercial Recreation Permits

2.1. What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that includes Fishing & Hunting Guides, and Eco-Tourism.
- ✚ Develop a permit application and standard stipulations that can be processed administratively by AEB staff without requirement for public review, Planning Commission, or Assembly action.
- ✚ Minimize duplication with existing state and federal requirements.

2.2. How many Commercial Recreation Operators are currently operating in AEB?

There are approximately 40 Commercial Recreation Operators working in AEB's boundaries on state lands.

- In 2012, the Alaska Department of Natural Resources (ADNR) received 25 Commercial Recreation Permit applications for a total of 17,277 visitor days in the AEB area for ADNR Management Areas 9E (part), 9D and 10 (part) that overlap with AEB boundaries.
- The State of Alaska also requires fishing and hunting guides to obtain licenses. As of 2012, there are approximately 15 guides and transporters currently operating in AEB area.

The activity data for federal lands, AEB lands, and private lands within the AEB's boundaries is sparse. It is unknown how many additional Commercial Recreation Operators are working on these lands.

It is proposed that Commercial Recreation be defined to mean the commercial provision of services in support of any of the following: fishing, hunting, camping, eco-tourism, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips, snow machine trips, sight-seeing, bird watching, wildlife viewing, hotels and lodges, and tours and does not include Casual Recreational Use. Therefore, we expect that this could include several dozen more Commercial Recreational Operators.

Our best estimate is that 60-80 permit applications could be submitted per year.

2.3. What information does AEB have on file about Commercial Recreation Activities?

In 2007, AEB included some new information on Commercial Recreation Activities in the draft Coastal Zone Management Program (CZMP) documents. The CZMP said:

"Sport hunting and fishing are increasing in the borough, both by sportsmen using commercial guides and by independent hunters and fishers. Hunting and fishing activities provides income to local residents through employment opportunities as guides and through support industries such as sales of supplies and transportation services. The benefits of

increased sport hunting and fishing may be accompanied by increased competition for traditional subsistence resources by area residents.

Goal 4A: Increase benefits to local residents from commercial recreation activities.

Objective: Encourage local employment opportunities.

- *Inform residents about employment opportunities.*
- *Work with guides to encourage local employment.*

A project initiated by the AEB in 1997 evaluated the tourism potential for 5 communities in the borough: Sand Point, King Cove, False Pass, Akutan, and Cold Bay. The project involved workshops in each of these communities as well as an inventory of attractions. Nelson Lagoon chose not to participate in the project due to a lack of interest in developing tourism, but some people in the community have recently become interested in expanding the economy through limited tourism. Unless otherwise noted, the information in this resource inventory is from that study (AEB 1998).

Although currently undeveloped in the borough, tourism has the potential to expand the economy. It has the 3rd largest impact on the Alaska economy after oil and gas and seafood. The high costs of transportation and the lack of infrastructure and marketing are obstacles to expanding this sector. The area's unique attractions, however, may attract "niche visitors," especially those who have traveled to Alaska previously.

For the purposes of 11 AAC 114.270(a), resources related to recreation include any natural or manmade feature that attracts people to recreate in an area including scenery, hiking trails, mountains, water bodies, plants and animals, camping areas, and backcountry areas. Uses or activities that can affect or be affected by recreation include subsistence uses and resources, fish and wildlife, sport hunting and fishing, fish and wildlife enhancement, cultural uses, commercial fishing, seafood processing, independent backcountry recreation, hiking, off-road vehicle recreational use, commercial recreation, tourism, development of transportation and utility routes and facilities, sand and gravel extraction, onshore and offshore mining, onshore and offshore oil and gas exploration and development, housing and subdivisions, remote camps, and off-road travel. Natural hazards are a concern to the extent they could affect recreation resources or uses by themselves or in combination with project effects.

Currently, business travelers represent the bulk of visitors to the area (DCED 1997). These travelers often participate in additional tourism activities that they did not include before they began their trips. Most vacation or pleasure trips are related to hunting and fishing activities. There has been a modest growth in cruise ship visits to the area, especially to Sand Point and Cold Bay. These visits involve small cruise ships and larger ships during positioning cruises to the Far East.

A survey completed by the Southwest Alaska Municipal Conference found that the typical visitor to Southwest Alaska is a second time traveler to Alaska, college educated, and between the age of 40 to 50. Only 11% of the visitors to Southwest Alaska, however, traveled to the Aleutian Islands (DCED 1997). The most common activities of the visitors include photography, day trips, hiking, wildlife viewing, and experiencing Native culture.

A number of strategies have been suggested to expand the market to “niche visitors” interested in birding, wildlife viewing, ecotourism, and heritage tourism. Specific strategies identified include the following:

- *Target airline employees and frequent flyer travelers,*
- *Partner with other organizations such as the Southwest Municipal Conference and Unalaska-Dutch Harbor Convention and Visitors Bureau,*
- *Encourage longer port visits by the Alaska Marine Highway vessels,*
- *Expand opportunities for intra-region air transportation,*
- *Develop air-sea packages (similar to those used in other rural regions of Alaska),*
- *Establish additional museums (e.g., a military museum in Cold Bay), and*
- *Convert unused buildings into tourism facilities (e.g., the former fish hatchery in Cold Bay).*

Cold Bay has a potential to become an air hub for the entire Aleutian Islands. The AEB is currently seeking funds to construct a larger air terminal that could accommodate more passengers than the existing terminal.

The major challenges to tourism development include the cost of transportation, the lack of infrastructure, and the lack of a unified vision for tourism development in the individual communities. Visitors expect certain basic services such as restrooms, lodging, camping areas, trash disposal, interpretive signs, and food service. In addition, without adequate customer service training, expectations of visitors may not be realized.

Ecotourism is an area that shows promise for expansion. This type of experience focuses on teaching environmental preservation values and practices.

Visitors are attracted to the region because of its physical beauty of the region, its history, and opportunities for sport fishing, hunting, wildlife viewing and other outdoor activities. The environment is characterized by windswept mountains and a nearly treeless landscape. Five species of salmon, halibut, crab, pollock and other fish populate the waters. Several volcanoes in the borough are part of the Pacific Ocean’s “Ring of Fire.”

Almost every community offers opportunities for beach coming, hiking, fishing, wildlife viewing, and hunting and fishing. World-class birding opportunities exist in most areas of the borough. The national wildlife refuges, historic sites, active volcanoes, and the strong Aleut culture are of interest to visitors. A brief discussion of each community follows.

Akutan: Akutan is located on one of Krenitzin Islands in the western end of the borough. It was established in 1878 as a fur storage and trading post. Between 1912-1942, the only whaling station in the Aleutians was located in this community. During WWII, it became a strategic military site, and residents were evacuated to Ketchikan.

The only way to travel to Akutan is by boat or by amphibious aircraft from Unalaska. There are no roads, but the community has a system of boardwalks. The community has a museum, nearby hot springs, the 4,275-foot Akutan volcano, and the Alexander Nevsky Chapel, a Russian Orthodox church was constructed in 1918. Other potential attractions include a former sulfur mine, a light house and opportunities to view wildlife including minke and pilot whales, orcas, porpoise and rare birds such as the whiskered auklet and the ancient murrelet. There are also wild cattle on the

island. The community hosts one of the largest onshore fish plants in Alaska. Old village sites on nearby Avatanak and Akun Islands may also be a potential attraction. There is a hotel available with limited space, and meals can be arranged through the local fish processing plant.

Cold Bay: Located in the Izembek National Wildlife Refuge, Cold Bay is a former military site located in an area formerly inhabited by a large Native population. The largest eelgrass system in North America is located near the community. The area was used by European hunters and trappers throughout the 19th century. During WWII, Cold Bay was the site of Fort Randall, an important air base.¹ Access to the community is available through daily air service from Anchorage, by boat or by monthly Alaska Marine Highway ferry service between May and October.

Attractions include the three volcanoes that may be viewed from the community including local Mt. Frosty and Mt. Pavlof and Mt. Shishaldin. The military history, including the remains of the WWII base and evidence of Russian occupation, and Native culture provide historic interest. Sport hunting and recreational fishing is available through local guides. There are over 140 species of birds that use the area, and scenic overlook shelters are located at Grant Point and Izembek Lagoon. Roads through portions of the Izembek National Wildlife Refuge provide a unique access because few refuges have roads. Festivities over the Labor Day weekend include a Silver Salmon Derby, a polar bear dip and a community potluck. Also, there is potential to convert the former fish hatchery into a tourist facility.

Some infrastructure exists in the community including a hotel, lodge, dining facilities, rental car facilities, and a store. The dock is able to accommodate cruise ships.

Sand Point: Founded by Russians in the 1870s, Sand Point later became a cod fishing station. Scandinavian fishermen joined the Aleut population. During the early 20th century, Sand Point became a repair and supply center for gold miners. During the 1930s, fish processing gained in importance.

Sand Point hosts the largest fishing fleet in the Aleutians. A major bottomfish and salmon processing plant employs many residents. There is daily jet service to Anchorage, and monthly ferry service between May and October. Cruise ships occasionally stop in the community. There are 5 restaurants, a hotel and a bed and breakfast. Some of the residents hold 6-pack licenses, local charters are available, and there are local guides.

The area provides numerous attractions including a petrified forest, an agate beach, a wild bison herd, and several old gold mines. The petrified forest, located on the western side of Unga Island, is thought to be 25 million years old, and some of the stumps are 9 feet in diameter (Joling 2004, Eakins 1970). Historic resources include the St. Nicholas Russian Orthodox church and the abandoned Unga Village on Unga Island.

King Cove: The community of King Cove was founded in 1911 with the establishment of a salmon cannery. Early settlers included Scandinavian and Aleut fishermen. It is currently one of the largest communities in the Aleutians with a large fish processing plant.

¹ At its peak Fort Randall has over 20,000 soldiers stationed there.

Access is provided mostly by air with monthly ferry service May through October. Upon completion of the road-ferry link to Cold Bay, the community will become more accessible. King Cove is located near the Alaska Peninsula National Wildlife Range, and there are views of Mt. Pavlof and Mt. Shishaldin visible from town. The community, however, is not united in its support for tourism.

False Pass: False Pass is a small community located on east end of Unimak Island. It is located within the Alaska Maritime National Wildlife Refuge. It is an important refueling stop for commercial fishermen.

Access to the community is provided by air with "whistle-stop" ferry service May through October. There is tourism potential for sport fishing, hunting, hiking and wildlife viewing. Daytrips would include flightseeing tours of the local volcanoes. Other attractions include hiking opportunities to views of both the Bering Sea and Pacific Ocean, bamboo fossils, and abandoned Aleut villages with earth dwellings called barabaras. Most community members appear to support expanding tourism development. Although there are no hotels, bed and breakfast arrangements can be made.

Nelson Lagoon: The community of Nelson Lagoon is a small community located on a thin peninsula between the lagoon and the Bering Sea. There are hotels in the community but no stores or restaurants. Although the community did not participate in the 1997-1998 tourism study, some members of the community support limited tourism development. Some residents provide guiding services to hunters.

The resource analysis begins with a statement of why recreation and tourism are a unique concern to the AEB and its residents followed by a discussion of the sensitivity of this use to development. The resource analysis ends with a discussion of potential conflicts and affects from tourism and recreation activities.

Tourism and recreation is a unique concern to the AEB and its residents for several reasons. First, local residents use the areas in the borough for recreational hunting, fishing, hiking, and camping. Second, the tourism and recreation sector has the potential to diversify the economy. Third, an expansion of tourism and recreational activities has the potential to conflict with other uses and disrupt local residents.

Many areas used for recreation and tourism are extremely sensitive to development. Areas particularly sensitive to development are discussed in Section 6.6.3.2. Recreation and tourism activities are sensitive to competing uses that affect the quality of the experience, including disruption to viewsheds, noise disturbance and blockage of access.

Tourism and development of recreational opportunities have the benefit of expanding the economy through provision of local employment and purchases of goods within the communities. Tourism can compete with other uses, however, and impact communities and coastal resources.

Local Employment: Tourism jobs are typically low paying and seasonal in demand during the same period as local commercial fisheries openings. Many regions in Alaska report that lodges often employ people from outside the region with little local benefit. Local hunting and fishing guides in the AEB, however, are reaping some benefits of the visitor industry.

Competition with Subsistence: An increase in sport hunting and fishing by people from outside the region has the potential to compete with subsistence users. Given likely scenarios for expansion of recreational hunting and fishing, local populations of fish and wildlife would not likely be significantly affected. Specific areas used by residents, however, could receive additional pressure.

Access: Development in remote areas can affect recreation by reducing access, altering viewsheds, or degrading the recreation experience. When public land is transferred into private ownership and when private land used for recreation is developed, important access to backcountry areas can be affected. As well, development can have both positive and negative effects to recreation experiences. For some recreational users, manmade development can augment a recreation experience such as ATV trails, old cabins, mining ruins, and former cannery sites. For enthusiasts who enjoy a back country recreational experience, any change to a viewshed or the landscape might be considered an adverse impact.

Trespass: Trespass by recreation users on private land, including Native allotments, can conflict with local users. Unauthorized use of private lands provides a conflict as well as other effects such as vandalism or littering.

Conflicting Recreational Uses: Certain types of recreation can conflict with other types of recreation. For example, some non-motorized recreation users object to any motorized use of trails. Other impacts from recreation use include an increase in litter, improper disposal of human waste, overuse of trails leading to soil degradation, and the effects of increased use on the backcountry experience.

Wildlife Conflicts: Recreation has the potential to conflict with fish and wildlife through over-hunting of specific populations or by over use of an area. At some point, increased presence of visitors may displace animals. Overuse of camping spots or trails can result in erosion and compaction of soil. In addition, as areas frequented by bears become more highly used by humans, there is a potential for a conflict resulting from the need to defend life or property.”

2.4. What are the benefits and options for expanding AEB’s Permit System to include Commercial Recreation?

-  **Activity Data:** Gain an improved understanding of commercial recreation activity occurring within the AEB’s boundaries (permit applications provide operator and activity data).
-  **Required Licenses:** Ensure that operators have required local, state and federal credentials before conducting business in the AEB (e.g., Guide Licenses, USCG License, State Business License, City Business Licenses or Registrations).
-  **Land Ownership and Access Verification:** Ensure operators have legal access from land owner to access and operate a commercial recreation business on state, federal, private, or AEB land. Mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit.
-  **Waste Management Plan:** Ensure that human waste and other trash is properly handled.
-  **Emergency & Medical Plan:** Ensure the operator has an emergency and medical plan in place.

- ✚ Surety Bond: Provide funds for reclamation or mitigation for permits that include structures, roads, runways, fuel, or chemical storage, or waste handling.
- ✚ Application Fee: Establish a permit application fee to offset a portion of the cost of administering the permitting program.
- ✚ Enforcement and Compliance: Establish a process to enforce non-compliant operators.

2.5. What additional work would be required for AEB?

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to all known Commercial Recreation Operators, land owners within the AEB boundary, and lodges and facilities commonly used by Commercial Recreation Operators notifying them of the new AEB permit requirement. AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in airports, lodges, and other public locations within the AEB. Additionally, it would be useful to notify the Alaska Department of Fish and Game (ADF&G), the Alaska Department of Natural Resources (ADNR), and the Department of Interior (DOI) of this new requirement. These agencies permit many of the same Commercial Recreation Operators and may be willing to place a link on their website or advise operators of the new AEB requirement. Periodic notifications could be made in the same manner, each year or every two years.

During our research we identified several sources of information that could be useful in the outreach effort:

- The State of Alaska maintains a list of approved hunting and fishing guides operating in AEB Guide Use Areas; these operators could be notified annually by mail.
- ADNR and the DOI, Bureau of Land Management (BLM) requires commercial recreation permits on state and federal land; operators could be notified annually by mail.
- Private land in the AEB may be leased by Native Corporations, Tribes, or Private Landholders to Commercial Recreation Operations. A letter to all landholders, or at least the major landholders could be issued annually.
- AEB staff could conduct internet searches to identify Commercial Recreation Operators advertising trips in AEB area.

Permit Processing:

- There will be additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial to AEB Administrator and process permit paperwork).
- There will be additional accounting to process permit fees.
- The AEB Administrator will need to issue permit decisions (approval, elevation or denial).
- If a controversial or complex permit is elevated to the Planning Commission by the AEB Administrator, a hearing with public notice will be held to make a permit decision.

Compliance and Enforcement:

- AEB staff (or contractors hired by AEB) would need to periodically verify field compliance. This could be done on a routine basis or be complaint or compliance driven.
- We have included an annual reporting requirement for February 1st of each year. AEB staff would need to review those reports and contact the operator to follow-up any problems identified.
- AEB staff along with the AEB Administrator would need to complete enforcement action, when required to bring Commercial Recreation Operators into compliance.
- A controversial or complex enforcement action may be elevated to the Planning Commission and/or Assembly requiring their involvement.

2.6. What other Alaska Boroughs require Commercial Recreation Permits?Lake and Peninsula Borough

- Applies to professional guides;
- \$25 annual application fee, plus tax structure based on # visitors/day plus \$250/camp;
- Prohibited from conducting business unless in compliance;
- Failure to obtain a permit = 5% of permit fee for each 30 day period of non-compliance;
- Delinquent fees are subject to interest and L&P administrative costs for collection; and,
- Defines Professional Guides and Lodge Operators, separate and distinct from casual recreational use.

NW Arctic Borough

- Applies to Commercial Transporters;
- \$350/yr application fee (10 trips or less); \$500/yr (more than 10 trips);
- Permit goal is to avoid trespass, ensure proper waste handling and that operator has legal F&G access;
- Penalty of \$500-\$1,000 per trip for failure to obtain a permit and no permit issued for a three year period; and,
- Reporting/complaint Form for residents to report concerns about commercial transporters.

North Slope Borough

- Applies to Fishing & Hunting Guides, Commercial Transporters, Boat Tours, Hotels/Lodges, Eco-Tourism, and Adventure Guides Roadside Services along Dalton Highway;
- \$300 for 3 year term or \$125/yr (development permit); \$500 for 3 year term or \$200/yr (conditional development permit that requires Planning Commission approval and hearing); \$100 per permit amendment;
- Permit goal is to avoid trespass, ensure proper waste handling and that operator has legal F&G access;
- Requires \$25,000 surety bond for permits that include structures, roads, runways and fuel or chemical storage;
- Requires \$100,000 liability insurance to cover NSB rescue costs or proof of own emergency response capability;

- Penalties: \$2,500 (failure to apply for permit); \$100 violation self-reported within 24 hours (no adverse impact); \$1,000 violation self-reported within 24 hours (adverse impact); \$5,000 violation found by borough, plus cost of investigation and cost of experts; and,
- Report/complaint Form for residents to report concerns about commercial recreation operators.

Other Boroughs – No Specific Requirement

- Aleutians West Borough – No Commercial Recreation Permit.
- City of Dillingham – No Commercial Recreation Permit.
- Bristol Bay Borough – No Commercial Recreation Permit.
- Kodiak Island Borough – Conditional Use Permit required for lodges with over 6 guests.
- Mat-Su Borough – Permit required for structures over 480 ft².
- Kenai Peninsula – No Commercial Recreation Permit.
- Fairbanks Northstar Borough - locations where equipment or supplies are stored, where money is collected, and meeting places are subject to a zoning permit depending on the location.

2.7. Does the State of Alaska require Commercial Recreation Permits on state land?

State of Alaska – Department of Natural Resources (ADNR)

- Commercial Recreation Permits required on State land;
- \$25/year online; \$50/year paper application;
- ADNR is collecting data to make land use decisions; and,
- Appears that ADNR Management Areas 9E (part), 9D and 10 (part) overlap with AEB boundaries; and, in 2012 ADNR received 25 Commercial Recreation Permit applications for a total of 17,277 visitor days.

2.8. Does the State of Alaska require Fishing and Hunting Guide Licenses?

State of Alaska – Licensing

- Guide and Transporter Licensing required;
- Limits hunting and fishing guides per guide use area;
- There are guide use areas designated on a map covering the AEB area;
- A specific list of credentials, experience and training is required to obtain a license; and,
- Appears to be approximately 15 guides and transporters currently operating in the AEB area as of 2012.

2.9. Does the Federal Government require Commercial Recreation Permits on federal land?

Department of the Interior (DOI) Bureau of Land Management (BLM)

- Special Recreation Permits are required on Federal Land (e.g., hunting, fishing & eco-tourism, etc.);
- Permit application fee is \$95/yr, plus 3% of gross revenues for goods and services at the end of the season;
- \$300,000 liability insurance per person, \$300,000 per occurrence, \$25,000 property damage, and \$600,000 minimum annual insurance;

- Performance bonds (typically \$2-4K depending on activity) to cover cleanup and restoration; and,
- Requirement to provide evidence of any other state or federal required permit or license.

2.10. Recommendation for AEB

It is recommended that the Commercial Recreation Operator Permit:

- ✚ Require the Operator to describe the type, location, and timing of its activities: to gain an improved understanding of commercial recreation activity occurring within the AEB's boundaries.
- ✚ Require the Operator to provide a copy of all required licenses: to ensure that operators have required local, state and federal credentials before conducting business in the AEB.
- ✚ Require the Operator to provide information on land ownership and access: to ensure that operators either own the land or have legal access from land owner to operate a commercial recreation business on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit.
- ✚ Require a waste management plan: to ensure that the operator has thought through how it will handle all types of waste streams it will generate during the course of operating its business and ensure that human waste and other trash is properly handled.
- ✚ Require an Emergency & Medical Plan: to ensure that the operator has thought through how it will handle emergency and medical situations that may arise during the course of operating its business.
- ✚ Require information on temporary and permanent facilities and equipment used: to gain an improved understanding of commercial recreation activity occurring within the AEB boundaries.
- ✚ Application Fee: establish a permit application fee to offset a portion of the cost of administering the permitting program.
- ✚ Include a standard set of stipulations: to clarify the AEB's terms, conditions and expectation.

We are proposing to require an annual permit that starts on January 1st and ends December 31st each year. An operator in good standing and in compliance could renew its permit for the following year. A report would be due February 1st of each year, describing the prior year's activities, and certifying compliance with the permit.

We are proposing that this permit be administratively approved by the AEB Administrator with no public comment period.

After considerable discussion with AEB staff, a Surety Bond and Insurance, required by some other government entities was not included. Requiring an additional surety bond and insurance in the AEB Commercial Recreation Operator permit would be duplicative of bond and insurance requirements already required by landowners (e.g., private, state and federal), and may make business operation uneconomic for a small business owner.

AEB staff felt that it was most important for AEB to ensure that a Commercial Recreation Operator has legal access to private, AEB, state or federal land prior to issuing a permit. Legal access may come in the form of a lease, contract, permit or license that will typically include a surety bond and insurance requirement. Therefore, it would be the responsibility of the private landowner, state or federal government to include surety bond or insurance requirements in legal access documents executed with a Commercial Recreation Operator on their lands.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for Commercial Recreation Operators to access AEB land, and one will need to be drafted with AEB legal counsel to have on hand.

2.11. What changes did the Planning Commission recommend in October 2013?

- ✚ **Exempt Native Corporations and Tribes (that have land in AEB) from participating in the Commercial Recreation Permit.** Native Corporations and Tribes (that have land in AEB) were excluded from the definition of Commercial Recreation.
- ✚ **Exempt local residents from obtaining a Commercial Recreation Permit if they are just providing boat, vehicle or air transportation to a fishing/hunting/or commercial recreation spot, but not serving as a hunting or fishing or commercial recreation guide. Research the state requirements for guides and transporters.** Local residents that solely provide transportation services were excluded from the Commercial Recreation Operator definition. An advisory was placed in the permit to warn applicants that while AEB doesn't require a transporter permit, that local residents should be aware of state and federal transporter licensing and certification requirements.

Research: Guides and Transporters do require licenses/certification at state level. Although this does not mean that AEB cannot exempt transporters from local requirements.

- FAA and the State of Alaska requires all taxi operators to be certified and licensed. See <http://www.adfg.alaska.gov/index.cfm?adfg=hunting.transporters>
- Alaska law requires a big game guide to possess a current active guide license. You can check on guides and their licensing in several ways. A printed list of licensed Alaska guides is available for \$5.00 payable to the "State of Alaska." The list includes all currently licensed master guide-outfitters, registered guide-outfitters, the areas where they are licensed to operate, as well as a list of all currently licensed transporters. If you are interested in obtaining the licensed Alaska guide-and-transporter list or wish to check the status of a guide's license, contact the [Alaska Division of Occupational Licensing](#). You can also look up guides and/or transporters and have a list emailed to you by using that division's [Professional Licensing Data Retrieval System](#). Another source of information is the Alaska Professional Hunters Association, which represents many guides and outfitters. Finally, you can [locate a guide in your game management unit](#) and find out what contracting guides are available in that area by visiting: <http://www.dced.state.ak.us/occ/apps/GuiUseReg.cfm>.

- More experienced and independent hunters may wish to hire a transporter instead of a guide. These are licensed individuals and companies are able to move hunters to more remote areas by bush plane, boat, horse, ATV, snow machine, or even highway vehicle. Many resident hunters use transporters as well since they tend to be much less expensive than full guide services. As transporters and not guides, they are prohibited from providing guiding services, hunting advice, or accompanying hunters in the field except as needed to provide transportation services. Guides might also offer outfitted-only hunts at lower rates where they still provide transportation and camps.
- ✚ **Add outfitters to the commercial recreation definition.**
- ✚ **Revise flowcharts and permit instructions to state that appeals go to the Board of Adjustment, not the Assembly.**

3. Research Permits

3.1. What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that requires all scientific research projects in AEB (in support of Resource Development) to obtain a study permit.
- ✚ Develop a permit application and standard stipulations that can be processed administratively by AEB staff without requirement for public review, Planning Commission or Assembly action.
- ✚ Minimize duplication with existing state and federal requirements.
- ✚ Inspections and audits are not necessary, unless a problem is reported.
- ✚ Require a copy of the study report to be submitted to AEB as a permit stipulation.
- ✚ AEB should define the term “scientific research projects (study) permits” in the code so it is clear that the permitting requirement would only apply to studies conducted in support of resource development projects.

3.2. How many Researchers are currently operating in AEB?

The activity data on the number of research projects currently underway in the AEB is sparse. A number of studies occur on federal lands, and we suspect the state and private companies may be conducting studies as well.

We are proposing to define research broader than residents recommended under Task 1. We are proposing to define research to include all research projects conducted by Professional Researchers anywhere within the AEB Boundaries. This way AEB can become more aware of all the research that is being performed, and require a copy of each final study to be submitted to AEB. More specifically, we are proposing the following definitions.

“Research” means research conducted by Professional Researchers that requires field work anywhere within AEB boundaries, and may include one or more of the following types of research:

- (a) wildlife, habitat or other biological research;
- (b) air quality, meteorological, water quality, hydrological studies, or soil research;
- (c) archeological or paleontological research for artifacts relating to human and prehistoric animal life;
- (d) geological surveys that result in minimal disturbance of the ground surface, excluding: two dimensional or three dimensional seismic surveys run in search of oil, gas, or other minerals; drilling of holes; or excavation;
- (e) socioeconomic research;
- (f) land surveying or mapping;
- (g) engineering assessments; and/or,
- (h) any research or studies required to support Resource Development.

“Professional Researcher” means a person, company, or organization that conducts on its own behalf, or is funded to conduct research on another’s behalf, including, but not limited to a: organization or company operating for profit; non-governmental organization; local government; state government; federal government; or university. Research conducted by local elementary, junior-high or high-school students in support of school educational activities is excluded from this definition.

“Research Conducted in Support of Resource Development” means Research conducted by a Resource Development Operator, or a Professional Researcher hired by the Resource Development Operator, to conduct research to support a Resource Development Project.

“Research Conducted for Other Purposes” means Research conducted by a Professional Researcher for any other purpose than to support a Resource Development Project.

We do not have a good estimate of the number of permit applications that might be submitted at this time; more activity data is needed and would be obtained during the permitting process. Our best guess at this time would be 10-25 research projects conducted concurrently. We are proposing to require one permit per research project, but that permit would last for the life of the research project or five years whichever comes first. Therefore, we estimate that there may only be 5-10 permits issued per year, since most research projects are multi-year efforts.

3.3. What information does AEB have on file about Research Activities?

Over the years, AEB has collected and filed research project studies when provided by federal, state, or private developers, or when conducted by AEB. However, AEB’s records on research conducted within AEB boundaries are incomplete, because there is currently no requirement to obtain a land use permit to conduct research and no formal requirement to provide AEB with a final copy of the research report. We are proposing that all Professional Researchers be required to obtain a permit and provide a final copy of the report to AEB under this proposed permit system. This process will improve AEB’s repository of data on the AEB area, and may reduce AEB’s own current and future research costs.

3.4. What are the benefits and options for expanding AEB’s Permit System to include Research Permits?

- ✚ Activity Data: Gain an improved understanding of research activity occurring within AEB boundaries (permit applications provide operator and activity data).
- ✚ Request Copy of Research Product: The main objective would be to obtain a copy of the research so that AEB can compile a copy of research conducted in AEB.
- ✚ Required State and Federal Approvals: Ensure that operators have required local, state and federal authorizations before conducting research (FWS, ADNR, NPS, BLM, etc. all have research permit requirements).
- ✚ Land Ownership and Access Verification: Ensure operators have legal access from owner to access lands to conduct research (state, federal, private, AEB, etc.). Mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access.

- ✚ Waste Management Plan: Ensure that human waste and other trash is properly handled. Or AEB could require a waste management plan to be submitted as part of the application.
- ✚ Emergency & Medical Plan: Ensure that operator has a plan in place. Or AEB could require an emergency & medical plan to be submitted as part of the application.
- ✚ Surety Bond: Provide funds for reclamation or mitigation for permits that include structures, roads, runways, fuel or chemical storage, or waste handling.
- ✚ Insurance: Some boroughs are requiring an insurance policy with the borough as a named insured to cover search and rescue or prove that operator has own emergency service capability. Since AEB only has volunteer EMS in cities, this would not apply.
- ✚ Application Fee: Establish a fee to offset, or possibly fund some of the costs of administering the permitting program.
- ✚ Enforcement and Compliance: Residents proposed enforcement only on a complaint basis.

3.5. What additional work would be required for AEB?

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to all known Professional Researcher (federal agencies, state agencies, and universities), land owners within the AEB boundary, and consultants that have worked or are known to work in the AEB area, notifying them of the new AEB permit requirement.

AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in airports, and other public locations within the AEB. Periodic notifications could be made in the same manner, each year or every two years.

Permit Processing:

- There will be additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial to AEB Administrator and process permit paperwork).
- There will be additional accounting to process permit fees.
- The AEB Administrator will need to issue permit decisions (approval, elevation or denial).
- If a controversial or complex permit is elevated to the Planning Commission by the AEB Administrator, a hearing with public notice will be held to make a permit decision. We don't expect this will occur very often.

Compliance and Enforcement:

- AEB staff (or contractors hired by AEB) would verify field compliance only on a complaint drive basis or if a non-compliant issue arises. We don't expect this will occur very often.
- AEB staff would review the research reports received at the end of each study to consider new information that may be useful to AEB, and would need to develop an electronic document management system to catalog the reports.

- AEB staff, along with the AEB Administrator, would need to complete enforcement action when required to bring researcher into compliance. We don't expect this will occur very often.
- A controversial or complex enforcement action may be elevated to the Planning Commission and/or Assembly requiring their involvement. We don't expect this will occur very often.

3.6. What other Alaska Boroughs require Research Permits?

North Slope Borough

- Applies to all Study Work ("research") performed in NSB.
- NSB currently processes all research permits under its standard Land Use Permit Application Form, and processes the approvals as an administrative permit that is approved by the NSB Planning Department Director, with standard stipulations attached.
- \$1,500 permit fee, good for the duration of the research project.
- Application requires an explanation of the research project and where it will be conducted.
- NSB is currently working on a revision to its research application to reduce the fee for universities and non-profits to \$200, leaving all other research permits at \$1,500 (e.g., for profit companies and consultants).
- Permit collects: activity data (who is doing research); verifies land access approval (avoid trespass complaints/problems); transportation to site/site access; supporting equipment; and waste disposal and emergency plans.
- Reporting/Complaint Form for residents to report concerns about research operators.
- NSB requires additional land use permits if structures, roads, fuel or other land use impacts are included in the permit application.

Other Boroughs – No Specific Requirement

- Did not find any other boroughs in Alaska that had a specific research or study permit, except NSB.
- Most boroughs have a requirement to secure a permit if the research activity would include construction of a structure, road, or fuel/chemical storage, which would trigger a standard land use permit or building permit.

3.7. Does the State of Alaska require Research Permits on state land?

State of Alaska – Department of Natural Resources

- Land Use Permits required on State Land;
- \$100 per application; and,
- Bond and Insurance amount depending on type of activity.
- Focused on: collecting activity data (who is using state lands); understanding project scope; site access and whether there will be off-road travel (limits are set on off-road travel); understanding potential environmental impacts; waste handling; and, site restoration.

State of Alaska – Alaska Department of Fish and Game

- Scientific Permit Application.
- Appears to be registration and authorization only, no fee.
- Focused on: collecting activity data (who is using state lands); understanding project scope; and capture of specimens.
- Limits permits to those involved in “legitimate research” or those involved in a “formal scientific study.”

3.8. Does the Federal Government require Research Permits on federal land?BLM

- Requires a standard Land Use Application Form.
- Requires an additional Application for Paleontological Studies (no cost- registration and credential check only).

FWS

- Many types of Scientific Permit Applications required, depending on species and activity.

3.9. Recommendation for AEB

It is recommended that the Research Permit:

- ✚ Require the Operator to describe the type, location, and timing of its activities: to gain an improved understanding of research activity occurring within the AEB boundaries.
- ✚ Require the Operator to provide information on land ownership and access: to ensure that operators either own the land or have legal access from land owner to conduct research on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring researchers to provide a map showing the area of operation and proof of legal access as part of the permit.
- ✚ Require a waste management plan: to ensure that the researcher has thought through how it will handle all types of waste streams it will generate during the course of its research and ensure that human waste and other trash is properly handled.
- ✚ Require an Emergency & Medical Plan: to ensure that the researcher has thought through how it will handle emergency and medical situations that may arise during the course of operating its research.
- ✚ Require information on temporary and permanent facilities and equipment used: to gain an improved understanding of research activity occurring within the AEB boundaries.
- ✚ Application Fee: Establish a permit application fee to offset a portion of the cost of administering the permitting program.
- ✚ Include a standard set of stipulations: to clarify the AEB’s terms, conditions and expectation.

We are proposing to require a permit for each research project that would last for the life of the project, or five years whichever is less. If the research project extends more than five years, the

permit could be renewed as long as the researcher is in good standing with the AEB and in compliance with its permit.

We are proposing that this permit be administratively approved by the AEB Administrator with no public comment period.

After considerable discussion with AEB staff, a Surety Bond and Insurance, required by some other government entities was not included. Requiring an additional surety bond and insurance in the AEB research permit would be duplicative of bond and insurance requirements already required by landowners (e.g. private, state and federal), and may make research uneconomic.

AEB staff felt that it was most important for AEB to ensure that a researcher has legal access to private, AEB, state or federal land prior to issuing a permit. Legal access may come in the form of a lease, contract, permit or license that will typically include a surety bond and insurance requirement. Therefore, it would be the responsibility of the private landowner, state or federal government to include surety bond or insurance requirements in legal access documents executed with a researcher on their lands.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for researchers to access AEB land, and one will need to be drafted with AEB legal counsel to have on hand.

3.10. What changes did the Planning Commission recommend in October 2013?

- ✚ **Exempt Native Corporations and tribes from the requirement to obtain a research permit to conduct cultural surveys.**
- ✚ **Clarify in the Research Study Permit that seismic studies mean geological and geophysical seismic studies used to explore for, and identify commercial quantities of mining and oil and gas resources, not geophysical seismic studies conducted for earthquakes. And that earthquake monitoring equipment is exempt.** The definition of Mineral and Coal Exploration was revised to include seismic studies used to explore for, and identify commercial quantities of minerals and coal, because they are exempt from the research permit definition and need a permit.
- ✚ **Eliminate the Research Study Permit fee for non-profits and make it essentially a registration program only so that the Borough is aware of the activities and obtains a copy of the final study. Leave in penalties for non-profit researchers.**
- ✚ **Revise flowcharts and permit instructions to state that appeals go to the Board of Adjustment, not the Assembly.**

4. Sand, Gravel, and Rock Mining Permits

4.1. What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that would require all sand, gravel, and rock projects in AEB to obtain a permit.
- ✚ Develop a permit application and standard stipulations that can be processed administratively by AEB staff without requirement for public review, Planning Commission or Assembly action.
- ✚ Minimize duplication with existing state and federal requirements.
- ✚ Add stipulations that mitigate road dust, noise, heavy equipment damage to roads, and operating hour impacts on residents.
- ✚ Possibly have a two tiered permit system for small vs. large scale sand, gravel, and rock operations.

4.2. How many Sand, Gravel and Rock Mining Operations are currently operating in AEB?

AEB staff spoke to each community about existing sand, gravel and rock mining operations.

Akutan: There are no sand, gravel, or rock pits presently located in the Akutan Area. A source has been identified within city limits that would be used for the Akutan Harbor Road. Akutan has an active Planning Commission, and has been granted land use planning authority from AEB under AEBMC 40.01.020. Therefore, if mining operations were to occur within Akutan City limits it would not be permitted by AEB, instead Akutan would have land use permitting authority.

Cold Bay: The State of Alaska runs a sand/gravel operation that is operated within City Limits. The sand is used on the Cold Bay and Sand Point runways. Cold Bay has been granted land use planning authority from AEB under AEBMC 40.01.020, but does not have a Planning Commission or do permitting. AEB is in discussion with Cold Bay about whether it will retain its land use authority. It is possible this state mining operation would be required to obtain an AEB permit if Cold Bay relinquishes its land use planning authority.

False Pass: Isanotski Corporation runs a small river rock gravel operation, which is within City Limits and is used for local projects. They charge \$6 a yard. A contractor who obtained gravel out of the mine has paid a severance tax to AEB. This small river rock gravel operation would be required to obtain an AEB permit because False Pass does not currently have its own land use planning authority. This would change if False Pass is delegated land use planning and permitting authority.

King Cove: The King Cove Corporation has a gravel/rock operation, which is within City Limits. King Cove has been granted land use planning authority from AEB under AEBMC 40.01.020. Therefore, if mining operations were to occur within King Cove City limits it would not be permitted by AEB, instead King Cove would have land use permitting authority.

Sand Point: The Shumagain Corporation has three quarries; two are still active. All three quarries are located within City limits. The Aleut Corporation owns the subsurface. Sand Point has been granted land use planning authority from AEB under AEBMC 40.01.020. Therefore, if mining operations were to occur within Sand Point City limits it would not be permitted by AEB, instead Sand Point would have land use permitting authority. AEB's permit can also be used as a model for AEB cities to implement.

Nelson Lagoon: AEB staff has been with Nelson Lagoon to obtain activity data; none has been received from Nelson Lagoon at the time this report was printed for the October 10, 2013 workshop notebook.

We did not locate information on any other sand, gravel or rock mining operations currently operating in AEB. Therefore, it appears that a permit would only be required for one mining operation in False Pass at this time. If larger metallic mineral mining or oil and gas operations were to occur, more extensive sand, gravel and rock mining would be needed to support development of these project's infrastructure within AEB's boundaries outside the city limits. Therefore, we estimated that there will be very few sand, gravel and rock mining permits at this time. However, AEB decided to develop the permit for future use, while funding was available for this project from the State.

4.3. What information does AEB have on file about Sand, Gravel and Rock Mining Potential in AEB?

In 1985, AEB included some new information on Sand, Gravel and Rock Mining Potential in its Coastal Zone Management Program (CZMP) documents. The CZMP said:

"Within the Aleutians East CRSA, sand and gravel materials are used in communities throughout the region for roads, building pads, and airstrips and airports. Development activities which necessitate the construction of roads, airstrips, ports, pipelines, transmission lines, offshore islands, breakwaters, jetties, causeways, river training structures, and facility sites will also require the availability of sand, gravel, and rock construction materials. Depending on the construction requirements, these materials may be available as unconsolidated deposits in active river channels, floodplains, abandoned floodplains, beaches, spits, or sea bottom deposits. Where these materials are not available or located at a significant distance from the site of use, extensive transportation systems may be constructed or suitable rock materials available near the development site may be crushed and processed to provide select construction materials.

River floodplains, beaches, spits, and barrier islands are attractive sources of sand and gravel materials due to their wide distribution, ease of access, and lack of overburden. However, these sites of naturally-occurring deposits may also be the most sensitive to sand and gravel removal due to the necessity of operating within flowing water systems, impacts of turbidity and sedimentation on biological resources, and the disturbance of natural processes which originally led to deposition of the sand and gravel material. In addition, removal of sand and gravel from aquatic systems can have a significant impact on the integrity of water sources and important fish habitats and on the hydrology of flowing water systems. The alteration of river hydraulic characteristics through active channel mining, removal of exposed gravel bars, and gravel mining along the banks can induce changes in the location and configuration of active channels. Care must be taken in the siting and operation of floodplain borrow sites to avoid changes in active channel locations which could threaten existing facilities or degrade important biological use areas.

Sand and gravel materials may also be obtained from upland sites such as glacial deposits, abandoned floodplains, and alluvial benches. Rock construction materials are commonly required for projects that must withstand erosion from longing water, waves, or ice, riprap or large blocks of rock, are used in breakwaters, jetties, river training structures (guide banks, spur dikes), bridge embankments, and where erosion protection or stabilization is required. Rock may also be crushed, screened, and washed to produce special purpose select materials.

Offshore mining for sand and gravel from the sea bottom would utilize the same methodology described in offshore mining of mineral deposits (Section 1.1.3.3). Extracted materials could be transported or pumped to onshore storage or use sites, or they may be used in the construction of coastal facilities such as causeways or artificial islands.

The procedures for extraction of sand, gravel, and rock resources are dependent on the type and quantity of material required, its location, the need for processing, and the time of the year. Heavy equipment including dozers, front-end loaders, dump trucks, and scrapers are commonly used where the deposit can be loaded directly onto transport equipment and delivered to the site of use. Where extensive vegetation or overburden is present, disposal sites are necessary to deposit the surface materials removed during clearing and exposure of the gravel deposit. Although most local use material mining sites are relatively small developments which operate for a short period of time, large projects can have a significant requirements for gravel, particularly in the construction of roadways, airstrips, and extensive transportation corridors.”

4.4. What are the benefits and options for expanding AEB’s Permit System to include Sand, Gravel and Rock Mining Permits?

- ✚ Activity Data/Development Plan: Gain an improved understanding of activity occurring within AEB boundaries (permit applications provide operator and activity data) and a development plan.
- ✚ Severance Tax: Obtain information via the permit process that will aid in the AEB’s collection of the severance tax.
- ✚ Reclamation Plan: Ensure there is a plan to reclaim the site, so the AEB is not left with liability.
- ✚ Required State and Federal Approvals: Ensure that operators have required state and federal authorizations (ADOR, ADFG, ADNR, ADEC, BLM, EPA, etc.).
- ✚ Land Ownership and Access Verification: Ensure operators have legal access from owner to access lands (state, federal, private, AEB, etc.).
- ✚ Conflict Avoidance Plan: (Fisheries and Subsistence Use).
- ✚ Local Economic Development Plan
- ✚ Transportation Plan
- ✚ Historical and Cultural Resources Protection Plan
- ✚ Waste Management Plan: Ensure that human waste and other trash is properly handled.
- ✚ Emergency & Medical Plan: Ensure that operator has a plan in place.

- ✚ Surety Bond: Provide funds for reclamation.
- ✚ Liability Disclaimer: Add a standard liability disclaimer to the permit stipulations.
- ✚ Application Fee: Establish a fee to offset, or possibly fund some of the costs of administering the permitting program.
- ✚ Enforcement and Compliance

4.5. What additional work would be required for AEB?

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to all known Sand, Gravel, Rock and Mining Operators, and land owners within the AEB boundary, notifying them of the new AEB permit requirement. The AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in public locations within AEB.

Periodic notifications could be made in the same manner, each year or every two years.

Permit Processing:

- There will be additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial to AEB Administrator and process permit paperwork).
- There will be additional accounting to process permit fees.
- The AEB Administrator will need to issue permit decisions (approval, elevation or denial).
- If a controversial or complex permit is elevated to the Planning Commission by the AEB Administrator, a hearing with public notice will be held to make a permit decision.

Compliance and Enforcement:

- AEB staff (or contractors hired by the AEB) would need to periodically verify field compliance. This could be done on a routine basis or be complaint or compliance driven.
- We have included reporting requirement where the operator would have to issue a close out report on its activities when the operation was concluded, or at least once every 5 years. AEB staff would need to review those reports and contact the operator to follow-up on any problems identified.
- AEB staff along with the AEB Administrator would need to complete enforcement action, when required to bring Operators into compliance.
- A controversial or complex enforcement action may be elevated to the Planning Commission and/or Assembly requiring their involvement.

4.6. What other Alaska Boroughs require Sand, Gravel and Rock Mining Permits?

Mat-Su Borough

- \$100 permit fee for administratively approved minerals extraction permit (20 acres or less).

- \$500 permit fee for conditional use minerals extraction permit (20 acres or less).
- \$1,000 permit fee for Interim Materials District permit (more than 20 acres).
- One permit application is used for all sizes of material extraction projects. It appears that there is a higher level of scrutiny on larger, more complex projects, hence the larger fee.
- Permit application includes: project scope; site plan; reclamation plan; evidence of compliance with state and federal laws, regulations and permit requirements.

Kenai Peninsula Borough

- \$50 permit fee for administratively approved minerals extraction permit.
- Permit application includes: project scope; site plan; and reclamation plan.

Juneau

- \$1,000 to \$1,600 permit fee depending on project size.
- Permit application includes: project scope; site plan; and reclamation plan.

North Slope Borough

- NSB currently processes all mining permits under its standard Land Use Permit Application Form, and processes the approvals as smaller mining operations (using a Development Permit that can be approved by the Planning Department Director) or larger mining operations (using a Conditional Use Permit that requires Planning Commission approval).
- \$2,000 permit fee (Development Permit); \$3,000 permit fee (Conditional Use Permit); both permits good for life of project once approved.
- Permit collects: activity data; verifies compliance with NSB coastal management requirements and allows the NSB to place standard mitigating stipulations on the permit.

Other Boroughs

- It appears that most of the other Boroughs permit sand and gravel operations under a land use permit. Most Boroughs have a land use permit that covers a wide range of businesses, and there are thresholds set for what size of a project might trigger a permit that must be approved by the Planning Commission/Assembly.

4.7. Does the State of Alaska require Sand, Gravel and Rock Mining Permits on state land?

State of Alaska – Department of Revenue

- Requires an aggregate/sand and gravel mining license.

State of Alaska – Department of Natural Resources

- Land Use Permits required on State Land.
- \$100 per application.
- Bond and Insurance amount depending on type of activity.
- Focused on: collecting activity data (who is using state lands); understanding project scope; site access and whether there will be off-road travel (limits are set on off-road travel); understanding potential environmental impacts; waste handling; and site restoration.

State of Alaska – Alaska Department of Fish and Game

- Extraction of materials (sand and gravel) sources below ordinary high water in a fish bearing water body requires an additional ADF&G permit.

- A Special Area Permit is required for projects within a State Game Refuge, Game Sanctuary or Critical Habitat Area.

State of Alaska – Alaska Department of Environmental Conservation

- Sept 2012 ADEC issued a Best Management Practices Manual for Gravel Extraction to Protect Water Supplies.
- An Alaska Pollutant Discharge Elimination System Permit (APDES) permit may be required depending on the amount of site disturbance, storm water runoff, and other water discharges from operation.
- An Oil Discharge Prevention and Contingency Plan (C-Plan) may be required for fuel storage more than 10,000 gals.

4.8. Does the Federal Government require Sand, Gravel and Rock Mining Permits on federal land?

BLM

- Requires a purchase contract to be in place. There is a small contract for \$2,000 or less, and a large contract for more than \$2,000 worth of materials removed from federal lands.
- There is a potential fine of \$100,000 and up to 1 year in jail for material removal from federal lands without a permit.

EPA

- An Oil Spill Response Plan may be required for fuel storage more than 1,320 gals.
- ADEC would handle Alaska Pollutant Discharge Elimination System Permit (APDES) if required depending on the amount of site disturbance, storm water runoff, and other water discharges from operation. (ADEC has been delegated primacy to implement EPA's NPDES Program in Alaska).

4.9. Recommendation for AEB

It is recommended that the Sand, Gravel and Rock Mining Permits:

- ✚ Require the Operator to describe the type, location, and timing of its activities: to gain an improved understanding of activity occurring within the AEB boundaries.
- ✚ Require the Operator to provide information on land ownership and access: to ensure that operators either own the land or have legal access from land owner to operate a mining business on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit.
- ✚ Require a waste management plan: to ensure that the operator has thought through how it will handle all types of waste streams it will generate during the course of operating its business and ensure that human waste and other trash is properly handled.
- ✚ Require an Emergency & Medical Plan: to ensure that the operator has thought through how it will handle emergency and medical situations that may arise during the course of operating its business.
- ✚ Require information on temporary and permanent facilities and equipment used: to gain an improved understanding of mining activity occurring within AEB boundaries.

- ✚ Application Fee: Establish a permit application fee to offset a portion of the cost of administering the permitting program.
- ✚ Include a standard set of stipulations: to clarify the AEB's terms, conditions and expectation.

We are proposing to require a permit for each Sand, Gravel and Rock Mining project that would last for the life of the project, or five years whichever is less. If the Sand, Gravel and Rock Mining project extends more than five years, the permit could be renewed as long as the miner is in good standing with the AEB and in compliance with its permit.

We are proposing that this permit be administratively approved by the AEB Administrator with no public comment period.

The most important concern for this permit is that: (1) mining operations do not adversely impact fish or habitat resources, and (2) that miners pay their severance tax as required. As proposed, the draft permit includes AEB's enforceable policies for fish habitat protection, limits on explosive use and in-stream mining operations and overburden disposal. The permit application also provides an advisory to the miner that AEB has a severance tax, and requires the miner to agree to comply with the severance tax payment as part of the application process.

After considerable discussion with AEB staff, a Surety Bond and Insurance, required by some other government entities was not included. Requiring an additional surety bond and insurance in the AEB Sand, Gravel and Rock Mining permit would be duplicative of bond and insurance requirements already required by landowners (e.g., private, state and federal).

AEB staff felt that it was most important for AEB to ensure that a Sand, Gravel and Rock Miner has legal access to private, AEB, state or federal land prior to issuing a permit. Legal access may come in the form of a lease, contract, permit or license that will typically include a surety bond and insurance requirement. Therefore, it would be the responsibility of the private landowner, state or federal government to include surety bond or insurance requirements in legal access documents executed with a miner on their lands.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for miners to access AEB land, and one will need to be drafted with the AEB legal counsel to have on hand.

4.10. What changes did the Planning Commission recommend in October 2013?

- ✚ **Modify all sand, gravel, rock, coal, and mineral mining permits to require submittal of pre- and-post survey requirements to verify the amount of materials extracted for Borough severance tax purposes, or an equivalent measurement method proposed by the applicant (subject to AEB approval) if a survey is cost prohibitive and not otherwise required. Research what Unalaska requires.**

Research: The City of Unalaska has a sales tax. The tax is assessed based on gross sale of commercial transactions. Unalaska does not require a survey.

Northwest Arctic Borough (where Red Dog Mine is located) levies a severance tax rate of 30 mills that is multiplied by the gross production value of resources severed including all commercial mining operations (See NWABMC Chapter 7.10). Every severer must register with the Borough and submit a severance tax return, under oath. NWAB's code states that it has the right to request any additional information reasonably necessary to compute the amount of tax due, including examining books, holding hearings, and/or conducting investigations.

5. Alternative Energy Permits (Wind, Geothermal, Hydroelectric, Solar)

5.1 What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that would require all alternative energy projects in AEB to obtain a permit.
- ✚ Alternative energy projects should be defined in the code and include wind, geothermal, and hydroelectric. Residents felt that wind, geothermal, and hydroelectric projects should be required to obtain a land use permit because of the potential adverse impacts on nearby humans (e.g., noise or aesthetics) or impact fish or wildlife.
- ✚ Develop a streamlined permit application, but require the permit to be subject to public review. There was concern that some alternative energy projects have been approved in AEB without sufficient opportunity to provide input.
- ✚ Minimize duplication with existing state and federal requirements.

5.2 What information does AEB have on file about Alternative Energy Project Potential in AEB?

In 1985, AEB included information on Alternative Energy Project Potential in its Coastal Zone Management Program (CZMP) documents, explaining that three types of projects are likely (wind, geothermal and hydroelectric). Solar Panels were not included. The CZMP said:

“ALTERNATE ENERGY SOURCES

Alternate energy sources which may be available to supplement or replace generation of electrical power by fuel-fired generators include wind, geothermal, and hydroelectric power. While fuel-fired generating systems can be developed in any location, specific factors must be present to take advantage of the potential energy generating capability of natural climatic conditions, geologic phenomena, or hydrologic conditions. In some instances, alternate energy power may be more practical in remote locations where availability of fuel is limited or is very expensive.

Wind Energy

To generate electrical power by wind, an air flow (wind) rotates the blades of a collector which drives a generator to produce electricity. Wind machines must have airfoil blades similar to those of an airplane propeller to attain the high speeds necessary for electrical generation. The blade rotation can be either horizontal (as in a windmill) or vertical. The electricity produced can be either alternating current or direct current, the latter having the capability to be stored in small capacity batteries.

Since winds are rarely continuous, wind generation of electrical power must be backed up by a diesel-fired generator. Wind generators have a high initial cost, are continuously exposed to weather, and require more frequent maintenance than conventional fuel-fired power generation systems.

A combination of alternative energy sources can be combined to provide a continuous supply of electrical power. For instance, wind-generated power could be used to pump water to a

reservoir that would support subsequent generation of hydroelectric power.

The physical structure required for development of wind power consists of a tower, rotating blades, and small facility to house the electric generating unit. Support and storage facilities are not required.

Geothermal Energy

Geothermal energy is derived from a naturally occurring heat source such as subterranean hot water or steam. The development of geothermal energy as a source of power depends on the presence of a geothermal heat source in proximity to the proposed area of power use. Heat provided by the geothermal source can be used for residential and industrial heating, gardening, or to power turbines which generate electricity. To operate the turbines, the geothermal heat source must be of a sufficient temperature and volume (output) to support the system. In Alaska, the use of geothermal energy is in preliminary stages of evaluation and development.

Hydroelectric Development

Hydroelectric power is generated by water flowing from a higher to a lower elevation. The flowing water spins a turbine which, in turn, drives a generator producing electricity. Hydroelectric developments can be of two types: 1) conventional, or those that use water only once, and 2) pump-storage which cycle water between an upper and lower reservoir. Plants can range in size from "estate-size" units capable of producing around one kilowatt of electricity to huge dam systems which can generate many thousands of kilowatts. The size and type of the systems is determined by the characteristics of the site, the need for power, and economic constraints.

There are two types of conventional systems: run-of-river and storage. A run-of-river plant uses naturally occurring stream flows modified by an impoundment or diversion. A storage system has enough storage capacity at the plant to regulate stream flows by storing water at times of high flows and releasing it during low flow periods.

Pumped-storage projects can be classified as either "on-stream" or "off-stream". In an on-stream system, some water is pumped from the river on which the plant is located to the reservoir above the dam. In an off-stream system, water is pumped from a lower reservoir on the stream to an upper reservoir located away from the stream. Both systems allow release of water over and above that in the stream itself during times of peak power demand.

Hydroelectric projects usually consist of: a dam, an impoundment, a penstock, a powerhouse, and transmission facilities. Aspects of construction of transmission lines are discussed in Section 1.1.5. Dams are usually concrete, earthfill, or a combination of the two. Penstocks are pipelines or trenches which conduct the water to the powerhouse.

Construction of a power system involves bringing workers and heavy equipment to the site. Roads and, if no suitable facilities are available, camps to house the workers must be built. If the dam is to be earthfill, a source of competent material must be located and access constructed to it. Earthfill dams are usually composed of impervious cores covered with large riprap to armor the structure. Requirements for materials are very exacting since the integrity of the dam depends upon it. Concrete dams require sand and gravel sources but do not have

the same requirements for large rock as do earthen dams. Dam construction often involved bank cutting and blasting to achieve the correct configuration of river banks and bed. The river may be diverted into another channel during construction or temporarily blocked by a smaller earthen structure in the future reservoir area. Heavy equipment then begins the process of bringing material to the site to build the dam itself while the powerhouse and penstock construction takes place at the same time.

The area to be covered by the impoundment is usually cleared of large vegetation and debris that could interfere with operation of the flow control and generation facilities. In the case of large projects, impoundments can be many miles long, changing formerly terrestrial habitat to aquatic habitat. Penstocks can be a system of troughs and trenches in an area fairly close to the dam itself or a pipeline system to a powerhouse as much as several miles away. Usually, in this case, water that has been run through the powerhouse is discharged back into the stream from which it originally came or, sometimes, into another stream or area.”

In 2007, AEB updated a draft of its Coastal Zone Management Program (CZMP) documents. Issue 9 from that work identified that the “high cost of petroleum products underscore the need to develop sources of alternative energy” in AEB. The 2007 work recommended that:

“The residents of the AEB depend on refined oil for heat and generation of electricity. Increases in the price of oil and inadequate power generation systems have resulted in a number of alternate energy project proposals in the borough during the late 1970s and 1980s. New technology, however, may make alternative energy systems more feasible. As the cost of providing energy services increases, alternative sources of energy and power generation may be more economical.

Goal 9A: Encourage the conservation and efficient use of energy as well as the development of cost effective renewable energy systems that will not adversely affect, fish and wildlife populations and habitats.”

5.3 How many Alternative Energy Projects are currently operating in AEB?

We completed some research on the current use of alternative energy in AEB.

Akutan: In 2008, the Aleutian Pribilof Island Community Development Association (APICDA) installed one small 1.8 KW wind turbine in Akutan (which was upgraded to 2.4 KW after installation). This wind turbine is installed in the Akutan city limits and is subject to Akutan land use planning authority, as delegated by AEB.

There is a hydroelectric plant in Akutan that was constructed many years ago, and more recently repaired. This hydroelectric plant is installed in the Akutan city limits and is subject to Akutan land use planning authority, as delegated by AEB.

A geothermal project is moving forward in near Akutan.² The City of Akutan is the project lead and Akutan has annexed the geo-thermal site into their city limits. In 2009 the City of Akutan signed

² Akutan Geothermal Project, <http://alaskarenewableenergy.org/wp-content/uploads/2011/03/Akutan-Geothermal-Project-REAP-Mar2011.pdf>, (Accessed July 2013).

exploration and development agreements with the Akutan Corporation and the Aleut Corporation for this geothermal project. In 2009 and 2010 the city obtained grants from the Alaska Energy Authority to develop a 10-12 MW facility. In 2010, the City of Akutan drilled two exploratory wells at Hot Springs Valley, encountering 359 °F water at 595 feet.³ Earlier exploration in the 1980s near Mt. Makushin showed geothermal project potential on the order of tens of megawatts. This geothermal project will likely be a multi-million dollar construction project, and will take several years to design and construct. Since this geothermal project will be installed in the Akutan city limits, it will be subject to Akutan land use planning authority, as delegated by AEB.

In 2010, AEB hired consultants to prepare a report titled “Renewable Energy Resource Assessment for the Communities of Cold Bay, False Pass and Nelson Lagoon” under a grant from the Alaska Energy Authority.⁴ AEB’s consultant’s findings and recommendations for Cold Bay, False Pass and Nelson Lagoon are listed below.

Cold Bay: There are no alternative energy projects in place for Cold Bay at this time. The USFWS has installed wind turbines (cylinder blade type) to heat their facilities.

AEB’s 2010 Renewable Energy Resource Assessment recommended installing one Northwind 100 Arctic B-Model wind turbine in Cold Bay to be owned and operated by the G&K Power Utility. AEB’s Renewable Energy consultants recommended that G&K work with the residents to site the turbine. Potential wind turbine sites could include locations in Cold Bay (e.g., at G&K power plant), or outside Cold Bay (e.g., Russell Creek Hatchery, or a windy site 5 miles from Cold Bay). If this wind turbine project goes forward and is located with Cold Bay city limits, it will be subject to Cold Bay land use planning authority, as delegated by AEB.

G&K Electric submitted a Round IV AEA Renewable Energy Grant and received funding for a feasibility/reconnaissance study for wind energy. A met tower has been purchased, shipped and erected and a permitting preliminary analysis has been conducted. A geotech site reconnaissance visit is scheduled for July 2013 and the remaining portions of this project are scheduled to be completed in 2014.

AEB’s 2010 Renewable Energy Resource Assessment also recommended that four hydropower sites near Cold Bay, identified by a 1980 U.S. Army Corps of Engineers study, be further studied for potential development. The hydropower sites are located outside of the Cold Bay city limits on federal National Wildlife Refuge lands and subject to extensive federal permitting and environmental impact review.

Finally, G&K submitted a Round 6 AEA grant to conduct a waste heat recover study as a step towards supplementing the high cost of the diesel generator currently in use. G&K Electric has received \$30,000 towards this project.

³ Renewable Energy Alaska Project (REAP), Renewable Energy Atlas of Alaska, A Guide to Alaska’s Clean, Local and Inexhaustible Energy Resources, August 2011.

⁴ Baker, A., and Bolling, L., Renewable Energy Resource Assessment for the Communities of Cold Bay, False Pass and Nelson Lagoon, report prepared for Aleutians East Borough, Project No. 407051, 2010, http://apps1.eere.energy.gov/tribalenergy/pdfs/apia_appx1.pdf, (Accessed July 2013).

False Pass: There is one small wind system installed in False Pass at this time. In 2008, the Aleutian Pribilof Island Community Development Association (APICDA) installed one small 1.8 KW wind turbine in False Pass (which was upgraded to 2.4 KW after installation). This wind turbine is located next to the False Pass City Office. This wind turbine would not be subject to a new AEB land use permitting requirement (if one is developed), because the wind turbine is a pre-existing (“grandfathered”) project.

AEB’s 2010 Renewable Energy Resource Assessment recommended installing two 10 KW wind turbines in False Pass to be owned and operated by the False Pass Power Utility. AEB’s Alternative Energy consultants recommended that the False Pass Power Utility work with the residents to site the turbine; however, it is expected the location would be in the False Pass city limits.

False Pass has elected to work with AEB to obtain land use planning authority from AEB in 2013. Therefore, this project would be subject to False Pass land use planning authority, once delegated by AEB.

The City of False Pass Electric Utility applied for a Round IV AEA Renewable Energy Grant to conduct a wind feasibility and reconnaissance study. Funds were received, the permitting preliminary analysis has been completed, and the geotech site reconnaissance visit and remainder of the project should be completed in 2013.

AEB’s Alternative Energy consultants also recommended that two hydropower sites near False Pass (Unga Man’s Creek and Water Fall Creek) be examined.

Nelson Lagoon: In 2008, the Aleutian Pribilof Island Community Development Association (APICDA) installed one small 1.8 KW wind system in Nelson Lagoon (which was upgraded to 2.4 KW after installation). This wind turbine would not be subject to AEB’s new land use permitting requirement, because it is a pre-existing (“grandfathered”) project.

AEB’s 2010 Renewable Energy Resource Assessment recommended installing two 10 KW wind turbines in Nelson Lagoon to be owned and operated by the Nelson Lagoon Power Utility. AEB’s consultants recommended that the Nelson Lagoon Power Utility work with the residents to site the turbine. The Nelson Lagoon Power Utility is a member owned cooperative, and would not likely pursue an alternative energy project, unless supported by its members. If this wind turbine project goes forward, an AEB land use permit could possibly be required since Nelson Lagoon does not currently have land use planning authority delegated from the AEB. USFWS has previously opposed the installation of traditional wind turbines at Nelson Lagoon because of bird impacts. The Nelson Lagoon Electric Cooperative applied for and received funds from the Round IV AEA Renewable Energy Fund. This was to conduct a feasibility and reconnaissance study for wind. To date the Cooperative has purchased, shipped and erected a met tower and plan on doing a geotechnical site visit in 2013 and complete the remainder of the project in 2014.

King Cove: In 1994 an 800 KW hydroelectric project was installed in King Cove using water from Glacier Creek and Clear Creek.⁵ This hydroelectric project would not be subject to AEB's new land use permitting requirement, because it is a pre-existing project.

In 2011, the City of King Cove reported that it was considering a second hydroelectric project⁶ that will be located within city limits. Recently, it received the funding necessary to complete this second hydroelectric project and construction is planned for 2014.

Sand Point: In 2012, the Alaska Energy Authority and TDX Power/Aleutian Wind Energy constructed a wind system involving two Vestas V-39 turbines with a 395 KW load bank and a 126 KW electric boiler within the Sand Point City limits.⁷

During the public meetings conducted in Phase I of this project, the most significant concern about alternative energy was the siting location for the 2012 City of Sand Point wind turbines. A few residents expressed concern about wind turbine noise, and lack of ability to comment on the project. Our research showed that in 2009 the U.S. Department of Energy (DOE) conducted a public comment period and completed both a draft and final Environmental Assessment (EA) for this project.⁸ DOE's EA concluded that the community was in support of the wind turbine project.

5.4 Are there benefits for expanding AEB's Permit System to include Alternative Energy Permits?

Alternative Energy Projects in the AEB have been installed, or are being planned, with the goal of reducing the cost of residential and small business power and government funds currently used to supplement the high cost of carbon-based fuel power in rural communities.

Alternative Energy Projects are typically initiated by the community, or Aleutian Pribilof Island Community Development Association (APICDA), at the request of the community to reduce power costs. Most projects have been initiated and built (in-part) with state or federal funding; therefore, a series of public meetings are typically held to ensure community support and address local concerns.

We reviewed the Task 1 recommendation to initiate a separate AEB permitting process for Alternative Energy Projects. This recommendation was based on the comments of a few AEB residents at the Task 1 meeting.

Based on our research thus far, and pending further discussion and input from the AEB Planning Commission, AEB Assembly, and AEB residents as part of this Task 2 work, we are not

⁵ CADDET Renewable Energy, Hydro-power for a Remote Alaskan Community, Technical Brochure No. 37, 1996, <http://www.caddet-re.org/assets/no37.pdf>, (accessed July 2013).

⁶ Bauman, M., King Cove Aims for Second Hydro Project, Alaska Journal of Commerce, August 2009 Issue, <http://www.alaskajournal.com/Alaska-Journal-of-Commerce/August-2009/King-Cove-aims-for-second-hydro-project/>, (accessed July 2013).

⁷ Alaska Energy Authority webpage, <http://www.akenergyauthority.org/Wind%20Project%20Pages/Sand%20Point%20Wind%20Construction.html>, (accessed July 2013).

⁸ U.S. Department of Energy, Final Environmental Assessment, Sand Point Wind Installation Project, Sand Point Alaska, DOE/EA-1584, September 2009, http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/EA-1584-FEA-2009.pdf, (accessed July 2013).

recommending development of a separate and additional AEB Alternative Energy Permit for the following reasons.

1. During Task 1, AEB residents requested that AEB minimize duplication with existing state and federal permit requirements. Our review shows that there is an extensive state and federal permitting process in place for Alternative Energy Projects and there are multiple public comment opportunities to voice concerns and provide input. Adding an AEB permit would duplicate existing local, state and federal requirements.
2. Most Alternative Energy Projects have been initiated by the community (city), or Aleutian Pribilof Island Community Development Association (APICDA). Many of the projects are located within city limits and would be handled under the land use planning/permitting authority already delegated to that community by AEB.

AEB has delegated Akutan, Sand Point, King Cove, and Cold Bay the authority for land use planning/permitting in those communities; therefore, under AEBMC § 40.01.020 AEB's planning and permitting authority would not apply to Alternative Energy Projects in these communities. False Pass is in the process of obtaining delegated authority from AEB for land use planning/permitting.

The Village of Nelson Lagoon does not have, nor is interested (at this time) in obtaining delegated authority from AEB for land use planning/permitting. AEB finds that it could work closely and cooperatively with the Village to ensure any Alternative Energy Project in Nelson Lagoon is sited, installed and operated in a manner acceptable to the residents without the need for a formal permit process. For example, in 2008, the Aleutian Pribilof Island Community Development Association (APICDA) installed a wind turbine in Nelson Lagoon. This project was successful, without an additional AEB permit process.

Additionally, for Alternative Energy Projects located outside of the Akutan, Sand Point, King Cove, Cold Bay, and False Pass city boundaries, we don't find a significant advantage for the AEB to coordinate public input on these types of project. Alternatively, we recommend the city take the lead in holding public meetings, ensuring the residents support the project, and working with state and federal agencies. Even if the project location is physically outside of the city limits, power will be generated and used by the city residents and small businesses. The city will be the most effective in coordinating public input and addressing public concerns on such a matter.

If the project is located outside of the Akutan, Sand Point, King Cove, Cold Bay, and False Pass City boundaries, on AEB land, AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. This all can be handled outside of an AEB Land Use Permit.

We find that the City and APICDA will have the best interest of the community in mind during development. Adding an additional AEB permit process will add paperwork and costs without adding value.

3. We also examined the potential for adverse community impacts from Alternative Energy Projects. We found that:

Geothermal projects have little or no environmental impact. There are minimal, small plant footprints, little or no CO₂ emissions.⁹ The only impact is a reduced surface flow of thermal springs. There is no potential to adversely impact nearby humans (e.g., noise or aesthetics) or impact fish or wildlife. There would be substantial cost and little benefit in an AEB permit program to further regulate geothermal projects beyond existing local, state and federal permit requirements.

Solar projects have little or no environmental impact.¹⁰ The major challenge of using solar energy in Alaska is its seasonal variability and its dependence on weather conditions. The AEB area is not an optimal location for solar panels; solar insolation is low (a measure of solar radiation energy) during much of the year. We do not expect any major solar projects to be installed in the AEB area. We find that if a resident or small business was to install a few solar panels, there would be substantial cost and little benefit in an AEB permit program to regulate a solar panel project.

Wind turbines have the potential to adversely impact nearby humans (e.g., noise or aesthetics) or impact wildlife (bird mortality). Wind turbines have potential for noise and visual impacts when sited close to a community that can be minimized by siting, design and operational choices. There will be some siting restrictions because the wind turbine (to be effective) will need to be sited in a location of high sustained winds and in relatively close proximity to the power plant and electrical distribution network to be cost effective. We recommend that siting and turbine selection will be most effectively handled by the affected community (city).

Wind turbines have potential for bird mortality; however, we find that bird mortality is comprehensively assessed by state and federal agencies under the Endangered Species Act and the Migratory Bird Treaty Act.

We find that there would be substantial cost and little benefit in an AEB permit program to regulate a wind turbine project.

Hydroelectric plants must be properly designed to mitigate impacts to downstream aquatic life and downstream water quality. Both ADF&G and U.S. Fish and Wildlife will be involved in permit review, and protection of aquatic life (especially fisheries protection) when a hydroelectric plant is permitted. A community that is concerned about fisheries impact could reject the project.

We find that there would be substantial cost and little benefit in an AEB permit program to regulate a hydroelectric project.

5.5 What other state and federal agencies require Alternative Energy Permits or Approvals?

⁹ Alaska Energy Authority, Alaska Energy A First Step Towards Energy Independence, January 2009, p. 135.

¹⁰ Alaska Energy Authority, Alaska Energy A First Step Towards Energy Independence, January 2009, p. 156.

The number and type of state and federal permits or approvals required for an Alternative Energy Project will vary based on the project location and project type. However, the following agencies may require a permit or approval to address siting, land/water use, social impacts (e.g., noise) and water use and allocation and ecosystem impacts (e.g., fisheries impacts of a hydroelectric project).¹¹

- Alaska Department of Environmental Conservation
- Alaska Department of Fish and Game
- Alaska Department of Natural Resources
- Regulatory Commission of Alaska
- U.S. Army Corps of Engineers
- Bureau of Land Management
- U.S. Coast Guard
- U.S. Environmental Protection Agency
- Federal Aviation Administration
- Federal Energy Regulatory Commission
- U.S. Forest Service
- U.S. Fish and Wildlife Service

5.6 Recommendation for AEB

Obtaining community input and developing consensus on Alternative Energy Projects should be managed by the community for which the project will be developed, for the benefit of reducing power costs in that community. If a community does not have delegated land use planning, platting and land use permitting authority from AEB under AEBMC § 40.01.020, AEB can work cooperatively and efficiently with the community to solicit public input and work with the residents, funding party, state and federal agencies to site, design and install the project, without the need for a AEB Land Use Permit Process.

We do recommend that any Alternative Energy Project developed to create power for a Resource Development Project (e.g., mining or oil and gas) be required to include that project scope within its AEB Resource Development Project application as part of its explanation of how it will provide power to its project. The AEB Resource Development permit application process for mining or oil and gas will require the applicant to mitigate noise, aesthetic, fish and wildlife impacts.

If the project is located outside of the Akutan, Sand Point, King Cove, Cold Bay, and False Pass City boundaries, on AEB land, AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. This all can be handled outside of an AEB Land Use Permit.

AEB does not currently have a standard lease or contract form to access AEB land. We recommend that one be drafted with the AEB legal counsel to have on hand.

¹¹ Alaska Energy Authority, Alaska Energy A First Step Towards Energy Independence, January 2009.

6. Mineral and Coal Mining (“Mining”) Permits

6.1. What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that would require all mining projects in AEB to obtain a permit.
- ✚ A more comprehensive and rigorous permitting process should be required for higher environmental, social or economic risk to the region and the residents. Mining projects, with high risk, should have a comprehensive permitting system including public review.
- ✚ Only three (3) of 31 residents that attended the Task 1 meeting supported a simplified permit program for larger mineral mining projects; most supported a comprehensive rigorous permit review process, including a technical assessment and recommendation by the Borough and an opportunity for public input.
- ✚ Residents were concerned about the potential for mineral mining impacts to fisheries and wanted AEB to ensure impacts were mitigated before approving a land use permit.
- ✚ Minimize duplication with existing state and federal requirements.
- ✚ Add requirements that mitigate potential impacts to fish spawning habitat, potential impact to fisheries, road dust, noise, heavy equipment damage to roads, and operating hour impacts on residents.

6.2. How many Mineral and Coal Mining Operations are currently operating in AEB?

We completed some research on the number and type of mineral mining operations currently operating in AEB and found that there were three small mines operating in the past, but there are no active mines currently in operation. We also found that there has been extensive exploration and mapping of potential mineral resources in the AEB area that could develop (in the future) into mining operations.

Our research showed that there are three important resources on potential mineral mining operations in AEB.

1. The United States Department of Interior, United States Geological Survey (USGS) maps and corresponding records,¹² collectively called the Alaska Resource Data Files (ARDF) for the AEB area;
2. The 2008 Aleut Corporation’s, Aleut Region Mineral Potential Prospectus; and,
3. The Aleutians East Borough’s Draft Coastal Zone Management Plan’s Appendix E, Map C: Oil, Gas and Minerals.

The United States Department of Interior, United States Geological Survey (USGS) maps and corresponding records,¹³ collectively called the Alaska Resource Data Files (ARDF), for the

¹² The Alaska Resource Date File (ARDF), <http://ardf.wr.usgs.gov/quadmap.html>. Maps and records for quadrangle maps labeled UM, FP, SN, CB, PM, and SB.

Aleutians East Borough show that mineral deposits, mainly gold, silver, lead, zinc and/or copper have been identified throughout the region.

Each USGS map shows a quadrangle with sites of interest shown by dots and numbers which correspond to a record that summarizes information known about that site. The data-base organizes each record by describing the activity at that site as either a “mine”, a “prospect” or an “occurrence.” Rick Wilson (USGS) defined those terms in a phone conversation, clarifying that “mine” means the site has had some level of commercial mineral production, “prospects” had significant exploration work, and “occurrences” were potential resources identified by a study and in most cases were sampled, but exploration (e.g., trenching or digging) was not performed.

Mines: The USGS maps identify three (3) mines that were, but are no longer active. All three mines are described as “small production” by USGS.

Prospects: The USGS maps identify 38 sites as prospects.

Occurrences: The USGS maps identify 88 sites as occurrences.

Mr. Wilson explained that historically, the USGS maps have been updated as information is known; however, he thought that the AEB maps had not been updated in the past 18 months. The USGS makes no claim that their database is complete, as exploration data is not reported to the government until a mine claim is filed.¹⁴

Many of the USGS records in the USGS website’s data-base and discussed below relate to exploration mining conducted on Aleut Corporation land in partnership with the Aleut Corporation. However, a few exploration mining operations occurred on federal or state lands.

Most of the USGS records labeled “occurrences” are summarized from reports dated before 1990. The USGS records of “prospects” and “occurrences” show exploration was conducted by Aleut Corporation in a named joint venture, Unc Teton Exploration, Battle Mountain Exploration or Resources Associates. Much of the exploration was conducted in the late 1970’s to mid-1980’s.

The USGS Cold Bay area map:¹⁵ shows 15 records including one “prospect” about 25 miles southwest of Cold Bay town where gold, silver, lead and zinc were found. The other fourteen USGS records are “occurrences” of the same ores and copper around Cold Bay and King Cove.

The USGS False Pass area map:¹⁶ has no “prospects” but shows 12 records of “occurrences” of gold, silver, and copper. Unimak maps show four records of “occurrences” of gold, silver, and iron. Interestingly, one of the USGS records described unsuccessful attempts made to produce and sell quantities of sulphur mined on Akun Island from 1917-1937.

¹³ The Alaska Resource Data File (ARDF), <http://ardf.wr.usgs.gov/quadmap.html>. Maps and records for quadrangle maps labeled UM, FP, SN, CB, PM, and SB.

¹⁴ Phone conversation with Frederic Wilson, USGS Alaska Office, 786-7448, May 1, 2013.

¹⁵ United States Department of Interior, United State Geological Survey, Alaska Resource Data File, Cold Bay Quadrangle, http://ardf.wr.usgs.gov/ardf_data/ColdBay.pdf, accessed May 2013.

¹⁶ United States Department of Interior, United State Geological Survey, Alaska Resource Data File, False Pass Quadrangle http://ardf.wr.usgs.gov/ardf_data/FalsePass.pdf, accessed July 2013.

The USGS Chignik area map:¹⁷ has no “prospects” but shows two “occurrences” of iron and titanium around Nelson Lagoon.

The USGS Port Moller area map:¹⁸ includes the Borough’s Resource Development District, the City of Sand Point and Unga Island. It has 110 records with three “mines”: 1) Sitka Gold Mine on Unga Island from 1900 to 1915; 2) Apollo Mine on Unga produced gold during the years 1892-1904 and 1908-1913 and 1916-1922 and was explored again in 1983; and, 3) Mary Lou Mine about two miles from Sand Point produced gold during the years 1904-05.

The USGS Port Moller area map also includes 37 “prospects” mostly on Unga Island but also around Balboa Bay, near Port Moller, and on Popof Island. The most well-known of these is Pyramid Mountain which is located about four miles from Balboa Bay on the Peninsula. The USGS record states that the estimated resource at this site is about 126 million tons of copper and molybdenum.

Sixty-eight of the remaining 70 USGS records on the Port Moller map are “occurrences” on Unga or Popof Islands of two or more of the following ores: gold, silver, copper, zinc, molybdenum, titanium, iron and lead.

Only one “prospect” is described in the Stepovak Bay Area map¹⁹ but it is on Bristol Bay Native Corporation land and not within AEB boundaries. Eleven “occurrences” are described but two may be outside AEB boundaries.

SUMMARY OF USGS MAPS

LOCATION	MINES	PROSPECTS	OCCURRENCES
Cold Bay Area	0	1	14
False Pass Area	0	0	12
Chignik Area	0	0	2
Port Moller Area	3	37	70
Stepovak Bay Area*	0	0	11
TOTAL	3	38	98

*Some Stepovak Bay Area occurrences may not be located within AEB boundaries.

The Aleut Corporation’s Mineral Prospectus:²⁰ describes and locates prospects to be further explored and it was produced by the corporation most likely entity to conduct exploration.

¹⁷United States Department of Interior, United State Geological Survey, Alaska Resource Data File, Chignik Quadrangle, <http://ardf.wr.usgs.gov/quads/html/Chignik.html>, accessed May 2013.

¹⁸United States Department of Interior, United State Geological Survey, Alaska Resource Data File, PM Quadrangle, <http://ardf.wr.usgs.gov/quads/html/PortMoller.html>, accessed May 2013.

¹⁹United States Department of Interior, United State Geological Survey, Alaska Resource Data File, Stepovak Bay Quadrangle, <http://ardf.wr.usgs.gov/quads/html/StepovakBay.html>, accessed May 2013.

²⁰ Aleut Region Mineral Prospectus, The Aleut Corporation, 2008.

The Aleut Corporation's Mineral Prospectus provides a short mining history of the Aleut Region and describes the regional geology. It is organized in three sections representing "Shumagin Islands Project Area," "Alaska Peninsula Project Area," and "Aleutian Islands Project Area."

The Aleut Corporation's Mineral Prospectus states that:

"The only significant production from the Aleut region has been from the Apollo Mine on Unga Island. It produced 112,000 ounces of gold from 500,000 tons of oxide ore between 1886 and 1914. During this same time period the Shumagin and Sitka mines, also on Unga Island were operated with very limited production."

"Approximately 600 ounces of gold were produced from a beach placer during 1904 and 1905 at the current site of Sand Point airport on Popof Island. A few lode claims were located near this beach placer, but only minimal development was ever accomplished."

"A limited amount of low-rank lignite and sub-bituminous coals was intermittently mined on Unga Island from 1872-1912. Numerous thin seams to three feet thickness occur in Zachary Bay (formerly Coal Harbor). Estimated by the State (Merritt, 1987) indicated that the Miocene Unga Island field contains 90 million short tons of inferred coal resources in beds over one foot thick and 70 million short tons of inferred coal resources in beds over 1.6 ft. thick."

"Between 1889 and 1904 several unsuccessful attempts were made to mine bituminous coal on what is now state land in Herendeen Bay. The Cretaceous Herendeen Bay field covers at least 100 square kilometers and is considered to have the potential for commercial coal development (Merritt, 1987)."

"In the late 1960's, Pan American Petroleum began an exploration program that resulted in the discovery of several porphyry prospects on the Alaska Peninsula. These included Warner Bay and Braided Creek in the Chignik area and possibly Pyramid, west of Sand Point. Further exploration began in the early 1970s with Bear Creek and Quintana/Duval exploring the region for porphyry copper deposits. The Pyramid Peak copper/molybdenum deposit (124 million tons of 0.4% Cu and 0.024% Mo) was discovered and subsequently drilled in 1975. Two other porphyry prospects, the San Diego Bay and Zachary Bay prospects, were also evaluated during this period."

"From 1979 to 1984, Resource Associated of Alaska (RAA) and partners conducted field exploration and prospects were located and evaluated. In 1985, Kennecott conducted a precious metal exploration program in the Aleutian Islands project area. They discovered gold mineralization on Umnak and Unalaska Island, however they were unable to fully evaluate the prospects as Kennecott terminated their Alaskan exploration program that year."

"In the fall of 1986, Battle Mountain Gold Company began exploration of TAC on Unga Island in the Shumagin Islands. In 1987, their project was expanded to include the Aleut lands on the Alaska Peninsula. Four additional islands: Akun, Akutan, Unalaska, and Umnak were optioned from TAC late in 1988 and a separate exploration effort was conducted in 1989-90. BMGC also purchased the Makushin geothermal field in Unalaska Island in 1988. Their work identified several intriguing gold prospects and anomalies of the region. BMGC terminated their agreements and Alaskan exploration activities at the end of 1991."

“In 1989 and 1990 Cominco explored prospects in the Chignik area. In 1992 Teck conducted a brief exploration program on the northeast end of Unalaska Island. From 1993 through 2004 there was essentially no mineral exploration in the Alaska Peninsula and Shumagin Island areas by any company, due to poor commodity prices.”

“In late 2003 Alaska Earth Resources, Inc. obtained an exclusive exploration option in the Port Moller quadrangle from TAC. A letter of intent was executed in July 2004 between FMM and AERI which grants FMM an option to acquire 100% interest in the Port Moller TAC property. Through this agreement, Full Metal has an exclusive option with TAC to explore native-owned lands in the Port Moller quadrangle encompassing the western Alaskan Peninsula, an eastern Aleutian Islands. On August 8, 2005, FMM signed an agreement with Metallica Resources (now New Gold) whereby Metallica has the option to earn an interest in the Port Moller properties by investing in exploration and development over a five year option term. Exploration began in summer of 2005, focusing on the Pyramid, Zachary Bay and Centennial prospects, with additional reexamination of known occurrences on Unga and Popof islands.”

“Several types of mineralization have been identified on the Alaska Peninsula and Shumagin Islands. Occurrences can be broadly divided into two categories: intrusive-related (porphyry) poly-metallic deposits concentrated mainly on the Alaska Peninsula, and volcanic-hosted (epithermal) gold-silver deposits concentrated mainly in the Inner Shumagin Islands. It should be noted that current geologic models suggest that there is a continuum between these two categories of deposits and they can be both spatially and genetically related. Both types occur in subduction-related island arc settings such as in this portion of Alaska within the “ring of fire”.”

The Shumagin Island Project Area includes prospects on Unga and Popof Islands. Several of the prospects are identified as deserving more exploration.

The Alaska Peninsula includes the active Pyramid Mountain exploration.

The report states that for the Aleutian Islands Project Area, “the mineral potential throughout the island chain demonstrates the need for further exploration.”

Melvin Smith, The Aleut Corporation’s Operations Manager, said that the corporation would like to do some mining exploration on Unga Island but that the Unga tribal leaders were not, at this point, interested. The Aleut Corporation is currently working with Full Metal Minerals on their Pyramid Mountain Project, located four miles from Balboa Bay on the Alaska Peninsula. So far, Full Metal Minerals has drilled 39-40 test holes and will be back this summer (2013) for additional exploration work. The Chilean company that Full Metal Minerals and The Aleut Corporation had been working with has dropped out of the project because it is too small for them, according to Mr. Smith. The Aleut Corporation is looking for new investors.²¹

²¹ Phone conversation with Melvin Smith, The Aleut Corporation, 561-4300, May 2, 2013.

SUMMARY OF ALEUT REGION MINERAL POTENTIAL PROSPECTUS

Location	Prospects Listed	Prospects Detailed
Unga Island	30	4
Popof Island	15	2
Alaska Peninsula (includes False Pass)	70 ARDF Locations*	2
Akutan Island	4	1

*ARDF is the Alaska Resource Data File maintained by USGS.

Locations would indicate either: "mines," "prospects," or "occurrences."

The Aleutians East Borough's Draft Coastal Zone Management Plan's Appendix E, Map C: Oil, Gas and Minerals: includes a map of mineral mining opportunities. This map is based on older dates including: 1982 Alaska Department of Natural Resources data, 1983 Bristol Bay Coastal Management Program data, 1976 Arctic Environmental Information and Data Center, 1984 Resource Associates of Alaska, Inc., and 1981 Science Applications, Inc.

6.3. What information does AEB have on file about Mineral and Coal Mining Potential in AEB?

In 1985, AEB included some new information on Mineral Mining Potential in its Coastal Zone Management Program (CZMP) documents. The CZMP said:

"MINERALS MINING

Mining activities for the development of mineral deposits depend on the target mineral and the type and location of the deposit. Minerals may occur in upland areas as lode deposits (metallic ones or minerals in defined veins or consolidated with other rock within definable limits) or placer deposits (associated with minerals segregated and/or concentrated by rivers and streams). Coal deposits often occur in identifiable steams or beds, but are not considered a "lode" mineral. Mineral deposits may also be present in sea bottom materials of offshore areas, or in beach or tideland sediments where they have become sorted and/or concentrated by wave or tidal action. Deposits of accessible gravel and rock may become important resources for the construction and development of projects such as roads, building site pads, processing facilities, ports, causeways, breakwaters, jetties, and possibly gravel islands in shallow offshore waters.

The first step in developing any mine is exploration and confirmation of the present of a mineral deposit. The determination of economic variability of mineral development is dependent on the unit value of the mineral, the location, extent, and grade of the deposit, access to the potential mining site, the amount of overburden or depth to the mineral deposit, processing requirements, and transportation of the extracted product to markets. In remote locations, the limited availability of established transportation systems and port facilities is an important factor in consideration of economic viability of mining activities. The Aleutians East CRSA has the advantage of proximity to deep water areas which could be developed as ports.

Exploration

To confirm the presence of minerals and define the extent of the mineral deposit, exploration activities are necessary. The general approach to mineral exploration is the same for hardrock deposits, placer deposits, coal, or offshore deposits. As an initial step, exploration involved a thorough evaluation of the known geology, including the presence of recognized mineral terranes. Preliminary reconnaissance by foot, boat, light plane, or helicopter may occur to establish presence of mineral deposits and collect samples for additional testing. Large geographic areas are usually explored, but statistically only a very small percentage of the land surface within a mineralized province will overlie mineral deposits that can be economically extracted. Depending on the mineral, type of deposit, and location, exploration could include excavation of test pits or drilling with wheeled or tracked equipment to obtain samples or cores for further analysis. Conventional rotary drills or reverse circulation drills are used to explore limited areas. Exploration of submerged lands is conducted by core and rotary drilling from either a boat or barge. Drill holes may enter bedrock since most valuable placer deposits lie at the point of contact between the overburden and bedrock.

Development

Once the presence of a mineral deposit has been established, exploration activities continue to establish the grade of the material and its areal extent (the size of the reserve). Systematic sampling on a closely-spaced grid system may occur at this time. Additional geologic determinations might include magnetometer surveys and seismic work for outlining placer deposits in offshore sediments. Following discovery and confirmation of a mineral deposit, development activities may occur as economics of the situation dictate.

Lode Mining

Where a mineral deposit is present in a defined vein or as a component of a host rock, hardrock mining may be required to extract the mineral either as a processed product (most common for precious metals such as gold) or as an ore to be transported to another location for final processing and extraction. Hardrock mining may occur as an open-pit operation when the mineral is close to the surface (commonly used for copper and coal deposits) or as a mine shaft drilled to areas of mineral occurrence. However, neither open pit mining nor underground mining are used exclusively for extraction of a particular mineral. Open pit mining requires large equipment to construct off-loading facilities, roads, airstrips, personnel support structures, and stockpile and harbor facilities. An open pit mine could require the removal of significant quantities of overburden (non-mineral surface materials) to gain access to the mineral deposit. Depending on the depth of the deposit and the size of the mining operation, disposal of this overburden could constitute a major activity associated with the mining projects. To date, large-scale restoration and rehabilitation of surface mined areas has not been attempted in the Aleutians East CRSA.

If the target mineral is an ore which requires initial processing to remove impurities or concentrate the mineral prior to shipment, processing facilities could be constructed at or near the site of extraction or shipment. Processing procedures usually require a dependable water supply, a source of electrical power, and extensive stockpile areas for processed ore and processing wastes. Economically viable open pit mining operations in remote areas must usually be on a large scale and continue over a number of years to justify the investment in facilities and equipment.

Mine shafts with tunnels at levels of mineral occurrence could be constructed where the removal of extensive overburden is difficult or cost-prohibitive. Although below-ground mining may require less heavy equipment and surface disturbance, the access, support, processing, and shipping facilities can be as extensive as those required for open-pit mining. This type of mining activity is most prevalent where precious metals such as gold are being extracted. The cost of handling and processing large quantities of low-grade and/or low-value ore often precludes below ground mining in areas that lack an established transportation system and support infrastructure.

The processing of ore at the mine site can include the use of chemicals in the extraction process. Processed materials may also contain some toxic substances such as arsenic and mercury which can potentially be leached from the ore stockpiles or processed material disposal areas. Disposal of extensive quantities of processed materials may be necessary at the mining site or in the vicinity of the processing facility.

Placer Mining

Where minerals are present as a result of waterborne or glacial deposition, placer mining operations may be used to extract the target minerals from the accompanying unconsolidated materials. Following exploration and confirmation of a mineral deposit, a placer mining operation can involve the construction of access roads, airstrips, clearing of vegetation and overburden with heavy equipment, construction of stream diversions and settling ponds, and construction of a processing facility. Once the mineral-bearing material is located, placer operations generally involve the separation of coarse and fine materials or components of differing densities through the use of a washing operation. This requires the availability of a dependable water source close to the placer operation or establishment of a water supply through the use of dams, pipelines, or diversion projects. The discharge from the washing operation which contains suspended fine materials is discharged to settling ponds or directly back to the adjacent waterbody. When a placer mining operation is situated in a narrow valley or is constrained by topography, a lack of available space may preclude the construction of settling ponds. Where available water resources are limited, recycling of process water may be necessary to support the mining operation.

Water-dependent placer mines may curtail operations during the winter if the freezing temperatures interfere with washing operations. Some types of mineral extraction processes may include the use of chemicals to facilitate mineral recovery; cyanide compounds are often used in this procedure. Due to the necessity to expose or uncover mineral deposits, placer operations can potentially disturb extensive areas of river valleys and benches adjacent to watercourses. The processed materials remaining after the washing operation are generally the coarser components of the original material since the finer particles have been removed.

Support facilities for placer operations usually are not extensive since a large labor force is not required. Equipment maintenance and storage facilities, fuel storage facilities, and living quarters are the principal support facilities. Since gold is the primary objective of most placer activities, there is usually no need to establish an extensive transportation system for product delivery.

Offshore Mining

Dredging is a method of mining mineral resources by scraping and removal of solids from the sea floor or streambed. Floating dredge operations for mining can occur in rivers where placer deposits are present or in the tidelands and offshore submerged lands. Following discovery and confirmation of a mineral deposit, a wide variety of dredge equipment and procedures can be used to extract minerals. The most common methods of recovery in dredging operations include draglines, clamshell scoops, bucket dredges, or hydraulic dredges. In offshore areas, hydraulic dredges (those which pump a water/sediment mixture) can include equipment with cutter heads, suction dredges, and airlift dredges (used in soft sediments). These dredging methods can be used in mining to maximum depths between 200 and 300 feet. The selection of the mining equipment and methods depend on a number of variables including the character of the deposit, the nature and depth of the overburden (bottom sediments), the association with bedrock, and operational constraints such as geographic location and production requirements. Regardless of the dredging method, the mining generally entails three basic steps: excavation of material; processing and separation of the mineral; and deposition of tailings.

Dredge mining operations are continuous-feed procedures capable of high levels of production. Mechanical dredges are generally characterized by a lack of self-propulsion and lower production rates; however, because they can accomplish precision excavation and perform in restricted areas, mechanical dredges are well suited for placer mining tasks. Dredges may be used for excavation, transportation concentration of minerals, tailing disposal, and reclamation. A mineral recovery facility can be a part of the dredge operation allowing materials to be washed, crushed, segregated, and discharged onto barges alongside for delivery to distant processing locations. Tailings are typically redeposited astern.

Hydraulic dredges use vacuum pumps to lift a slurry of disturbed bottom sediments and water. In addition to the use of this equipment when extracting specific target minerals (such as gold), hydraulic dredges may also be used to obtain appropriate gravel construction materials. The recovered gravel can be deposited in large bins aboard the dredge or transferred to floating pipelines for transport to an onshore outwash site. Hydraulic dredging equipment is capable of handling large amounts of material in short time periods with the ability to deposit the material at a specific site.

Offshore dredging operations for minerals are essentially self-contained and do not usually require the construction of onshore support facilities. It should be recognized that offshore mining with dredges is subject to accidents due to difficult and unpredictable climatic conditions, including tidal effects, ice movements, and storms.”

AEB's 1992 CMP Enforceable Policies F-2 through F-10 address mining and mineral processing, establishing requirements for permit information that should be obtained and setting standards for mining operations. The CMP states:

"F. Mining and Mineral Processing**F-2 Mining Information**

Permitting agencies shall require the following information as appropriate prior to the initiation of any mining operations: Specific information requirements shall reflect the level of exploration or production activity and the potential for impacts to resources and habitats.

- 1) *project site map of the area to be mined at a scale of 1 inch = 1,000 feet;*
- 2) *time period of operation;*
- 3) *size and purpose of the operation;*
- 4) *number of pieces of equipment and people working on the project;*
- 5) *methods to be utilized in overburden removal and storage, including blasting;*
- 6) *amounts of material to be handled, processed, or removed;*
- 7) *how the material will be processed;*
- 8) *how the tailings will be disposed of;*
- 9) *wastewater treatment and disposal;*
- 10) *reclamation plan that describes activities including: a time table for each step in the reclamation, a description of the measures to insure that all debris and toxic materials are disposed of in a sound manner, and a description of the steps to be taken to comply with applicable water quality laws and statutes;*
- 11) *the actions to be taken to minimize detrimental effects to fish and wildlife;*
- 12) *water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and instream requirements);*
- 13) *type and quantity of any elements or chemicals to be used in mining or mineral recovery;*
- 14) *plans for fuel transportation and storage;*
- 15) *location and size of camp facilities and overland transportation; and*
- 16) *anticipated restrictions on other surface uses of the lease are, including public access.*

F-3 Compatibility

Mining and mineral processing in the coastal area shall be designed and conducted so as to be compatible with adjacent uses and activities.

F-4 Overburden Disposal

No overburden shall be disposed of in lakes, within the mean annual floodplain of streams or rivers, or below the limit of mean high water in intertidal areas and estuaries. Whenever feasible and prudent, overburden in upland areas shall be saved and replaced on the cleared area to conform to the natural topography as part of the reclamation procedure.

F-5 Reclamation

Reclamation of all upland and floodplain mined sites shall be required and shall meet the requirements of the State Mining Reclamation Act, AS 27.19 and implementing regulations. A waiver of this policy may be allowed if it is determined that such reclamation would cause greater adverse impact to the environment than the reclamation activity itself. At a minimum, reclamation shall include the following elements, as applicable:

- a) *Topsoil and overburden shall be stored above the 25-year floodplain of watercourses. Topsoil shall be stored separated from the remainder of overburden.*
- b) *At the end of each mining season, all disturbed areas shall be regraded to stable slopes. Within mean annual floodplains, regrading to ground contours which will not entrap fish nor significantly alter stream hydraulics shall occur at the end of each operating season. Tailing used in the construction of settling ponds and other essential facilities, including permitted diversions of streams, may be retained in place until completion of their use.*
- c) *At the completion of mining activities or gravel extraction, all disturbed areas shall be stabilized and re-vegetated, as appropriate. Restoration shall include the following:*
 - (1) *all disturbed areas shall be graded to stable slopes that blend with the natural topography;*
 - (2) *erosion control measures shall be implemented as appropriate to stabilize the site;*
 - (3) *areas designated for re-vegetation shall be covered with topsoil, if topsoil is naturally occurring in the area, or other suitable material to encourage establishment of native plant species; and*
 - (4) *where material sites which are excavated below groundwater may have value as habitat for waterfowl or fish, the applicant shall consult with the Alaska Department of Fish and Game on the final design and schedule of the reclamation plan.*

Excluded from these requirements is the portion of a gravel extraction site required to provide materials for continuing maintenance and operation. Maintenance sand and gravel sites shall comply with the requirements of part b) of this policy.

F-6 In-stream Mining

To the extent feasible and prudent, sand and gravel mining operations in stream floodplains shall be located and designed to avoid adverse changes to channel hydraulics and the potential for channel diversion through the mining site. A stable bank and bed profile shall be maintained during mining of sand and gravel from a watercourse. A stable bank and bed profile is one that will not alter river currents or change erosion and deposition patterns downstream.

F-7 Best Management Practices

In streams and their floodplains which provide habitat for anadromous fish, the following practices shall be incorporated into the siting, design, and operation of mining activities;

- a) *clearing of riparian vegetation and disturbance of natural banks shall be minimized;*
- b) *to the extent feasible and prudent, mining site configurations shall be shaped to blend with physical features and surroundings to provide for diverse riparian and aquatic habitats;*
- c) *gravel washing operations which discharge effluent to streams shall use settling ponds and recycle treatment waters, as necessary, to comply with state and federal water quality regulations. Settling ponds shall be adequately diked or set-back from active channels to avoid breaching by a 25-year frequency flood. Wash water shall be recycled and the effluent discharge shall comply with state and federal water quality regulations. Effective use of recycled water shall minimize water withdrawal and subsequent discharge of effluent to adjacent lands or waters; and*
- d) *equipment storage and operation shall be conducted in a manner that does not release fuel and lubricants into the environment.*
- e) *fuel shall not be located within the active floodplain of a stream.*

F-8 Mining in Fish Habitat

Sand and gravel shall not be removed from locations which have been documented to provide spawning, rearing or over-wintering habitat for anadromous fish, unless approved by the Alaska Department of Fish and Game.

F-9 Land Use Area Designation [Administrative Policy]

Areas of major mining (including placer mining) and mineral processing activities may be proposed by the Borough Assembly as a Special Use Area through the plan amendment process.

F-10 Coordination [Administrative Policy]

During planning for the siting of major mining projects applicants are encouraged to enter into early consultation with the Aleutians East Borough Assembly, affected landowners, and local governments of affected communities.”

“S. Anadromous Fish Streams Special Habitat Policy Area

S-1 Floodplain Mining

In all streams of the Special Habitat Policy Area, mining activities or removal of sand and gravel from the streambed or the annual floodplain shall not adversely affect anadromous fish habitats, populations, or productivity.

S-2 Stream Alteration

Streams within the Special Habitat Policy Area shall not be adversely affected by channelization, diversion, spur dike construction, or other activities which may significantly alter natural stream hydraulics.

S-3 Appropriation of Water

Appropriation of surface or intergravel waters from streams within the special use area shall not occur at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas, as determined by the Alaska Department of Fish and Game, unless, under the procedures outlined in AS 46.15, the Commissioner of DNR makes a finding based on public review that the competing use of water is in the best public interest and no feasible and prudent alternative exists.

S-4 Water Quality Standards

S-4.1 *Water quality and natural productivity of streams, rivers, and lakes within the Special Habitat Policy Area shall not be degraded by activities which significantly increase water turbidity or rate of sediment deposition above natural levels.*

S-4.2 *Toxic/harmful effluents (including but not limited to petroleum and petroleum products, heavy metals, and effluents with a high biological oxygen demand) produced by development facilities or processing activities shall not be discharged into the watersheds of streams within the Special Habitat Policy Area.*

S-4.3 *The anadromous fish streams in the Special Habitat Policy Area have been documented as essential to propagation of fish within the Aleutians East Borough. Therefore, the Alaska Department of Environmental Conservation shall not reclassify the streams in the Special Habitat Area for uses that would impair anadromous fish propagation.”*

6.4. What are the benefits and options for expanding AEB’s Permit System to include Mineral and Coal Mining Permits?

In 2006, the AEB Assembly amended the AEBMC Chapter 40.20 (Resource Development Permits) to establish a permit requirement for Resource Development Projects with the main emphasis on preparing for potential mineral, coal and oil and gas exploration or development. The 2006 code changes specified the application content, application review criteria, application fees and approval processes for mineral, coal and oil and gas exploration or development.

In 2013, AEB and its consultants examined other permitting models and approaches particularly looking at North Slope Borough, Northwest Arctic Borough and Juneau’s permitting models and approaches for mining exploration and operation permitting. The additional work was intended

to build on the 2006 approved Resource Development Permit requirements for mines already specified in the code, and to develop a permit application form, fee and penalty system and standard operating procedures for processing mining permits.

Our goal was to use and build on the basic structure of the AEBMC that was developed and approved by the AEB Assembly in 2006 for mining. We did, however, find that some improvements and clarifications could be made in the AEBMC. For example, we proposed:

1. Two distinct permit types for mining. A simplified permit for mining exploration and a more complex permit for long-term mining operations. We recommended that the mining exploration permit be approved by the Administrator to expedite mining exploration applications. We retained the requirement for all longer-term mining operations to be approved by the Assembly.
2. Separating out mining code requirements into their own dedicated section, with specific instructions on what is required and how the permits will be processed. This way the mining applicant has all the requirements located in one concise code section.
3. Reducing the Mining and Coal Resource Development Permit Fund Fee from \$50,000 to \$25,000, with a \$10,000 minimum balance to account for the fact that a \$50,000 fund may be cost prohibitive for some mineral and coal mining operations. We determined that a \$25,000 initial fee with a \$10,000 minimum balance would be sufficient funds to review a permit application of this nature, and clarified in the proposed code that insufficient funds available would halt the permit review process until remedied. Other large boroughs that permit mines in Alaska (e.g., Northwest Arctic Borough or North Slope Borough) require a \$10,000-\$12,000 fee to review a Master Plan for the project, \$10,000 for special meetings expenses, and a few thousand more to process the permit, bringing the total cost more closely aligned with a \$25,000 fee.
4. More detail on how to apply for a permit and how the permit application would be processed.
5. Substantially more information on what information was required in the land use permit application (application contents).
6. More detailed approval criteria that would be used by the Borough to decision the permit application.
7. Inspection, reporting and recordkeeping requirements.

Because the permitting process for mines and oil and gas was examined in 2006, we didn't repeat a review of those processes here; however, we do note that the benefits and options list is similar to the list we developed for Sand, Gravel and Rock Permit Mining. The main difference for Mineral Mining Permits is the magnitude of the mining operation and the potential degree of impact to the ecosystem and, in particular, fisheries that needs careful design and operation mitigation.

Depending on the mineral mined, and the technique used for excavating and processing ore, there is the potential for environmental contamination that must be mitigated. Contamination can occur in the form of substances that were bound in the mined ore and released when

exposed to air and/or water, or in the form of chemicals added to process the ore (e.g., sodium cyanide used to process precious metals).²²

Contaminants can enter the environment through leaks in: tailing impoundment liners, leach pads, seals, slurry pipelines, ore processing systems, or ore loading and unloading operations. Contaminants can be mobilized by wind, rain, snow melt and natural water drainage off the mining location.

Large mines require substantial power generation facilities that will contribute air pollution.

6.5. What additional work would be required for AEB?

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to all known Mineral and Coal Mining Operators, and land owners within the AEB boundary, notifying them of the AEB permit requirement. The AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in public locations within AEB.

Even though this permit requirement has been in place since 2006, we recommend that AEB make this outreach effort, since there may still be a limited understanding of AEB's permit requirements by miners, the public and other agencies.

Periodic notifications could be made in the same manner, each year or every two years.

Permit Processing:

- Mining exploration permit processing will be similar in scope to what we proposed for sand, gravel and rock permit processing. However, long-term mining operations will require substantial resources and efforts to process the permit.
- If mining permit applications are submitted, there will be substantial additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial to AEB Administrator and process permit paperwork). Due to AEB's small staff, it is expected that consulting experts will need to be hired to assist with the review and development of recommendations on complex permits, or permit applications that exceed AEB's staffing resources.
- A 30 day public comment period will be held, and there will be costs and labor associated with noticing the period, reviewing comments, and working with concerned individuals.
- There will be additional accounting to process permit fees. The Mineral and Coal Mining Permit Fee Fund will require additional work to set up and monitor by the Financial Director.
- The AEB Administrator will need to draft a recommendation to the Planning Commission. Administrator recommendations are typically long and complex documents, requiring the support of consulting experts to develop, and legal review.

²² Rothe, A., Halcyon Research, A Review of Industrial Hard Rock Mining in Alaska, January 2006.

- The AEB Planning Commission will need to draft a recommendation to the Assembly and will consider oral public comment as part of its decision. The Planning Commission will likely seek legal support/review in this process.
- The AEB Assembly will make a final decision on the permit and will consider oral public comment as part of its decision. The Assembly will likely seek legal support/review in this process.

Compliance and Enforcement:

- AEB staff (or contractors hired by the AEB) would need to periodically verify field compliance. This could be done on a routine basis or be complaint or compliance driven.
- In 2006 the Assembly included a quarterly reporting obligation for mines. We have included reporting requirement where the operator would have to issue a close out report on its activities when the operation was concluded, or at least once every 5 years. AEB staff would need to review those reports and contact the operator to follow-up on any problems identified.
- AEB staff along with the AEB Administrator would need to complete enforcement action, when required to bring Operators into compliance.
- A controversial or complex enforcement action may be elevated to the Planning Commission and/or Assembly requiring their involvement.

6.6. What state and federal permits/approvals are required for Mineral and Coal Mining Operations in Alaska?

An extensive list of state and federal agencies is involved in issuing mineral and coal mining permits. However, despite state and federal permitting processes some communities are concerned that local community issues are not always satisfactorily addressed. In some cases state and federal permits may allow more impacts to fisheries, land use, and water quality than what may be desired by the communities. And the lack of a coastal zone management program in Alaska means that there is no coordinated review and input process for community residents, making tracking, participating and commenting on multiple permits complex, in some cases.

Halcyon Research, Prepared a Report titled: A Review of Industrial Hard Rock Mining in Alaska, in January 2006 that summarizes state and federal requirements for Mineral Mining Operations in Alaska. An excerpt from that report is provided below. Please note that the ACMP requirement is no longer in place in Alaska.

“State and Federal Environmental Requirements for Mining Activities

For large mines in Alaska, including the ten reviewed in this report, there are a series of state and federal permits required before mining activities can begin that are intended to limit the impacts of mining activities on the environment.²³ Under state law, a mine operator must:

²³ Fogels, Edward. 2004. “Large Mine Permitting—How It Works”. Large Mine Project Unit, Alaska Department of Natural Resources Office of Project Management and Permitting.

- Develop a **Plan of Operations** for mine development and have it reviewed and approved by the Alaska Department of Natural Resources (ADNR);
- Prepare a **Reclamation Plan** for rehabilitating or “reclaiming” the mine site when mining operations end. The plan must include an accounting of all costs associated with reclamation. This then forms the basis for negotiations with ADNR for determining a bond requirement that will ensure sufficient funds are available to close the mine when operations end, and reclaim the mine area to standards set in state law.²⁴ State bond requirements include not only a reclamation bond, but any bond that may be required as part of a solid waste permit for the mine;
- Prepare a **Monitoring Plan for Surface Waters, Groundwater, Fisheries and Wildlife** and have it reviewed and approved by ADNR and the Alaska Department of Environmental Conservation (ADEC);
- Obtain a **Solid Waste Disposal Permit** (if required) from ADEC;
- Obtain **Sewage Treatment System Approval** from ADEC for any sewage treatment system designed for mine operations and housing facilities;
- Obtain any **Air Quality Permits** from ADEC that may be required for mining operations, including permits for milling, ore transfer and power generation facilities;
- Secure out-of-stream and instream **Water Rights** for any streams or rivers in the vicinity of the mine site. (Reservation of an instream water right is not required, but ADNR advises mine operators to do so in order to establish a priority use of the water over others who might file later for water rights);²⁵
- Obtain **Transportation Rights-of-Way** from ADNR and the Alaska Department of Transportation (ADOT) for construction of roads, pipelines, transmission lines and other needed means of access to the mine site;
- Obtain **permits** from ADNR for mitigation measures for any construction and/or mine development that may constitute a **barrier** to anadromous **fish**;
- Obtain approval from ADNR that adequate measures are incorporated into mine development and operations plans to ensure **Cultural Resources Protection**;
- Obtain a **Dam Safety Certification** from ADNR that asserts the design of any proposed tailings impoundment dam is sound and functional; and
- ~~Obtain confirmation from ADNR that any proposed mine development within Alaska’s coastal areas has been subjected to a **Coastal Zone Consistency Determination** and has been deemed~~

²⁴ AS 27.19.020. Reclamation Standard; 11 AAC 97.200-250. Reclamation Performance Standards.

²⁵ Alaska Department of Natural Resources Division of Mining, Land and Water. 2003. “Fact Sheet: Reserving Water for Instream Use.”

~~to be consistent with the Alaska Coastal Management Program (ACMP). [note ACMP process is no longer in place]~~

Proposed mine developments in Alaska must also obtain the following from federal regulatory agencies:²⁶

- A Clean Water Act Section 401 **National Pollution Discharge and Elimination System (NPDES) Permit** from the U.S. Environmental Protection Agency (EPA) for mine discharges to drainages within the mine area;
- A Clean Water Act Section 404 **Wetlands Dredge and Fill Permit from the U.S. Army Corps of Engineers (the Corps)** for any mining activities that may occur in or near designated wetlands;
- Certification from the Corps that adequate measures have been taken in the mine development and operations plans to meet the requirements of **Section 106 of the Historical and Cultural Resources Protection Act**;
- Assurances from the U.S. Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS) that review has been completed pursuant to **Section 8 of the Endangered Species Act**, and it has been determined that mine development and operations will not impact any threatened or endangered species;
- Assurance from USFWS that mine development and operations meet the requirements of the **Bald Eagle Protection Act** and will not impact bald eagles;
- Assurance from the USFWS that any impacts mine development may have to **Migratory Birds** have been or will be adequately mitigated; and
- Assurances from NMFS that adequate measures have been taken to ensure that mine development and operations will not impact **Essential Fish Habitat**.

In addition, mine operators must ensure that mine development and operations comply with zoning laws and conditional use permits that may be required by local governments.

While there is no opportunity for public review when mining claims or leases are established, for nearly all of these regulatory actions and permits, an opportunity for review by the public is normally required, including the opportunity for public comments to be submitted to permitting agencies and given consideration in the permitting process.

A mining company proposing to develop a large mine in Alaska can request the services of ADNR's Large Mine Project Unit to facilitate the permitting process for the proposed mine. ADNR will then request the company enter into a Memorandum of Understanding (MOU) with Department in which the company agrees to reimburse the state for all costs incurred by ADNR, ADEC, the Alaska Department of Fish and Game and the Alaska Department of Law for the agencies' review and processing of state permits required for mine development, as well as the agencies' participation in federal permitting processes for the mine."

²⁶ Fogels, Edward. 2004. "Large Mine Permitting—How It Works". Large Mine Project Unit, Alaska Department of Natural Resources Office of Project Management and Permitting.

6.7. Recommendation for AEB

Resource Development Zoning District:

The Resource Development Zoning District is defined in AEBMC 40.15.040. The district is defined as all Borough Lands between the 160⁰⁰00'00" and 162⁰⁰00'00" degrees longitude, excluding the City of Sand Point and its boundaries, and the City of King Cove and its boundaries, and the Nelson Lagoon Residential and Commercial districts.

Although the likely prospects for initial or continued mineral and coal mining exploration and development are found within the Borough's Resource Development District, mineral occurrences with potential are also found throughout the Aleutians East Borough in areas outside the current Resource Development District. This issue was reviewed with the AEB Administrator who recommended expanding the Resource Development Zoning District to cover all lands in the Borough, except those lands specifically reserved for Residential, Commercial or Industrial Zoning, also excluding lands where AEB has delegated land use planning, platting and permitting authority to a community.

It is recommended that the Mineral and Coal Mining Permits:

- ✚ Require the Operator to describe the type, location, and timing of its activities: to gain an improved understanding of activity occurring within the AEB boundaries.
- ✚ Require the Operator to provide information on land ownership and access: to ensure that operators either own the land or have legal access from land owner to operate a mining business on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit.
- ✚ Permit Fee: Change the name of the Resource Development Fund to the Mineral and Coal Mining Permit Fund Fee for mining and reduce the initial amount from \$50,000 to \$25,000, and reduce the minimum balance from \$25,000 to \$10,000.
- ✚ Application Content: Include the permit application content required by the Assembly in 2006 and be expanded to include more information on the type of content required.
- ✚ Inspection, Reporting and Recordkeeping: Include inspection, reporting and recordkeeping requirements.
- ✚ Follow the permit review process and permit review criteria established by the Assembly in 2006, with revisions for improved clarity.
- ✚ Include a standard set of stipulations: to clarify the AEB's terms, conditions and expectation.
- ✚ Require a Surety Bond as required by the Assembly in 2006.

We are proposing to require a permit for each Mineral and Coal Mining project that would last for the life of the project, or five years whichever is less. If the Mineral and Coal Mining project extends more than five years, the permit could be renewed as long as the miner is in good standing with the AEB and in compliance with its permit.

The most important concerns for this permit is that: (1) mining operations do not adversely impact fish or habitat resources, (2) pollution is abated, (3) there is no conflict with commercial fisheries, subsistence and community lifestyles and (4) that miners pay their severance tax as required.

As proposed, the draft permit includes AEB's enforceable policies for fish habitat protection, limits on explosive use and in-stream mining operations and overburden disposal. Stipulations address pollution abatement. A Conflict Avoidance Plan and Good Neighbor Plan are required to address conflict with commercial fisheries, subsistence and community lifestyle.

The permit application also provides an advisory to the miner that AEB has a severance tax, and requires the miner to agree to comply with the severance tax payment as part of the application process.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for miners to access AEB land, and one will need to be drafted with the AEB legal counsel to have on hand.

6.8. What changes did the Planning Commission recommend in October 2013?

- ✚ Modify all sand, gravel, rock, coal, and mineral mining permits to require submittal of pre- and-post survey requirements to verify the amount of materials extracted for Borough severance tax purposes, or an equivalent measurement method proposed by the applicant (subject to AEB approval) if a survey is cost prohibitive and not otherwise required. Research what Unalaska requires.**

Research: The City of Unalaska has a sales tax. The tax is assessed based on gross sale of commercial transactions. Unalaska does not require a survey.

Northwest Arctic Borough (where Red Dog Mine is located) levies a severance tax rate of 30 mills that is multiplied by the gross production value of resources severed including all commercial mining operations (See NWABMC Chapter 7.10). Every severer must register with the Borough and submit a severance tax return, under oath. NWAB's code states that it has the right to request any additional information reasonably necessary to compute the amount of tax due, including examining books, holding hearings, and/or conducting investigations.

- ✚ Define, and exempt recreational mining operations from obtaining a mining permit ("mom & pop" operations). Research state's definition for recreational mining and see how this can be worded. Clarify that recreational mining operations must not trespass.**

Research: The State of Alaska defines recreational mining as: "Recreational gold panning; hard-rock mineral prospecting or mining using light portable field equipment, such as a hand-operated pick, shovel, pan, earth auger, or a backpack power drill or auger; or suction dredging using a suction dredge with a nozzle intake of six inches or less, powered by an engine of 18 horsepower or less, and pumping no more than 30,000 gallons of water per day. An authorization is required from ADF&G-Habitat prior to dredging in fish bearing streams."

The State of Alaska requires recreational mining that includes suction dredge activity to be coordinated through a local Habitat Division of an Alaska Department of Fish and Game Office and the Alaska Department of Environmental Conservation. Generally on State mining claims, operation of suction dredges with a nozzle intake six inches or less, powered by a 18 HP motor or less without additional mechanized equipment, is considered “recreational activity”. Recreational dredging requires authorization from the Department of Fish and Game and the Department of Environmental Conservation.

On Federal mining claims, suction dredges with nozzle intakes larger than four inches are considered commercial and require a Notice/Plan of Operation to be submitted or an APMA, in addition to authorization from the Department of Fish & Game and the Alaska Department of Environmental Conservation.

It is recommended that the Borough exempt recreational mining operations from having to obtain a Borough permit, using the State of Alaska definition for recreational mining. It is also recommended that the Borough’s permit include an advisory that warns recreational miners that while a Borough permit is not required, that a state or federal permit may be.

The definition of recreational mining was added to Title 40.

- ✚ **Separate small mining operations and large mining permits. Use the sand, gravel, and rock mining permit as a model for small mining operation permitting (or maybe combine into the exploration mining permit?). Look at how the state defines “small” and “large” mines (potentially use the state’s definition as a model). Examine logical cut-off options for defining small vs. large mining operations (e.g., headcount, acreage, gross revenues, etc). Potentially consider the ton threshold on product (e.g. Title 60).**

Research on how large and small mines are defined. Unalaska does not distinguish between small and large mines.

The City of Juneau defines large mines as:

“Large mine means a mining operation involving more than 20 acres of affected surface disturbance; or having 75 or more personnel employed at the mining operation in the City and Borough, whether direct employees or employees of independent contractors, in any consecutive three-month period; or a mining operation which a federal agency has determined would involve a major federal action significantly affecting the quality of the human environment so that the preparation of an environmental impact statement in accordance with NEPA is required.” (See Juneau Code Chapter 49.80.120)

The Alaska Department of Natural Resources (ADNR) has a Large Mining Permit Program, but does not define in its statutes or regulations what constitutes a large mine. The ADNR Fairbanks Office was contacted to obtain their input on how the Borough might consider distinguishing between a large and small mining operation. The ADNR staff explained that it does not require a mining operator to obtain a private bond or enter a bond pool for any mining on state land that is less than 5 acres at any one time. The mining operator can mine up to 5 acres, restore that area, and then mine another area up to 5 acres, as long as it doesn’t exceed the 5 acre limit at any one time. ADNR explained that the 5 acre threshold could be used as an indicator of a small mine and will cover small placer mining operations. It is ADNR’s experience that hard rock mines

all exceed 5 acres because chemical treatment processes are typically required. ADNR suggested that the Borough also speak with the Alaska Mining Association.

It is recommended that AEB start with a 5 acre threshold for defining a large mining operation that would require Assembly approval. This can be changed over time to a larger number similar to Juneau's 20 acre definition as AEB gains more experience with mining permitting. This will allow all mining operations less than 5 acres to be captured under a streamlined permit that will be approved by the Administrator.

The small and large mining permits were modified to include the definition for small and large mining operations. Title 40 was modified to include small and large mining operation definitions.

- ✚ **Ensure that small suction dredging operations that could potentially conflict with setnet locations are captured in the small mining permit.** The Mining Exploration Permit was revised include Small Mining Operations. Suction dredge operations larger than 6" and 18 hp would be captured in this permit; otherwise, they would be exempt as "recreational mining."
- ✚ **For large mines and oil and gas operations, change the application and permit instructions to state that a final EIS or EA (if required) and all state and federal permit decisions must be provided to AEB before a borough permit hearing is held and a borough decision is made. This way the borough can review federal and state requirements on the project, and supplement if necessary (and within Borough authority) before making a final decision on the project. Allow this requirement to be waived by the Assembly if the Assembly finds it prudent on a case-by-case basis.**

7. Oil and Gas Permits

7.1. What did AEB residents recommend during Task 1 - AEB Community Input?

- ✚ Establish a permitting system that would require all oil and gas projects in AEB to obtain a permit.
- ✚ A more comprehensive and rigorous permitting process should be required for higher environmental, social or economic risk to the region and the residents. Oil and gas projects with high risk should have a comprehensive permitting system including public review.
- ✚ Only one (1) of 30 residents that attended the Task 1 meeting supported a simplified permit program for oil and gas projects; the majority supported a comprehensive rigorous permit review process, including a technical assessment and recommendation by the Borough and an opportunity for public input.
- ✚ Residents were concerned about the potential for oil and gas operation impacts to fisheries and wanted AEB to ensure impacts were mitigated before approving a land use permit.
- ✚ Minimize duplication with existing state and federal requirements.
- ✚ Add requirements that mitigate potential impacts to fish spawning habitat, potential impact to fisheries, and impacts on residents.

7.2. How many Oil and Gas Projects are currently operating in AEB?

No oil and gas projects are currently operating in AEB.

7.3. Is there oil and gas potential in AEB? Have wells been drilled in the past?

Alaska Peninsula Oil & Gas Exploration History

- 27 wells have been drilled in the Alaska Peninsula in search of oil and gas.
- 26 wells were drilled onshore, on state lands between 1903 and 1985. One well was drilled offshore in federal waters in 1983.
- While oil and gas shows were observed in several wells, no commercial quantities of oil and gas have been proven.
- 83 electric well logs and 250 electric log scans were obtained, but data quality is poor due to the older technology used during data collection in the 1960's-1980's.
- The last seismic surveys for the area were completed in the 1980's using older technology and will likely need to be repeated using more advanced technology available today. Seismic data is used to define structural traps and geologic features that may contain subsurface oil and gas reserves.

Aleutians East Borough Oil & Gas Exploration History

- 8 of the 27 total wells drilled on the Alaska Peninsula have been drilled in the AEB area in search of oil and gas.
- 7 wells were drilled onshore on state lands between 1961-1977.
- 1 well was drilled offshore, northwest of Nelson Lagoon in federal waters in 1983.
- No commercial quantities of oil and gas have been proven in the Aleutians East Borough Area to date, but oil shows and some gas have been found.

Onshore Wells	Date	Well Name	Operator	Depth (feet)
1	1961	Canoe Bay	Pure Oil	6,642
2	1963	Sandy River 1	Gulf Oil	13,068
3	1969	David River 1-A	Pan American	13,769
4	1970	Hoodoo USA1	Pan American	8,049
5	1970	Hoodoo USA2	Pan American	11,243
6	1974	Cathedral River	Amoco	14,301
7	1977	Big River A-01	Phillips	11,370

Offshore Wells	Date	Well Name	Operator	Depth (feet)
1	1983	N. Aleutian Shelf Coast #1	Arco	17,155

Promising oil shows were observed in good quality in sandstone reservoirs above 8,000 feet of depth in 3 wells drilled near Port Moller (Hoodoo USA1, David River 1-A, and Sandy River 1). Although some oil shows were evident below 8,000' the reservoir rock quality is poor and may not produce oil in commercial quantities.

The Alaska Department of Natural Resources (ADNR) estimates there may be as much as 0.3 billion barrels of oil in the Alaska Peninsula/Bristol Bay Basin area.

There is some potential for gas in the AEB area; however, gas potential is considered more promising in the Becharof Lake Area (NE of the AEB area) due to the significant gas shows in the 1985 Amoco Becharof #1 well. More work is necessary to develop a gas reserve estimate for the Alaska Peninsula/Bristol Bay Basin area; however, the state is hopeful that reserves may be on the order of "multiple trillions of standard cubic feet," especially in the Becharof area.

Additional seismic data is needed to better define structural traps and geologic features that may contain subsurface oil and gas reserves. The last seismic surveys for the area were completed in the 1980's, using old seismic data collection techniques. Seismic data acquisition has dramatically improved over the last several decades. Additional seismic data acquisition in this area will be critical to proper placement of the next exploration wells.

The eight exploration wells drilled in the AEB area were drilled between 1961 and 1983, over two decades ago. Applying new, state-of-the-art oil and gas drilling techniques while drilling additional exploration wells in this area will assist in further definition of the oil and gas potential in the area. Actual oil and gas flow tests are needed to better understand the commercial potential.

7.4. Has the State of Alaska sold onshore oil and gas leases? If so, are any currently active?

After the 1989 Exxon Valdez Oil Spill, a federal moratorium prohibiting oil and gas exploration and development was put in place for the waters of Bristol Bay including waters offshore of AEB in the Bering Sea (commonly referred to as the Bristol Bay Drilling Moratorium). The federal moratorium was passed by Congress in response to the request of many Bristol Bay residents and organizations after the 1989 Exxon Valdez Oil Spill. Federal legislation prohibits offshore leasing and drilling in the federal waters, beyond state waters at the 3 mile limit.

The State of Alaska supported the federal moratorium and found that it is not in the state's best interest to lease or explore for oil in offshore waters of Bristol Bay. The 2005 Alaska Peninsula Areawide Sale continued the state's commitment to no offshore drilling in Bristol Bay, and the lease sale was proposed for onshore exploration and development only. State lease sale required all wells to be drilled from onshore. Therefore, state leases from the shoreline to 3 miles offshore were required to be drilled from onshore using directional drilling technology.

The Alaska Department of Natural Resources (ADNR) must issue a "Best Interest Finding (BIF)" for a disposal of interest in state land. Such disposals include state oil and gas lease sales as well as issuance of leases and pipeline rights-of-way. Prior to leasing state land, ADNR must find that it is in the best interest of the state to lease the land. The BIF process provides local government and members of the public an opportunity to comment on this evaluation.

ADNR issues a preliminary draft BIF for public review, the public typically has 60-90 days to provide ADNR with comments. The BIF provides the opportunity for the state and its residents to evaluate the economic benefits of an oil and gas lease sale, consider the potential impacts, and suggest specific measures which would be acceptable solutions to mitigate potential oil and gas impacts. The process, outlined in Alaska statute at AS § 38.05.035(e), provides an important opportunity for local governments and state residents to influence what "mitigation measures" are required for a state oil and gas lease.

In 2005, the Alaska Department of Natural Resources completed its Best Interest Finding. AEB and its consultant, Harvey Consulting, LLC, developed a comprehensive set of onshore and mitigation measures that were approved by the AEB Assembly and sent to the state to use in their leasing and permitting programs. The Alaska Department of Natural Resource opened the Alaska Peninsula for oil and gas leasing, including AEB's recommended mitigating measures in the lease documents. Leases were sold nearby the Nelson Lagoon area to Shell Oil and Hewitt. However, those leases have been returned to the state and no exploration was conducted.

7.5. Has the Federal Government sold offshore oil and gas leases? If so, are any currently active?

After the 1989 Exxon Valdez Oil Spill, a federal moratorium that prohibits oil and gas exploration and development was put in place for the waters of Bristol Bay including waters offshore of AEB in the Bering Sea. Federal legislation prohibits offshore leasing and drilling in the federal waters, beyond state waters at the 3 mile limit.

The Bristol Bay Moratorium was briefly lifted in the Department of Interior's (2007-2012) Five Year Plan, with a goal of holding a lease sale in 2012.

In 2005-2007, AEB completed a substantial body of work with Harvey Consulting, LLC and federal agencies on the potential for offshore oil and gas operations. AEB developed a comprehensive set of offshore mitigation measures that were approved by the AEB Assembly and provided to the federal agencies to use in their leasing and permitting programs.

In 2012, the BP Deepwater Horizon Oil Spill in the Gulf of Mexico prompted a revised 2010-2015 Five Year Offshore Leasing Plan. All plans for an offshore lease sale in Bristol Bay were canceled. The Bristol Bay Moratorium prohibiting oil and gas exploration and development for the waters of Bristol Bay including waters offshore of AEB in the Bering Sea was reinstated.

7.6. What are the benefits and options for expanding AEB's Permit System to include oil and gas permits?

In 2006, the AEB Assembly amended the AEBMC Chapter 40.20 (Resource Development Permits) to establish a permit requirement for Resource Development Projects with the main emphasis on preparing for potential mineral, coal and oil and gas exploration or development. The 2006 code changes specified the application content, application review criteria, application fees and approval processes for mineral, coal and oil and gas exploration or development.

In 2013, AEB and its consultants examined other permitting models and approaches, particularly looking at North Slope Borough permit models for oil and gas permitting. The additional work was intended to build on the 2006 approved Resource Development Permit requirements for oil and gas already specified in the code, and to develop a permit application form, fee and penalty system and standard operating procedures for processing oil and gas permits.

The only oil and gas exploration and production operations currently conducted in the state occur on the North Slope and in Cook Inlet. The North Slope Borough requires land use permits for all oil and gas exploration and production operations that occur on the North Slope. The Kenai Peninsula Borough does not require land use permits for oil and gas exploration and production operations that occur in Cook Inlet or on Kenai Peninsula Borough lands.

Our goal was to build on the basic structure of the AEBMC that was developed and approved by the AEB Assembly in 2006 for oil and gas. We did, however, find that some improvements and clarifications could be made in the AEBMC. For example, we proposed:

1. Separating out oil and gas code requirements into their own dedicated section, with specific instructions on what is required and how the permits will be processed. This way the oil and gas applicant has all the requirements located in one concise code section.
2. More detail on how to apply for a permit and how the permit application would be processed.
3. Substantially more information on what information was required in the land use permit application (application contents).
4. More detailed approval criteria that would be used by the Borough to decision the permit application.
5. Inspection, reporting and recordkeeping requirements.

We left the \$50,000 application fee requirement approved by the Assembly in place. We concluded that amount was affordable for this industry sector, since oil and gas exploration projects alone can run several hundred million dollars, and development projects can run billions of dollars, requiring sophisticated, and detailed review by the Borough.

We retained the Assembly's requirement to undergo the more comprehensive permitting process for both oil and gas exploration permits as well as oil and gas production operation permits. Oil and gas exploration activities can result in significant impact and warrant a thorough review and decision process by the Assembly.

7.7. What additional work would be required for AEB?

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to state and federal agencies that sell oil and gas leases to advise and remind them of AEB's requirements for oil and gas exploration and production land use permits.

The AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in public locations within AEB.

Even though this permit requirement has been in place since 2006, we recommend that AEB make this outreach effort, since there may still be a limited understanding of AEB's permit requirements by operators, the public and other agencies.

Periodic notifications could be made in the same manner, each year or every two years.

Permit Processing:

- If oil and gas permit applications are submitted, there will be substantial additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial to AEB Administrator and process permit paperwork). Due to AEB's small staff, it is expected that consulting experts will need to be hired to assist with the review and development of recommendations on complex permits, or permit applications that exceed AEB's staffing resources.

- A 30 day public comment period will be held, and there will be costs and labor associated with noticing the period, reviewing comments, and working with concerned individuals.
- There will be additional accounting to process permit fees. The Oil and Gas Permit Fee Fund will require additional work to be set up and monitored by the Financial Director.
- The AEB Administrator will need to draft a recommendation to the Planning Commission. Administrator recommendations are typically long and complex documents, requiring the support of consulting experts to develop, and legal review.
- The AEB Planning Commission will need to draft a recommendation to the Assembly and will consider oral public comment as part of its decision. The Planning Commission will likely seek legal support/review in this process.
- The AEB Assembly will make a final decision on the permit and will consider oral public comment as part of its decision. The Assembly will likely seek legal support/review in this process.

Compliance and Enforcement:

- AEB staff (or contractors hired by the AEB) would need to periodically verify field compliance. This could be done on a routine basis or be complaint or compliance driven.
- In 2006, the Assembly included a quarterly reporting obligation for oil and gas activities. We have included reporting requirements where the operator would have to issue a close out report on its activities when the operation was concluded, or at least once every 5 years. AEB staff would need to review those reports and contact the operator to follow-up on any problems identified.
- AEB staff, along with the AEB Administrator, would need to complete enforcement action, when required to bring Operators into compliance.
- A controversial or complex enforcement action may be elevated to the Planning Commission and/or Assembly requiring their involvement.

7.8. What state and federal permits/approvals are required for Oil and Gas Operations in Alaska?

An extensive list of state and federal agencies is involved in issuing oil and gas permits in Alaska. A substantial review of state and federal permitting requirements and processes was completed by the AEB and Harvey Consulting, LLC in 2004-2006 and is not duplicated here.

However, despite state and federal permitting processes, some communities are concerned that local community issues are not always satisfactorily addressed. In some cases state and federal permits may allow more impacts to fisheries, land use, and water quality than may be desired by the communities. And the lack of a coastal zone management program in Alaska means that there is no coordinated review and input process for community residents making tracking, participating and commenting on multiple permits complex, in some cases. Therefore, in 2006 the AEB instituted its own land use planning and permitting requirements for oil and gas operations that will apply to AEB lands and waters out to the three mile limit.

AEB will need to continue to work with the federal government (via commenting on federal lease sales and permits) for oil and gas operations that are proposed in the Outer Continental Shelf (beyond the three mile limit).

7.9. Should a tax be established for oil and gas?

Oil and gas exploration and production operations in the AEB are not required to pay tax at this time. The lack of an oil and gas tax was discussed with the AEB staff. Consultants advised that other boroughs, such as the North Slope Borough and City of Valdez obtain substantial tax revenue via Ad Valorem taxes on oil and gas infrastructure.

Local governments are pre-empted from establishing a severance tax for oil and gas (the State of Alaska and federal government reserve this right). Other Alaska Municipalities have established an Ad Valorem tax (property tax – pursuant to AS § 29.45.010 and AS § 29.45.550) that applies to oil and gas infrastructure (pursuant to AS § 29.45.080). Once a property tax is established, it would also apply to all properties in the Borough; and only “at the rate of taxation that applies to other property taxed by the municipality.” See: AS § 43.56.010(b).

AEB staff does not recommend a tax to be put in place at this time, since an Ad Valorem tax (a property tax) would require AEB residents to also pay that same tax (typically 2% of the assessed property value). However, AEB may reconsider an Ad Valorem tax later if oil and gas projects are proposed.

7.10. Recommendation for AEB

Resource Development Zoning District:

The Resource Development Zoning District is defined in AEBMC 40.15.040. The district is defined as all Borough Lands between 160°00'00" and 162°00'00" degrees longitude, excluding the City of Sand Point and its boundaries, the City of King Cove and its boundaries, and the Nelson Lagoon Residential and Commercial districts.

Although the likely prospects for initial or continued oil and gas exploration and development are found within the Borough's Resource Development District, oil and gas occurrences with potential may also be found throughout the Aleutians East Borough in areas outside the current Resource Development District. This issue was reviewed with the AEB Administrator who recommended expanding the Resource Development Zoning District to cover all lands in the Borough, except those lands specifically reserved for Residential, Commercial or Industrial Zoning, also excluding lands where AEB has delegated land use planning, platting and permitting authority to a community.

It is recommended that the Oil and Gas Permits:

- ✚ Require the Operator to describe the type, location, and timing of its activities: to gain an improved understanding of activity occurring within the AEB boundaries.
- ✚ Require the Operator to provide information on land ownership and access: to ensure that operators either own the land or have legal access from land owner to operate an oil and/or

gas business on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit.

- ✚ Application Content: include the permit application content required by the Assembly in 2006 and be expanded to include more information on the type of content required.
- ✚ Inspection, Reporting and Recordkeeping: include inspection, reporting and recordkeeping requirements.
- ✚ Follow the permit review process and permit review criteria established by the Assembly in 2006, with revisions for improved clarity.
- ✚ Include a standard set of stipulations: to clarify the AEB's terms, conditions and expectation.
- ✚ Require a Surety Bond as required by the Assembly in 2006.

We are proposing to require a permit for each Oil and Gas project that would last for the life of the project, or five years whichever is less. If the Oil and Gas project extends more than five years, the permit could be renewed as long as the operator is in good standing with the AEB and in compliance with its permit.

The most important concerns for this permit is that: (1) operations do not adversely impact fish or habitat resources, (2) pollution is abated, and (3) there is no conflict with commercial fisheries, subsistence and community lifestyles.

As proposed, the draft permit includes AEB's enforceable policies for oil and gas, and includes all the mitigation measures developed for the state and federal leasing programs.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for miners to access AEB land, and one will need to be drafted with the AEB legal counsel to have on hand.

7.11. What changes did the Planning Commission recommend in October 2013?

- ✚ **For large mines and oil and gas operations, change the application and permit instructions to state that a final EIS or EA (if required) and all state and federal permit decisions must be provided to AEB before a borough permit hearing is held and a borough decision is made. This way the borough can review federal and state requirements on the project, and supplement if necessary (and within Borough authority) before making a final decision on the project. Allow this requirement to be waived by the Assembly if the Assembly finds it prudent on a case-by-case basis.**

8. Onshore and Offshore Seafood Processing Plant Permits

8.1. What did AEB residents recommend during Task 1 - AEB Community Input?

The current definition of Resource Development included in Title 40 includes oil and gas and mining operations. During Task 1 of this project, AEB residents proposed to expand the definition to include commercial recreation, sand and gravel mining, and research projects. Residents did not recommend that the seafood processing industry be included in the definition of Resource Development.

However, on October 10, 2013 in Sand Point, the AEB Planning Commission convened to review and comment on the draft Task 2 through 6 work products. AEB Assembly Members and the public were invited to participate by teleconference. The Planning Commission recommended onshore seafood processing plants (existing and future) and offshore seafood processors be added to the definition of Resource Development and be subject to AEB land use permit requirements.

8.2. What changes did the Planning Commission recommend in October 2013?

 **Develop a Fish Processing Permit Application for both onshore and offshore fish processors that work in the Borough's boundary. Two types of permits to be developed: (1) one-year non-renewable permit approved by Administrator, (2) multi-year renewable permit, for existing and future facilities requiring PC Review, and Assembly approval. Request activity data to compute the fish tax, copies of state and federal permits, and information on type of species that will be processed and location.**

Considerable research was completed (see below) to evaluate how other Boroughs and Municipalities in Alaska handle seafood processing permits. AEB staff was also consulted. It was determined that the most efficient method would be to divide the permits into two different permit types: (1) Offshore & Direct Marketing Seafood Processors (one-year renewable permit approved by the Administrator) and (2) Onshore Seafood Processors (5-year renewable permit approved by the Assembly). See below for background and recommendation.

8.3 How many seafood processing plants are currently operating in AEB?

There are five onshore seafood processing operations within AEB's boundaries; four are located within the municipal boundaries of Akutan, False Pass, King Cove, and Sand Point and one is located in Port Moller within the AEB boundary near the unincorporated community of Nelson Lagoon.

- Peter Pan Seafoods operates onshore seafood processing plants in Port Moller and King Cove. Currently it has a presence in Sand Point but no processing facilities.
- Trident Seafoods operates onshore seafood processing plants in Akutan and Sand Point.

- Bering Pacific Seafoods operates an onshore seafood processing plant in False Pass.

There are offshore seafood processing plants that operate in AEB's waters (shoreline to three miles offshore) from time-to-time. The AEB does not have accurate data on the number, type, or frequency of these processors.

There is also the possibility of Direct Marketing Seafood Processing within the AEB Resource Development District. Direct marketing would include a for-profit or non-profit cooperative, partnership, or individual fisherman who processes or exports only their own catch or has their own catch custom processed for sale.

Aleutia is a non-profit marketing organization formed in 2001. Aleutia does not have processing facilities. Fishermen sell their catch to Aleutia as they do to seafood processors but Aleutia-bought fish is processed in one of the processing plants mentioned above. Aleutia collects and pays raw fish sales tax to AEB.

The Aleutian Pribilof Island Community Development Association (APICDA) is a non-profit corporation composed of fishermen's associations from each community. APICDA processes crab at the Trident facility.

The Alaska Peninsula Fisherman's Co-op is an example of a direct marketer and offshore seafood processor that processes fish offshore and transports it to Dutch Harbor for shipment to market.

8.4 What information does AEB have on file about seafood processing facilities?

The AEB has extensive information about the amount and species of fish and shellfish being processed within its boundaries. Monthly reports with species, poundage, and price paid per pound are provided by each of the seafood companies with their AEB tax payments. This information goes back at least ten years. Specific information provided by the processors to the AEB is subject to confidentiality requirements. AEB staff should consult with the AEB Attorney prior to sharing this information with the Assembly, Planning Commission, or public.

The AEB has limited information on seafood processing facilities, personnel, discharges, or plant operations and methods. The Planning Commission was particularly concerned about discharges and environmental impact mitigation from onshore processing plants.

There is a lingering question in the AEB, brought forth by residents and Assembly Members, that perhaps the floating processors raw fish tax is not being captured. By instituting this land use permitting system, with its penalty for not applying for a permit, the AEB may find additional offshore processors within its boundaries.

8.5 What are the benefits and options for expanding AEB's permit system to include onshore and offshore seafood processing plants?

- Operations and Facility Information: Gain an improved understanding of seafood processing operations and facility information.

- Required Permits: Ensure that companies have required state and federal credentials and permits before conducting business in the AEB.
- Increased raw fish sales tax from offshore processors. If floating processors that are not currently paying fish tax, are captured under the new permitting system.
- Land Ownership and Access Verification: Ensure operators have legal access from the land owner to access and operate their plants on state, federal, private, or AEB land.
- Water, Waste Water and Solid Waste Management Plan: Ensure that human waste, product waste and other trash is properly handled and that utility systems are in place prior to start-up.
- Emergency & Medical Plan: Ensure the operator has a medical plan in place. Ensure the operator has an Emergency Plan in place that addresses all emergencies and hazardous material releases from refrigeration systems.
- Surety Bond: Provide funds for clean up or mitigation for permits that include structures, roads, fuel storage, chemical storage, or waste handling.
- Application Fee: Establish a permit application fee to offset a portion of the cost of administering the permitting program.
- Enforcement and Compliance: Establish a process to enforce non-compliant operators.

8.6 What additional work would be required for AEB?

Existing Seafood Processors: There currently is only one existing onshore seafood processing plant within the AEB Resource Development District owned by Peter Pan Seafoods in Port Moeller. The AEB has undertaken a long-term effort to improve its working relationship with this company which has been successful. It will be important for the AEB, to meet with Peter Pan and explain its reasons for instituting this new permit requirement.

New Seafood Processors: The AEB's fishermen are very supportive of new processing operations which may provide competition and increased fish price. The AEB wants to encourage new businesses within its boundaries at the same time it provides the necessary protections it is looking for with this permitting program. The AEB will want to ensure the new permit system does not discourage new processors.

Initial Outreach Effort & Periodic Notification/Verification: The initial outreach effort would include a letter to all known fish processors, and land owners within the AEB boundary, notifying them of the new AEB permit requirement.

AEB could issue a public notice and advertise this new requirement in other ways such as: a notice in the AEB newsletter; a public notice in local papers; and notices placed in airports, and other public locations within the AEB. Periodic notifications could be made in the same manner, each year or every two years.

Permit Processing:

- There will be additional staff time required to review new applications, amendments and renewals (receive permit application; review contents; recommend approval or denial and process permit paperwork).
- There will be additional accounting to process permit fees.
- The Administrator, Planning Commission, and Assembly will need to review permit applications for onshore processing permits. The Assembly will need to make decisions on applications (approval, elevation, or denial).
- The Administrator will need to review and approve offshore processing permits. However, additional review may be required by the Planning Commission if the Administrator elevates a permit to the Planning Commission.
- If a controversial or complex permit is elevated or appealed, a hearing with public notice will be held to make a permit decision.

Compliance and Enforcement:

- AEB staff (or contractors hired by AEB) would need to periodically verify compliance. This could be done on a routine basis or be complaint or compliance driven. Staff will want to compare permit applications to monthly tax reports.
- We have included an annual reporting requirement for February 1st of each year. AEB staff would need to review those reports and contact the operator to follow-up any identified problems.
- AEB staff along with the AEB Administrator would need to complete enforcement action, when required to bring seafood processing companies into compliance.
- A controversial or complex enforcement action may be elevated requiring additional time and involvement.

8.7 What other Alaska Boroughs require On-shore Seafood Processing Permits?Lake and Peninsula Borough

- Lake and Peninsula Borough's Code has two levels of permitting: Development Permits and Large Project Permits. A Development Permit is required for seafood processing.
- Development permits are required for the following uses: archeological survey, commercial use, industrial use, and resource extraction. Development permits cost \$100 each.
- "Industrial" means a use involving the manufacture, storage, fabrication, processing, reduction, or conversion of raw materials including fish or seafood. This term includes but is not limited to canneries, freezer plants, fish smoking or any other use involving the preserving of fish or shellfish for wholesale.
- A Large Project Permit could be required if the seafood processing plant employs more than 100 people for more than three consecutive months.
- Susan Edwards of the Lake and Peninsula Borough explained that the development permit application fee for Lake and Peninsula Borough is \$100.00. The fee may be waived for a city or tribal government. All architects, engineers, or other contracted third parties that submit

an application are required to pay the fee (even if the application is on behalf of a city or tribal government.”

Bristol Bay Borough

- Bristol Bay Borough addresses seafood processing permits within their zoning code to limit the size of processing plants allowed in certain areas.
- No seafood processing plants are allowed in residential zones.
- Commercial zones allow for seafood processing plants that do not exceed 75,000 pounds of raw product processed per day.
- Industrial zones allow for seafood processing and manufacturing plants.
- Zoning rule include physical limitations (e.g., lot size, parking, set-backs, etc.)
- Seafood processing plants require fire marshal and ADEC approvals.

Ketchikan Gateway Borough

- Zoning permits are required to build, enlarge, or alter existing buildings. Ketchikan has 16 different zones.
- “Small scale food processing” means food and seafood processing operations that are exempt from the requirements of Corps of Engineers NPDES general permits. Small scale food processing plants are allowed in the light industrial zone.
- “Food Processing” is allowed in heavy industrial zone.
- Seafood processing operations must submit a seafood processing permit application to ADEC. All food processing operations must operate in compliance with ADEC regulations.

City of Ketchikan

- Ketchikan’s Title 19 Building Regulations provides information on permitting and land use including building codes.
- There does not appear to be any unique permit required for seafood processors.
- Land Use Permit fee is \$25.

Northwest Arctic Borough

- The Northwest Arctic Borough addresses seafood processing permits via their zoning districts.
- Seafood processing plants are only permitted within industrial zones.
- Rules for industrial zones cover lot size, structure height, setbacks, parking, etc.
- A Northwest Arctic Borough permit is not required.

City of Dillingham

- A land use permit is required to “construct, construct an addition to, substantially improve, change the principal use of, or relocate a structure, or construct a driveway or fence within the city.”
- The Land Use Permit Application fee is \$25.

Other Boroughs – No Specific Requirement

- North Slope Borough: There are no commercial fisheries currently operating on the North Slope; however, if one did open it would require a Land Use Permit (\$1,500 fee).
- Kenai Peninsula Borough: Does not require a specific permit for seafood processing.

- Fairbanks Northstar Borough: Doesn't mention fish processing. Fairbanks has 16 zoning districts. Standards address lot size, structure height, parking, signs, etc.

8.8 Does the State of Alaska require Seafood Processing Permits?

- The Alaska Department of Environmental Conservation (ADEC) requires a Seafood Processor Application. Seafood processors must submit a five-page application for approval prior to start-up, including drawings and a list of finished surfaces. Renewals must be submitted every three years. Renewals require a one page application. Applicants of recently modified operations must furnish plans and specifications for the facility. It will be useful for the AEB to obtain a copy of the ADEC application and approval as part of its permitting process since it has good information on processing activities, products, packaging and more.
- An ADEC Seafood Ice Manufacturing Permit is required for any person (including corporations, partnerships, limited liability companies, and joint ventures) who operates ice manufacturing facilities/vessels to make ice for use on seafood products as a refrigerant.
- The Alaska Department of Revenue requires a Fisheries Business License and a bond for fish buyers.
- The Alaska Department of Fish and Game requires processors to have an Intent to Operate, Fish Code and Fish Tickets.
- Alaska Fire Marshal permits are required for all facilities including dormitories.
- Other State permits/licenses that may be required include:
 - Plan Review and Approval of Sewage or Sewage Treatment Works;
 - Air Quality Control Permit to Operate;
 - Wastewater Disposal Permit;
 - Solid Waste Management Permit;
 - Plan Review and Approval of Public Water Systems;
 - Alaska Pollutant Discharge Elimination System Permit (Notice of Intent);
 - Food Service Permit;
 - Hazard Analysis and HACCP plan (for any new Ready-to-Eat products); and
 - Scales must be annually tested and approved by the Department of Transportation.

8.9 Does the Federal Government require Seafood Processor Permits/Licenses?

- The Environmental Protection Agency requires processors have a Seafood Processing Waste Permit.
- The National Marine Fisheries Service requires processors have a Federal Processor Permit to process groundfish under the Restricted Access Management Program.

8.10 Recommendation for AEB

It is recommended that the AEB Seafood Processors Permits be divided into two different types of land use permits: (1) Onshore Seafood Processing, and (2) Offshore Seafood Processing Permits and Direct Marketing Seafood Processing.

Onshore Seafood Processing Permits would include for-profit companies that buy, process, and/or export a fishery resource using facilities located onshore. Onshore Seafood Processing Permits would be subject to Administrator and Planning Commission review, Assembly approval, and

public review. Each permit would last for the life of the project, or five years, whichever is less. If the Onshore Seafood Processing project extends more than five years, the permit could be renewed as long as the operator is in good standing with the AEB and in compliance with its permit. We are proposing that initial permit applications, and any subsequent major amendments be reviewed by the Administrator and Planning Commission and be approved by the Assembly with a public comment period. Renewals and minor administrative amendments would be administratively approved by the AEB Administrator with no public comment period, unless the Administrator determined there would be a reason to elevate the permit to the Planning Commission or Assembly.

We are proposing that Offshore Seafood Processing and Direct Marketing Seafood Processing be combined into one expedited permit approved by the Administrator. This permit would not be subject to public review. Offshore Seafood Processing includes for-profit companies that buy, process, and/or export a fishery resource using facilities located offshore. Direct Marketing Seafood Processing includes for-profit or non-profit cooperatives, partnerships or individual fisherman who processes or exports only their own catch or has their own catch custom processed for sale. Direct marketing could occur onshore or offshore. We are proposing to require a permit with a term of one year for offshore seafood processing plants and direct marketing, because these operations are most likely to change from year to year, and require expedited permit processing to react to the variable nature of the business.

The definition of processed or processing should be consistent with the existing AEBMC Title 60 definition where "Processed" or "Processing" is defined as cooking, canning, smoking, butchering, freezing, salting, dehydrating and other activities that modify the condition of the fish in preparation of the fish for sale, but does not include decapitating, gutting, gilling, sliming, or icing by the person harvesting the fish if done for the purpose of maintaining the quality of the fish until it can be sold.

It is recommended that the AEB Seafood Processors Permits include the following elements.

- Require the Operator to provide a copy of all required permits and licenses to ensure that operators have required local, state and federal credentials and approvals before conducting business in the AEB.
- ADEC Seafood Processors Application. Require the operator to provide a copy of their ADEC Seafood Processors Application along with their AEB application for the additional information it contains.
- Application for Federal Processor Permit. Require the operator to provide a copy of their Application for Federal Processor Permit along with their AEB application for the additional information it contains.
- Require the Operator to provide information on land ownership and access to ensure that operators either own the land or have legal access from land owner to operate a seafood processing business on state, federal, private, or AEB land. This will mitigate concerns regarding trespass by requiring operators to provide a map showing the area of operation and proof of legal access as part of the permit. Require the operator of an offshore processor located shoreside, permanently or temporarily, to provide documentation that they have legal access to the land or facility they are using.

- Require a waste management plan to ensure that the operator has thought through how it will handle all types of waste streams it will generate during the course of operating its business and ensure that human waste and other trash is properly handled.
- Require an emergency and medical plan to ensure that the operator has thought through basic medical care and how it will handle emergency (medical and fire, flood, earthquake and other emergency situations) that may arise during the course of operating its business.
- Require a copy of the processor's Hazardous Materials Emergency Discharge Plan for inclusion in the AEB's Emergency Response Plan.
- Require a location plan showing all buildings, roads and walkways. Request electronic map.
- Require a transportation map showing ingress and egress.
- Require information on temporary and permanent facilities and equipment used to gain an improved understanding of commercial seafood processing activity occurring within the AEB boundaries.
- Establish an Application Fee to offset a portion of the cost of administering the permitting program.
- Include a standard set of stipulations to clarify the AEB's terms, conditions and expectation.

After considerable discussion with AEB staff, a Surety Bond and Insurance, required by some other government entities was not included. Requiring an additional surety bond and insurance in the permit would be duplicative of bond and insurance requirements already required by landowners (e.g., private, state and federal).

AEB staff felt that it was most important for AEB to ensure that an operator has legal access to private, AEB, state or federal land prior to issuing a permit. Legal access may come in the form of a lease, contract, permit or license that will typically include a surety bond and insurance requirement. Therefore, it would be the responsibility of the private landowner, state or federal government to include surety bond or insurance requirements in legal access documents executed with a miner on their lands.

AEB will require a separate lease or contract for any permanent facilities, structures and access routes constructed on AEB lands and will include a surety bond and insurance requirement in that lease or contract. AEB does not currently have a standard lease or contract form for operators to access AEB land, and one will need to be drafted with the AEB legal counsel to have on hand.

Application Fees. We recommend that the application fees for the onshore and offshore seafood processors be the same over a 5 year period. If AEB charges \$1,000 for an onshore seafood processor permit that is good for 5 years that would equate to \$200 per year for an annual offshore seafood processor permit.

Penalties. We recommend that penalties be the same for onshore and offshore processors, and that fines be aligned with mining exploration.

9. Other Code Changes Requested by Planning Commission

- 9.1. **Adjust the AEB Resource Development District map to better represent the Borough boundaries (e.g., east side of map, and offshore to the 3 mile limit).**
- 9.2. **Define the term Aggrieved Party to clarify who has the right to appeal (e.g., resident, landowner, municipality, tribe, local Native corporation). Look at other borough's definitions of "aggrieved parties." "Aggrieved Party" means a resident, landowner, municipality, tribes, or Native Corporation in the Aleutians East Borough, or the Applicant.**

Joe Levesque advised: Here are a couple of definitions of "aggrieved " and "person aggrieved" – I lifted this from an Alaskan Municipal Planning Codes -

"Person aggrieved" means a person who shows proof of the adverse effect an action or determination taken or made under the Zoning Code has or could have on the use, enjoyment, or value of real property owned by that person. An interest that is no different from that of the general public is not sufficient to establish aggrievement.

"Aggrieved" means that a person's real property interest in the use, enjoyment, or value of specific real property is adversely impacted by the determination being appealed. A person cannot be aggrieved for the purposes of this chapter if the person's interest is no different from that of the general public."

Note that the definitions generally restrict the aggrieved party to a property owner – so, since the Borough's proposed language is broader – I believe it's appropriate. Which doesn't guarantee that it can't be challenged, it just means that there is local precedent for doing it the way we want to.

- 9.3. **If the Assembly compensation is increased to \$300/day, provide a commensurate increase in Planning Commission compensation in the code.**
- 9.4. **Clarify in the code that the PC should meet at least quarterly.**
- 9.5. **Determine if appeal fee should be increased based on other municipalities and boroughs in Alaska, and determine whether the appellant should get a refund of the fee if it wins.** The appeal fee was increased from \$50 to \$500, with a refund to an appellant that wins. [Chapter 40.03.040 and 40.02.020.]
- 9.6. **Clarify in the code that all appeal hearings will be recorded.** The code was revised to make clear that appeal hearings will be recorded. [Chapter 40.03.060 and 40.02.040.]
- 9.7. **Clarify in the code who will present recommendations from the PC to the Assembly and summarize appeal issues, especially if there is a conflict of interest on an appeal or enforcement.** Chapter 40.03.060 states that the Planning Commission Chairman will present the decision to the Board of Adjustment.

10. Questions & Answers That Arose During Project

10.1. Will AEB or its contractors apply for a Land Use Permit?

No. The AEB (or its contractors) will not be required to apply for a land use permit. AEB is the issuing authority for AEB land use permits and will abide by the enforceable policies and stipulations that would be required of a permitted entity. AEB will also ensure that its contractors abide by the enforceable policies and stipulations by including these requirements in the contract between AEB and the contractor.

10.2. Can AEB issue Land Use Permits on private, Native Corporation, BIA, state, and federal lands?

Yes. All Lands in the AEB are subject to AEB Land Use Permitting, except Bureau of Indian Affairs (BIA) Lands (e.g., Native Allotments), and State Lands excluded by the Governor.

Public Law 100-678 requires the federal government to comply with local land use permitting requirements for federal projects in AEB.

The state must also comply with local land use permitting requirements.

Code of Federal Regulations, Title 25, Chapter 1.4 (25 CFR § 1.4) requires that land held under BIA trust does not have to comply with local land use permitting requirements (e.g., Native Allotments), although the State of Alaska recommends that BIA lands do conform to local land use standards. Cities do have the right to condemn BIA Allotments under Alaska Statute, Title 9.

10.3. Are AEB land use permits required in Cities that have been delegated land use planning authority?

No. If an AEB City has been delegated land use planning authority, no AEB permit is required for a business solely confined to inside the City Limits. However, if part of the business activity occurs outside City limits, that portion of the business would require an AEB land use permit.

10.4. Can the AEB set lower Land Use Permit Fees for Local Businesses?

No. The AEB can set different fee categories for different permit types where AEB charges higher fees for more complex projects. However, all permits of the same type must have the same fee; otherwise, it would be unconstitutional.

10.5. Are there other limits on the AEB's permitting program?

The AEB can't frustrate a state of federal statute or regulation. The AEB can't establish requirements that are precluded by federal or state government (pre-emption).

10.6. Can the Assembly serve as the Planning Commission if the AEB cannot get enough volunteers?

No. A Planning Commission is required as an intermediary between the AEB Administrator and the Assembly to review permits and provide advice to both the AEB Administrator and Assembly. The Planning Commission will decide appeals of the Administrator's decisions.

10.7. Does the AEB Title 60 severance tax apply within City Limits, even if AEB has delegated land use planning authority to a city or community?

Yes. The AEB severance tax applies throughout all of AEB, including inside City Limits.

10.8. Should a tax be established for oil and gas?

Not at this time. Local governments are pre-empted from establishing a severance tax for oil and gas (the State of Alaska and federal government reserve this right). Other Alaska Municipalities have established an Ad Valorem tax (property tax – pursuant to AS § 29.45.010 and AS § 29.45.550) that applies to oil and gas infrastructure (pursuant to AS § 29.45.080). Once a property tax is established, it would also apply to all properties in the Borough; and only “at the rate of taxation that applies to other property taxed by the municipality.” See: AS § 43.56.010(b). AEB is not in favor of establishing an Ad Valorem tax at this time. However, AEB may reconsider an Ad Valorem tax at a later date if oil and gas projects are proposed.

11. Action Items

11.1. Locate Nelson Lagoon boundary description and distribute to Planning Commission. [In Progress]

Anne Bailey is working on this.

11.2. AEB will contact ADNR, HDR and/or McClintok see what can be done to update the Borough map. [In Progress]

Anne Bailey is working on this.

11.3. Consider amending Title 60 to reduce threshold for precious minerals (e.g., ton threshold is too high for gold). [REQUIRES ACTION OUTSIDE PROJECT SCOPE]

It is recommended that Title 60 be amended to remove the ton threshold. Apply the tax to all minerals harvested over \$5,000 per year, to include precious metals that would not reach the ton threshold.

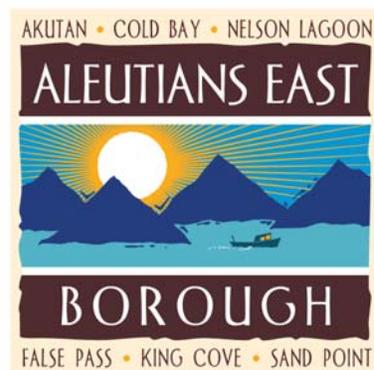
11.4. Hold November 14, 2013 Planning Commission Workshop and finalize any remaining changes to the draft documents [Pending]

Aleutians East Borough

Resource Development Land Use Permitting System

Task 2: Refine Aleutians East Borough Code Title 40, Chapter 20 Planning, Platting and Land Use, Resource Development

Proposed DRAFT Approval **December 12, 2013 Workshop**



Prepared for:
Aleutians East Borough

Prepared by:
Harvey Consulting, LLC
Solstice Alaska, Inc.

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EXECUTIVE SUMMARY

The Aleutians East Borough (AEB), with grant funds from the Coastal Impact Assistance Program, has begun a three year process to develop a Resource Development Land Use Permitting System. The goal of the project is to develop responsible resource use or extraction opportunities that will create local jobs and revenue while protecting community values and the environment. The AEB Municipal Code (AEBMC) will be revised to include the new system.

The first task of the project (Task 1) was to obtain resident's opinions and recommendations on resource development land use regulations through community meetings. Four communities were visited with 32 residents attending meetings. To supplement community meetings, consultants designed, implemented, and tallied the results of an on-line opinion survey. Task 1 was completed and a final report was issued (February 2013).

The second task of the project (Task 2) is to use information gathered in Task 1, along with AEB's existing Comprehensive Plan, and Coastal Zone Management Plan to assist the AEB Planning Commission and AEB staff in developing a proposed revision to the AEB Code at Title 40, Chapter 20, Planning, Platting and Land Use for AEB Assembly approval. The AEB code revision will provide additional specificity on permit form types, standard operating procedures for reviewing and approving applications, authority to establish standard stipulations to protect coastal resources, an inspection/audit compliance program and a fee/penalty schedule. While working on Title 40, Chapter 20, Planning, Platting and Land Use code revisions, the consultants determined that other sections of the code needed to be updated and revised to achieve the project's goals and to ensure consistency. Proposed revisions to Title 1 (General Provisions), Title 2 (Administration), and Title 45 (Powers and Functions) were also developed as part of this project.

The draft code was developed with AEB staff during a series of meetings held in 2013. The draft code was provided to the Borough's attorney (Levesque Law Group, LLC) for review and revision.

The recommendations listed in this report were presented at two Planning Commission Workshops held on October 10 and 15, 2013. All AEB communities had an opportunity to participate in the workshops via teleconference.

This report summarizes the significant changes proposed to Titles 1, 2, 40 and 45. Redlined versions of each title are also provided for review and comment.

AEBMC Title 1, General Provisions – Summary of Significant Proposed Changes

1. **Definitions** were added to clarify the term Administrator, define how time is computed for public notice periods, clarify that the Mayor is the Presiding Officer of the Assembly, clarify public notice requirements, and modernize terms. [Chapter 1.12.010].
2. **Public Notice Requirements** were standardized and modernized to include email and web noticing. [Chapters 1.20.030, 1.20.120 and 1.20.130].
3. **Penalties** were revised to remove imprisonment, which AEB does not do, and clarify AEB's ability to seek civil and criminal remedies. [Chapters 1.24.010, 1.24.020, and 1.24.040].
4. **Inspection Authority** was added to allow the Borough to enforce the code and land use permit terms and conditions. [Chapter 1.24.030].

AEBMC Title 2, Administration - Summary of Significant Proposed Changes

1. **Assembly Compensation** was revised to include compensation for Assembly members when they are also serving on the Board of Adjustment. A Board of Adjustment was added in Title 40 to adjudicate permit appeals. Compensation was increased to \$300/day. [Chapter 2.04.040].
2. **Public Notice Requirements** were standardized in Title 1 and referenced throughout Title 2 for a consistent approach to include email and web noticing. [Chapters 2.08.010 and 2.20.040].
3. **Assembly Meeting Information Distribution Instructions and Meeting Minutes** were revised to match current administrative practices used by the Borough Clerk. [Chapters 2.12.030 and 2.12.040].
4. **Private Meetings of Boards and Commissions** was clarified to include the Planning Commission and included topics listed under Chapter 2.08.050, consistent with current Assembly Executive Session criteria and practices. [Chapter 2.20.020].
5. **Public Notice of Meeting** chapter was modified to include the Planning Commission. [Chapter 2.20.030].
6. **Borough Clerk and Treasurer Positions** were separated to match the current AEB organization structure. [Chapter 2.28.020].
7. **Borough Clerk Duties** were expanded to include support of the Planning Commission, in addition to the Assembly. [Chapter 2.28.030].
8. **A new Finance Department** chapter was added to match current AEB organization structure that includes a Finance Department and a Finance Department Director. [Chapter 2.29].

9. **Public Works Department** chapter was revised to clarify that the director is called the “Maintenance Director” to match current AEB organization structure. [Chapter 2.40].
10. **Health Department** chapter was deleted to match the current AEB organization structure. [Chapter 2.50].
11. **AEB Health Department Board** was deleted to match the current AEB organization structure. [Chapter 2.51].

AEBMC Title 40, Planning, Platting and Land Use – Summary of Significant Proposed Changes

1. **Geographic Information System (GIS)** was revised to a more generic electronic system term because AEB does not currently have a GIS. [Chapter 40.01.010].
2. **Geographic Scope** added False Pass to the list of communities that are exempt from the requirements of Title 40, since False Pass has elected to administer its own planning, platting and land use. [Chapter 40.01.020].
3. **Borough Administration** clarified who has authority to approve planning, platting and land use permit approvals. [Chapter 40.01.030].
4. **A new “Permit Approval Required” Section** was added to clarify that permits must be approved by AEB prior to construction or operation. [Chapter 40.01.040].
5. **Expanded the Compliance Section** to provide substantially more detail on how compliance is achieved. [Chapter 40.01.050].
6. **Fees and Penalty Schedule** chapter was revised to require Assembly approval of any schedule of fees and penalties recommended by the Planning Commission. [Chapter 40.01.060].
7. **A new “Elevation”** chapter was added to provide the Administrator with procedures to elevate a permit to the Planning Commission. [Chapter 40.01.070].
8. **A new “Applicants Opportunity to Appeal”** chapter was added to summarize the applicants appeal steps. [Chapter 40.01.080].
9. **Definitions** were added to distinguish Casual Recreational Use from Commercial Recreation which requires a permit, to define new terms (e.g., Coal Mining, Direct Marketing Seafood Processor, Onshore Seafood Processor, Offshore Seafood Processor, Commercial Recreation, Eco-Tourism, Fishing Guide, Hunting Guide, Mineral Mining, Recreational Mining, Small Mining Operator, Large Mining Operator, Recreational Mining, Oil and Gas, Professional Researcher, Research, Research Conducted in Support of Resource Development, and Research Conducted for Other Purposes, and Sand, Gravel and Rock Mining), expand the definition of Resource Development, and define the term Aggrieved Party. [Chapter 40.01.090].

10. **A new “Appeals to the Planning Commission” Section** chapter was added to outline the steps taken to handle an appeal of the Administrator’s decision. [Chapter 40.02].
11. **A new “Appeals to the Board of Adjustment”** chapter was added to outline the steps taken to handle an appeal of the Planning Commission’s decision. [Chapter 40.03].
12. **A new “Appeals to the Superior Court” Section** chapter was added to outline the steps taken to handle an appeal of the Assembly’s decision to Superior Court. [Chapter 40.04].
13. **A new “Youth Representative”** section was added to provide for a youth representative, advisory nonvoting seat on the Planning Commission. [Chapter 40.05.020].
14. **Planning Commission Membership Terms** were clarified. [Chapter 40.05.030].
15. **Planning Commission Vacancies** will be filled by Mayor appointment for the unexpired term of position. [Chapter 40.05.050].
16. **Public Notice Requirements** were standardized in Title 1, and referenced throughout Title 40 for a consistent approach to include email and web noticing. [Chapter 40.05.060].
17. **Planning Commission Rules of Procedures and Meetings** were modified to more closely match the Assembly’s rules of procedure. [Chapters 40.05.070 and 40.05.080].
18. **Planning Commission Compensation** was clarified to include an amount of \$300 per meeting day. [Chapter 40.05.090].
19. **Planning Department** chapter was revised to: clarify that the Administrator will serve as the Planning Department Director if that position is not filled (currently that is the case); clarify that AEB may identify state or federal non-compliance and will refer those issues to be handled by the appropriate agency; and, remove the requirement to have a Geographic Information System (GIS). [Chapter 40.06].
20. **Comprehensive Plan Contents.** Removed outdated materials. [Chapter 40.05.090].
21. **A new “Municipality Zoning District”** was added to clarify that all communities exempted from Chapter 40 are municipalities where the Borough has delegated planning, platting and land use authority to be administered by the municipality. [Chapter 40.15.040].
22. **Expanded the Resource Development Zone** to include all lands that are not otherwise zoned as Residential, Commercial, Industrial, as a Municipality. [Chapter 40.15.040].
23. **A new “Commercial Recreation Land Use Permit Required” Section** was added. [Chapter 40.20.010].
24. **A new “Sand, Gravel and Rock Mining Land Use Permit Required” Section** was added. [Chapter 40.20.020].
25. **A new “Research Land Use Permit Required” Section** was added. [Chapter 40.20.030].

26. **A new “Mineral and Coal Mining Exploration & Small Mining Operations Land Use Permit Required” Section** was added. [Chapter 40.20.040].
27. **A new “Offshore & Direct Marketing Seafood Processing Land Use Permit Required” Section** was added. [Chapter 40.20.050].
28. **A new “Onshore Seafood Processing Land Use Permit Required” Section** was added. [Chapter 40.20.060].
29. **A new “Large Mining Operations Land Use Permit Required” Section** was added to replace the previous more generalized Resource Development Permit Requirements. [Chapter 40.20.070].
30. **A new “Oil and Gas Land Use Permit Required” Section** was added to replace the previous more generalized Resource Development Permit Requirements. [Chapter 40.20.080].

AEBMC Title 45, Powers and Functions – Summary of Significant Proposed Changes

1. **Medical and Mental Health Services** chapter was deleted to match the current AEB organization structure. [Chapter 45.05.040].
2. **Service Area Powers** chapter was deleted to remove the Akutan Health Clinics Service Area, since it is no longer in operation. [Chapter 45.15].

TITLE 1

GENERAL PROVISIONS

CHAPTERS

- 1.04 CODE ADOPTION
- 1.08 BOROUGH DATA
- 1.12 INTERPRETATION AND USE OF ORDINANCE CODE
- 1.20 ORDINANCE -- RESOLUTION -- TECHNICAL CODES
- 1.24 PENALTIES
- 1.28 FINANCIAL DISCLOSURE

TITLE 1

GENERAL PROVISIONS

Chapter 1.04 -- Borough Code

Section:

1.04 Code Adoption.

1.04 Code Adoption.

There is hereby adopted the "Code of the Aleutians East Borough of Alaska, and shall be sufficient to designate any ordinance adding to, correcting, amending, or amendment of the Code. Ordinances shall be cited by giving the title, chapter and section numbers preceded by the Code."

(Ord. 88-1, Sec. 1.04, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.08 -- Borough Data

Sections:

- 1.08.010 Aleutians East Borough, Mayor - Assembly Form.
- 1.08.020 Borough Limits.
- 1.08.030 Borough Seal.

1.08.010 Aleutians East Borough, Mayor - Assembly Form.

- A. The Aleutians East Borough shall continue as a municipal corporation under the name: "Aleutians East Borough."
- B. The government of the Borough shall be that commonly known and designated as the Mayor - Assembly form.

(Ord. 88-1, Sec. 1.08.010, part, 1987)

1.08.020 Borough Limits.

The boundaries of the Borough are those set out in the Certificate of Incorporation dated October 23, 1987.

(Ord. 88-1, Sec. 1.08.020, part, 1987)

1.08.030 Borough Seal.

The Borough shall have a seal of two concentric circles bearing in the outer circle "Aleutians East Borough, Alaska," "October 23, 1987," and shall depict in the inner circle the word "Seal".

(Ord. 88-1, Sec. 1.08.030, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.12 -- Interpretation And Use Of Ordinance Code

Sections:

- 1.12.010 Definitions.
- 1.12.020 Grammatical Interpretation.
- 1.12.030 Ordinances included in the Aleutians East Municipal Code.
- 1.12.040 Amendments to Code - Effect of New Ordinances Amendatory Language.
- 1.12.050 Supplements or Revisions to the Aleutians East Borough Municipal Code.

1.12.010 Definitions:

Whenever the following words and terms are used in the Aleutians East Borough Municipal Code, they shall have the meaning herein ascribed to them unless the context clearly indicates otherwise.

A. "Administrator" means the Aleutians East Borough Administrator;

BA. "Attorney" means the Borough Attorney;

CB. "Assembly" means the assembly of the Aleutians East Borough;

DC. "Borough" means the Aleutians East Borough;

ED. "Building Official" means the borough building official;

FE. "Clerk" means the Borough Clerk;

GF. "Clerk-treasurer," whenever the reference is to duties not involving money, means the Borough Clerk;

HG. "Code" means the Aleutians East Borough Municipal Code;

IH. "Computation of time" means the time within which an act is to be done. Throughout the Code, wherever a period of time is specified, that period of time # shall be computed by excluding the first day and including the last day; and if the last day is Saturday, Sunday or a legal Borough holiday, that day shall be excluded, except when the term "calendar days" is used where

the period of time shall be strictly computed by excluding the first day and including the last day without excluding weekends or holidays;

J. "Finance Director" means the Borough Finance Director;

K. "Judge" or "Magistrate" means the judge of any court of law;

L. "Law" denotes applicable federal law, the Constitution and Statutes of the State Alaska, the Ordinances of the Borough and, when appropriate, any and all rules and regulations which may be promulgated thereunder;

M. "May" is permissive;

N. "Mayor" means the Borough Mayor;

O. "Month" means calendar month;

P. "Municipality" means the Aleutians East Borough

Q. "Municipal Officer or Employee" means an officer or employee of the Borough, whether paid or unpaid, including members of the Assembly, and members of any board or commission;

R. "Must" and "Shall" - each is mandatory;

S. "Oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed;"

T. "Or" is disjunctive and "and" is conjunctive;

U. "Ordinance" means a law of the Borough, provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution;

V. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant of the entirety, or agent in charge for any of the foregoing, of the whole or a part of such building or land;

W. "Peace Officer" means any officer of the state police, members of the police force of any incorporated borough or borough, United States Marshals and their deputies, and other officers whose duty it is to enforce and preserve the public peace;

[XW](#). "Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them;

[YX](#). "Personal property" includes money, goods, chattels, things in action and evidences of debt;

[ZY](#). "Presiding ~~Officer~~: [The Mayor is the Presiding Officer at meetings of the Assembly means the chairperson of the assembly](#);

[AAZ](#). "Property" includes real and personal property;

[BB](#). [“Published” or “public noticed” means posting in two public places within each community of the Borough as well as on the Borough’s public notice page of its website.](#)

[CCAA](#). "Real property" includes lands, tenements and hereditaments;

[DDBB](#). "Registered mail" includes certified mail. When the use of registered mail is authorized or required by this Code, certified mail may be used unless expressly prohibited;

[EEGG](#). "Sidewalk" means that portion of a street between the curb line and adjacent property line intended for the use of pedestrians;

[FFDD](#). "Signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name, but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

[GGEE](#). "State" means the state of Alaska;

[HHFF](#). "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, parking areas, or other public ways which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the state of Alaska;

[IIGG](#). "Tenant" and "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others;

[JJHH](#). "Title of Office." Use of the title of any officer, employee, department, board or commission of the borough and borough;

KKH. "Treasurer" whenever the reference to the duties involving money, means the borough finance director;

LLJ. "Written" includes printed, or typewritten, ~~mimeographed or multigraphed;~~
and,

MMK. "Year" means a calendar year.

(Ord. 88-1, Sec. 1.12.010, part, 1987)

1.12.020 Grammatical Interpretation

The following grammatical rules shall apply in the Aleutians East Borough Municipal Code and the Ordinances of the Borough:

- A. Gender. Any gender includes the other genders;
- B. Singular and Plural. The singular number includes the plural and the plural includes the singular;
- C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable;
- D. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language; and,
- E. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(Ord. 88-1, Sec. 1.12.020, part, 1987)

1.12.030 Ordinances Included in the Aleutians East Borough Municipal Code:

The Assembly, with the advice and assistance of the Borough Attorney, shall cause each ordinance and resolution having the force and effect of law to be printed as promptly as possible following its adoption in the following manner:

- A. Ordinances enacted by the Borough Assembly ~~that are of the borough and borough general and~~ permanent in nature shall be inserted in the Aleutians

East Borough Municipal Code when properly prepared and authenticated by the Borough Clerk.

- B. Emergency, bond, temporary and appropriation ordinances and resolutions shall not be included in the Aleutians East Borough Municipal Code, but shall be retained by the Borough Clerk in the form enacted.
- C. All titles to ordinances, all enacting and repealing clauses, all declarations of emergency, and all purpose, validity and construction clauses shall be omitted from the Code unless from their nature it may be necessary to retain some of them to preserve the full meaning and intent of the ordinance.

(Ord. 88-1, Sec. 1.12.030, part, 1987)

1.12.040 **Amendments to Code - Effects of New Ordinances**
Amendatory Language.

- A. All ordinances passed subsequent to this Code which amends, repeal or in any affect this Code, may be provided with numbers in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.
- B. Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Borough Municipal Code is hereby amended to read as follows: "_____" The new section shall then be set out in full as desired.
- C. In the event a new section not heretofore existing in the code, is to be added by an ordinance, the following language shall be used: "That the Aleutians East Borough Municipal Code is hereby amended to add a section, to be numbered _____, which said section reads as follows:" The new section shall then be set out in full as desired.
- D. All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(Ord. 88-1, Sec. 1.12.040, part, 1987)

1.12.050 **Supplements or Revisions to the Aleutians East Borough**
Municipal Code.

The Aleutians East Borough Municipal Code shall be supplemented at regular intervals, or if the assembly deems that supplementation of the Code is unnecessary, the Code shall be revised and printed every five years.

(Ord. 88-11, Sec. 1.12.050, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.20 -- Ordinance--Resolutions--Technical Codes

Sections:

1.20.010	Acts of the Assembly.
1.20.020	Acts Required to be by Ordinance.
1.20.030	Ordinance Procedure.
1.20.040	Ordinance Form and Content.
1.20.050	Emergency Ordinances.
1.20.060	Signature.
1.20.070	Ordinances Confined to Single Subject.
1.20.080	Repeal Shall Not Revive Any Ordinances.
1.20.090	Act by Agents.
1.20.100	Codes of Regulations.
1.20.110	Formal Acts by Resolution.
1.20.120	Resolutions - Reading - Hearing - Final Passage Posting.
1.20.130	Rules and Regulations.

1.20.010 Acts of the Assembly.

The Assembly shall act only by ordinance, resolution or order. Laws of a general, uniform and permanent nature shall be reduced to ordinance; laws of a temporary or special character shall be reduced to resolution. When the Assembly expresses anything by way of command, the form of expression shall be "ordered"; when it expresses opinions, principles, facts or propositions, the form shall be "resolved."

(Ord. 88-1, Sec. 1.20.010, part 1987)

1.20.020 Acts Required to be by Ordinance.

In addition to other actions which AS Title 29 requires to be by ordinance, the Assembly shall use ordinances to:

- A. Establish, alter or abolish Borough departments;
- B. Fix the compensation of members of the Assembly;
- C. Provide for a fine or other penalty, or establish rules or regulations for violation of which a fine or other penalty is imposed;

- D. Provide for levying of taxes;
- E. Make appropriations and supplemental appropriations or transfer appropriations;
- F. Grant, renew, or extend a franchise;
- G. Regulate the rate charged by a borough public utility; and
- H. Adopt, modify or repeal the Comprehensive Plan, zoning and subdivision ordinances, building and housing codes, and the official map.

(Ord. 88-1, Sec. 1.20.020, part, 1987)

1.20.030 Ordinance Procedure.

- A. An ordinance may be introduced if it is in writing and substantially in the form required in Chapters 12 and 20 of this Title.
- B. The following procedure governs the enactment of all ordinances except emergency ordinances:
 - 1. An ordinance may be introduced by a member or committee of the governing body, or by the Mayor.
 - 2. An ordinance shall be set by the governing body for a public hearing by the affirmative vote of a majority of the votes authorized on the question.
 - 3. At least five days before the public hearing a summary of the ordinance shall be published ~~together—in accordance with the~~ [publication requirements of Section 1.12.010](#) with a notice of the time and place for the hearing.
 - 4. Copies of the ordinances shall be available to all persons present at the hearing, or the ordinance shall be read in full.
 - 5. During the hearing the governing body shall hear all interested persons wishing to be heard.
 - 6. After the public hearing the governing body shall consider the ordinance, and may adopt it with or without amendment. If an amendment to the ordinance is so substantial as to change the basic character of the ordinance, the ordinance, as amended, shall be treated as newly introduced and shall be scheduled for a public

hearing to occur after publication of the summary and notice required in subsection B (3) of this section.

7. The governing body shall print and make available copies of an ordinance that is adopted.
- C. An ordinance takes effect immediately upon adoption or at a later date specified in the ordinance.
- ~~D. For the purpose of this section, "published" means appearing at least once in a newspaper of general circulation distributed in the borough as well as being posted on the Borough's website., or, if there is no newspaper of general circulation distributed in the Borough municipality such that notice requirements can be met within the time required, notice shall be posted in three public places within the borough as well as on the Borough's website, for at least five days. If publication is by posting, publication does not occur until after the notice has been posted for five days. Thereafter, the five day publication required in subsection B(3) begins to run.~~

(Ord. 88-1, Sec. 1.20.030, part, 1987)

1.20.040 Ordinance Form and Content.

All ordinances enacted by the Assembly shall be in substantially the following form:

- A. The proposed ordinance shall have a heading and number.
- B. Title: A short summary of the ordinance's provisions shall be included in a title at the head of the ordinance. The title shall make reference to any penalties imposed by the ordinance.
- C. Enacting clause: The enacting clause shall read: "BE IT ENACTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH:"
- D. Substantive part of the ordinance: The provisions of the ordinance will follow the enacting clause.
- E. Signatures: Appropriate places shall be provided for the signatures of the Mayor and Borough Clerk.
- F. Attestation: The enactment and passage date of the ordinance shall be attested by the Borough Clerk.

- G. Code section numbers: Ordinances which amend, add to or repeal sections of the Aleutians East Borough Municipal Code shall refer to the Code sections by number.

(Ord. 88-1, Sec. 1.20.040, part, 1987)

1.20.050 Emergency Ordinance.

- A. To meet a public emergency the Assembly may adopt ordinances effective on adoption. Every emergency ordinance must contain a finding by the Assembly that an emergency exists and a statement of the facts upon which the finding is based. The ordinance may be adopted, amended and adopted, or rejected at the meeting to which it is introduced. The affirmative vote of all members present, or the affirmative vote of three-fourths of the total membership, whichever is less, is required for adoption. The Assembly must print and make available copies of adopted emergency ordinances.
- B. An emergency ordinance may not be used to levy taxes to grant, renew or extend a franchise, or to regulate the rate charged by a public utility for its service.
- C. Emergency ordinances are effective for sixty days.

(Ord. 88-1, Sec. 1.20.050, part, 1987)

1.20.060 Signature.

Each ordinance shall be signed by the Mayor at its adoption and attested by the Borough Clerk.

(Ord. 88-1, Sec. 1.20.060, part, 1987)

1.20.070 Ordinances Confined to Single Subjects.

Every ordinance shall be confined to one subject unless it is an appropriation ordinance or one codifying, revising, or rearranging existing ordinances. Ordinances for appropriations shall be confined to appropriation. The subject of each ordinance shall be expressed in the title.

(Ord. 88-1, Sec. 1.20.070, part, 1987)

1.20.080 Repeal Shall Not Revive Any Ordinance.

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(Ord. 88-1, Sec. 1.20.080, part, 1987)

1.20.090 Acts by Agents.

When an act is required by ordinance and the act may be done as well by an agent as by the principal, such requirement shall be construed as to require and include all such acts performed by an authorized agent.

(Ord. 88-1, Sec. 1.20.090, part, 1987)

1.20.100 Codes of Regulations.

The Assembly may in a single ordinance adopt or amend by reference provisions of a standard published code of regulations. The regular ordinance procedure applies except that neither the ordinance nor its amendments need be distributed to the public or read in full at the hearings. ~~For a period of fifteen days before adoption at least five hearings.~~ For a period of fifteen days before adoption at least five copies of the Code must be made available for public inspection at a time and place set out in the hearing notice. Only the adopting ordinance need be printed after adoption. The Assembly shall provide for the adopted Code to be sold to the public.

(Ord. 88-1, Sec. 1.20.100, Part, 1987)

1.20.110 Formal Acts by Resolution.

A. Formal acts by the Assembly not required by law to be enacted by ordinance and not being acts of a general and permanent nature may be adopted by resolution. A resolution shall have:

1. The heading "Aleutians East Borough, Alaska";
2. The space for a number to be assigned -- "Resolution, No.";
3. A short and concise title descriptive of its subject and purpose;
4. Short premises or whereas clauses descriptive of the reasons for the resolution, of necessary;
5. The resolving clause "Be it Resolved";
6. Provision for signature after the date, and designated lines for the signatures of the mayor; and,

7. An attestation to be signed by the Clerk.
- B. All resolutions adopted by the Assembly whether at the instance of the Assembly, shall conform to the requirements set forth in (A.) above.
- C. Resolutions shall not be included in the AEB Municipal Code .

(Ord. 88-1, Sec. 1.20.110, part, 1987)

1.20.120. Resolution--Adoption--Effective Date--Posting.

- A. Every resolution shall be introduced in writing and may be adopted by the Assembly upon introduction and with or without amendments.
- B. Unless specifically stated within the resolution or otherwise required by law, a resolution becomes effective-immediately upon adoption.
- C. Upon adoption of a resolution, a copy of the resolution shall be posted on the public bulletin board at the Borough headquarters within the Borough, as well as the Borough's website for at least fourteen days. Failure to post the resolution as required under this subsection does not affect the validity or enforceability of the resolution.

(Ord. 92-6 (Amended Ord. 88-1), Sec. 1.20.120, part, 1987)

1.20.130 Rules and Regulations.

Any rule or regulation made by any administrative officer or board or commission shall be published ~~either by one publication in a newspaper of general circulation in the Borough, by posting a copy thereof for ten days following its approval by the Borough Assembly on the Borough bulletin board in the borough offices and also on the Borough's website~~ in accordance with the publication requirements of Section 1.12.010.

(Ord. 88-1, Sec. 1.20.130, part, 1987)

TITLE 1

GENERAL PROVISIONS

Chapter 1.24 -- Penalties

Sections:

- 1.24.010 General ~~Policy~~Penalty.
- 1.24.020 Administrative Enforcement Action.
- 1.24.030 Administrative Inspections.
- 1.24.0420 Penalty Surcharge Authorization and Collection.

1.24.010 General ~~Penalty~~Policy.

- A. Every act prohibited by the ordinance of this Borough is unlawful. Unless another penalty is expressly provided by an ordinance, every person convicted of a violation of any of the ordinances of this Borough, or any rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed one thousand dollars ~~(\$1,000) per violation or by imprisonment for not more than ninety days, or by both such fine and imprisonment.~~ Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(Ord. 88-1, Sec. 1.24.010, part, 1987)

- B. Notwithstanding the availability of any other remedy, the Borough or an aggrieved person may institute a civil action against a person who violates a borough ordinance or any order issued under the AEBMC. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the Superior Court shall grant the injunction as provided in AS 29.25.070(b) or any successor law.

1.24.020 Administrative Enforcement Action.

For provisions authorizing the Assembly to prescribe penalties for violation of codified ordinances not to exceed a fine of \$1,000 per violation, see AS 29.25.070.

- A. The Administrator may order:

1. The discontinuation of unlawful uses of land or structures;
2. The removal or abatement of unlawful structures, or any unlawful additions or alternations thereto;
3. The discontinuation of construction or other preparatory activity leading to an unlawful structure or an unlawful use of a land or structure;
4. Compliance with a permit condition or compliance with AEBMC requirements;
5. Cleanup and remediation; and
6. When necessary to ensure compliance with this title, the suspension or revocation of permits, or other borough land use entitlements.

B. Upon complaint by a citizen, or upon his own initiative, the Administrator may, after investigation, initiate State of Federal criminal proceedings against any person for the violation of this title.

1.24.030 Administrative Inspections.

The Administrator or his designee may conduct both announced and unannounced inspections necessary to enforce the AEBMC and land use permit terms and conditions.

1.24.0420 Penalty Surcharge Authorization and Collection.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, Code provision, or regulation of the Aleutians East Borough brought under a citation or criminal complaint that would require a proceeding in the Alaska Court System if the defendant were to enter a plea of not guilty. The court may impose and collect the surcharge on all penalties imposed by the court where fines ~~and bail forfeitures~~ are paid to the court. For all criminal proceedings in which the fine ~~or bail forfeiture~~ is collected by the Borough, the surcharge imposed shall be collected by the Borough with the payment of the fine ~~or forfeited bail~~ and regularly paid over to the appropriate agency of the state less any collection and administration fee or reimbursement authorized by the state to be retained by the Borough.

(Ord. 99-01, new section 1.24.020)

TITLE 1

GENERAL PROVISIONS

Chapter 1.28 – Financial Disclosure

Sections:

1.28 Financial Disclosure

1.28 Financial Disclosure

- A. Financial disclosure is required by all Aleutians East Borough Assembly members, Aleutians East Borough School Board members, Planning Commission members and the Aleutians East Borough Mayor.
- B. Each elected or appointed official shall complete and file with the clerk a report of financial disclosure and business interest, the Aleutians East Borough Financial Disclosure form, no later than April 15 of each year.

(Ord. 12-03, New Sec. 1.28)

TITLE 2
ADMINISTRATION

CHAPTERS:

- 2.02 BOROUGH SCHOOL BOARD
- 2.04 BOROUGH ASSEMBLY
- 2.08 ASSEMBLY MEETINGS
- 2.12 ASSEMBLY PROCEDURES
- 2.16 MAYOR
- 2.20 BOROUGH OFFICES AND OFFICERS
- 2.28 BOROUGH CLERK ~~–TREASURER~~
- 2.29 FINANCE DEPARTMENT
- 2.40 PUBLIC WORKS DEPARTMENT
- 2.50 HEALTH DEPARTMENT
- 2.51 ALEUTIANS EAST BOROUGH HEALTH BOARD
- 2.60 NATURAL RESOURCES DEPARTMENT

TITLE 2

ADMINISTRATION

Chapter 2.02 -- Borough School Board

Section:

- 2.02.010 School Board Composition and Apportionment.
- 2.02.020 School Board Elections.
- 2.02.030 Financial Disclosure

2.02.010 School Board Composition and Apportionment.

The School Board shall consist of seven members, elected to seats identified as seats A-G, who are elected at large by the qualified voters of the Borough.

(Ord. 07-09 (Amended 02-08), Sec. 2.02.010, part, 1987)

2.02.020 School Board Elections.

The Borough Code Title 4 governing elections is applicable to all School Board elections.

(Ord. 07-09, New Sec. 2.02.020)

2.02.030 Financial Disclosure

- A. Aleutians East Borough School Board members shall submit a financial and business disclosure form in accordance with and as required by Borough Code 1.28.
- B. Participation in all borough governmental activities without the required disclosure by School board members is prohibited.

(Ord. 12-03, New Sec. 2.02.030)

TITLE 2

ADMINISTRATION

Chapter 2.04 -- Borough Assembly

Sections:

2.04.010	Borough Assembly--Composition and Apportionment
2.04.020	Qualifications of Assembly and School Board Members.
2.04.030	Election of Assembly and School Board Members--Terms.
2.04.040	Compensation of Assembly Members.
2.04.048	Declaration of Vacancy.
2.04.050	Filling a Vacancy.
2.04.060	Advisory Members.
2.04.070	Financial Disclosure

2.04.010 Borough Assembly -- Composition and Apportionment.

The Assembly shall consist of seven members, elected to seats, identified as Seat A-G, elected at large by the qualified voters of the Borough.

(Ord. 07-08 (Amended Ord. 02-09), Sec. 2.04.010, part, 1987)

2.04.020 Qualifications of Assembly and School Board Members.

The Assembly and school board members shall be qualified electors of the Borough, and shall have been a resident within the Borough for a minimum of one (1) year prior to holding office. An Assembly or school board member who ceases to be eligible to be a Borough voter immediately forfeits his office.

(Ord. 07-08 (Amended Ord. 88-1), Sec. 2.04.020, part, 1987)

2.04.030 Election of Assembly Members -- Terms.

- A. An election is held annually on the first Tuesday of October, to choose Assembly and school board members for three year terms and until their successors are elected and have qualified. In the event that a new form of representation is adopted, upon certification of the results, the Assembly and school board members elected at such election shall determine by lot the length of the terms of office so that the terms of two (2) members shall be for one (1) year, the terms of two (2) members shall be for two (2) years,

and the term of three (3) members shall be for three (3) years, resulting in staggered terms of office for all members subsequently elected.

- B. The regular term of office begins on the first Monday following the certification of the election.
- C. The Assembly may provide by ordinance for different terms not to exceed three (3) years, except that the current term of incumbent Assembly members may not be altered.

Ord. 07-08 (Amended Ord. 88-1), Sec. 2.04.030, part, 1987)

2.04.040 Compensation of Assembly Members.

Each member of the Assembly shall receive a meeting fee of ~~two~~three hundred dollars for each meeting day of the Assembly attended, including Board of Equalization and Board of Adjustment meetings attended. The meeting fee shall be paid monthly and shall be subject to all taxes and withholdings, including deductions for the Public Employee's Retirement System (PERS), if applicable.

(Ord. 02-12 (Amended Ord. 88-1), Sec. 2.04.040, part, 1987)

2.04.048 Declaration of Vacancy.

- A. An Assembly seat becomes vacant for any reason set out in AS 29.20.170 upon a declaration of vacancy by the Assembly by resolution.
- B. Prior to the adoption of a resolution declaring a vacancy, the Assembly shall hold a hearing on the question of whether to declare the seat vacant and shall give two weeks' notice of the date, time, place and purpose of the hearing to the Assembly member holding the seat. If the reason for the proposed declaration of vacancy is the mental inability of the Assembly member to perform the duties of office, notice shall be given to the Assembly member and, if possible, to a person responsible either for the care or for the affairs of the Assembly member. The Assembly member may be represented at the hearing by an attorney and may present such evidence and sworn oral and written testimony as is relevant.
- C. If the declaration of vacancy is because the Assembly member no longer physically resides in the Borough, there is a rebuttable presumption the Assembly member no longer physically resides in the Borough if it is shown that the Assembly member has established a place of residence outside the Borough and has resided outside the Borough for 90 or more consecutive or nonconsecutive days during the immediately preceding 6 month period without first having obtained a determination by the Assembly that unusual circumstances exist that justify both the temporary establishment of such a residence and the physical presence of the person outside the Borough. In

determining whether an Assembly member has established a residence outside the Borough the Assembly may consider such things as:

1. Where the Assembly member or a member of the Assembly member's household owns residential property that the Assembly member occupies.
 2. Where and for what term the Assembly member leases or rents and resides at nontransient residential property.
 3. Whether and where an Assembly member who lives aboard a vessel rents transient or permanent moorage.
 4. The location and amount of time the Assembly member resides at residential property owned or rented by or made available for the Assembly member, including the location and time residing on a vessel.
 5. The address to which the Assembly member's mail, other than advertising, is sent directly by the sender.
 6. The physical location of motor vehicles and other goods owned by the Assembly member or that are owned by members of his or her household and regularly used by the Assembly member.
 7. The places the Assembly member participates in activities of social clubs or other groups.
 8. The places children of the household of the Assembly member attend school.
 9. Other relevant factors.
- D. Resignation tendered by an Assembly member is unconditional and irrevocable. Upon submittal, the resignation shall be transmitted to the Assembly for consideration and action and cannot be withdrawn any time prior to consideration and action by the Assembly. (Ord. 00-05, new subsection 2.04.048(D))

The Assembly may find that an Assembly member no longer physically resides in the Borough whether or not the conditions for the rebuttable presumption are shown.

(Ord. 90-4, Sec. 2.04.048, part, 1987)

2.04.050 Filling a Vacancy.

If a vacancy occurs in the Assembly, the Assembly by vote of a majority of its remaining members shall designate a person to fill the vacancy within thirty days. (Ord. 88-1, Sec. 2.04.050, part, 1987)

2.04.060 Advisory Members.

- A. There shall be advisory members appointed on the Assembly with the rights and responsibilities a set out in this section.
- B. There shall be one for each of the communities in the Borough, which are without an Assembly member residing in its respective community.
- C. The term of an advisory member is one year and begins on January 1st of each year. A person appointed holds office until a successor has been appointed and seated.
- D. Advisory members may attend all Assembly meetings, work sessions, committee of the whole meeting and subcommittee meetings; except, an advisory member may not attend executive sessions except upon adoption by the Assembly or committee of the motion to permit the advisory members to attend the executive session.
- E. Advisory members may participate in the discussion of any matter that comes before the Assembly or committee but may not make motions, vote or otherwise participate except to discuss matters before the body.
- F. Only a person appointed under this section may participate in Assembly meetings as an advisory member. An advisory member may not serve as a proxy or substitute for a regular member of the Assembly unless appointed or elected to fill an Assembly vacancy. Upon such election or appointment to a vacancy, the advisory seat held by that person becomes vacant.
- G. If an advisory member clearly expresses a position for or against a proposition, the minutes of the meeting shall reflect the position expressed.
- H. Advisory members will receive per diem, reimbursement and payments in lieu as may be provided for Assembly members.
- I. The presence or absence of an advisor member at an Assembly meeting, the existence of a vacancy in an advisory member seat, and an act or admission of an advisory member shall have no effect on any action of the Borough. An advisory member has no authority to act on behalf of the Borough and the meeting of advisory members does not constitute a

meeting of the Assembly or any other body of the Borough for any purpose.

- J. Advisory members shall be governed by the same rules as elected members concerning meeting attendance as provided for in 2.20 and other applicable ordinances.

(Ord. 08-04 (Amended Ord. 88-5), Sec. 2.04.060, part, 1987)

2.04.070 Financial Disclosure.

- A. Aleutians East Borough Assembly members shall submit a financial and business disclosure form in accordance with and as required by Borough Code 1.28.
- B. Participation in all borough governmental activities without the required disclosure by Assembly members is prohibited.

(Ord. 12-03, New Sec. 2.04.070)

TITLE 2

ADMINISTRATION

Chapter 2.08 - Assembly Meetings

Sections:

- 2.08.010 Regular Assembly Meetings.
- 2.08.020 Special Meetings.
- 2.08.030 Meetings - Location Change.
- 2.08.040 [Rescheduling of Meetings – Authority of Mayor Meetings–
Emergency Special Meetings – Waivers.](#)
- 2.08.050 Executive Sessions.
- 2.08.060 Absences.

2.08.010 Regular Assembly Meetings.

- A. All regular meetings of the Assembly shall be held on the second Thursday of each month at 3:00 p.m.
- B. The regular place of Assembly meetings shall be at the Borough office at Sand Point, Alaska. In order to give the public a greater opportunity to attend and participate in meetings of the Borough Assembly, the Assembly may hold regular and special meetings in public locations throughout the Borough other than at the regular meeting place. When the Assembly determines to hold a meeting at a date, time or place other than the regular place, the Borough Clerk shall give notice of such meeting. The notice shall [in accordance with the publication requirements of Section 1.12.010](#)~~either be published in a newspaper or general circulation within the Borough at least three days prior to the scheduled meeting or shall be posted in at least one public place in each city and major community within the Borough and posted on the Borough's website~~, at least three days prior to the scheduled meeting.
- C. All meetings of the Assembly, including work sessions and committee meetings, shall be public meetings. The public shall have reasonable opportunity to be heard at regular and special meetings of the Assembly.
- D. Audio/Video Conferencing: Attendance and participation of members of the Assembly at Assembly meetings may be by teleconference or video conference in public locations established within the Borough or in the Borough's Anchorage office. The public shall be given notice

of teleconference or video conference locations and all materials that are to be considered at the meeting shall be made available at the locations if practicable.

- E. Telephonic participation by Assembly members is not authorized during Assembly meetings when an Assembly member is physically absent from the Aleutians East Borough or unable to attend at the Borough's Anchorage office or is physically incapacitated except when a quorum is necessary to conduct business or an emergency meetings is necessary.

(Ord. 08-02 (Amended Ord. 89-3), Sec. 2.08.010, part, 1987)

2.08.020 Special meetings.

- A. If a majority of the members of the Assembly are given at least 24 hours oral or written notice and reasonable efforts are made to notify all members, a special meeting of the Assembly may be held at the call of the Mayor or at least three members of the Assembly. Notice of the special meeting must be given orally or in writing to each Assembly member or written notice may be left at the member's usual place of business or residence. A special meeting may be conducted with less than 24 hours' notice if all members of the Assembly are present or if absent members have waived in writing the required notice. Waiver of notice may be made before or after the special meeting is held. A waiver of notice must be made part of the journal for the meeting. The location of special meetings shall be the same as for regular meetings unless the Assembly, at a regular or special meeting, determines that a special meeting will be held at a different place.
- B. The notice of special meeting must specify the time, place and subject matter of the meeting. If two members at the meeting object, an item of business that was not on or related to an item mentioned in the notice may not be acted on by the Assembly, however, such items may be discussed and scheduled for Assembly action at a future meeting.

(Ord. 89-3, Sec. 2.08.020, part, 1987)

2.08.030 Meetings - Location Change.

Notwithstanding the provisions of Sec. 2.08.010 or 2.08.020, if after having been lawfully Assembly in a location properly designated, the Assembly determines that a condition exists which renders such location unsuitable; it may recess the meeting and reconvene at a different location suitable to the needs of the Assembly. Prior to the recess the Assembly shall make known to those assembled for the meeting the location at which the meeting will be reconvened.

In addition, a notice of the change of location must be posted at the place originally scheduled for the meeting.

(Ord. 89-3, Sec. 2.08.030, part, 1987)

2.08.040 Rescheduling of Meetings - Authority of Mayor.

If, prior to a regular or special meeting, the Mayor makes a written determination that:

- A. A quorum will not be present at the meeting;
- B. There will not be available information, documents or other materials or a person essential for the conduct of the meeting;
- C. A substantial number of members of the public who have attempted to get to the place of the meeting will be prevented from attending because of weather or transportation problems beyond their control; or,
- D. Other substantial and compelling reasons justify the postponement of the meeting;

The Mayor may postpone the meeting to a later time. Upon a postponement of a meeting under this section, the Mayor shall have posted in a conspicuous place at the main entrance of the building and on the door of the room in which the meeting was to have been held a notice of the postponement and the date and time to which the meeting is postponed. Similar notice shall be provided orally or in writing to each Assembly member. The Mayor shall also have a similar notice posted in a public place in each city and major community in the Borough, provided, failure to the notice required in this sentence posted in each city and major community does not affect the validity of postponed meeting. All matters acted upon by the Assembly at a postponed meeting shall be as valid as if such action had taken place at the originally scheduled meeting, but the date of such action shall be the date the action was actually taken.

(Ord. 89-3, Sec. 2.08.040, part, 1987)

2.08.050 Executive Session.

- A. The following subjects may be discussed in an executive session:
 - 1. Matters that immediate knowledge of which would clearly have an adverse effect on the finances of the Borough or school district; or,
 - 2. Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.

- B. The following shall be discussed in executive session when the best interests of the Borough requires:
1. Discussions of potential, threatened or pending suits, claims or governmental proceedings in which the Borough has an interest.
 2. Discussions with legal counsel to the Borough.
 3. Discussions of negotiations or other matters in which the public discussion of the possible strategy and positions of the Borough would be detrimental to the effectiveness of the Borough in such matters.
- C. The adoption of a motion to go into executive session for a purpose under subsection B constitutes a determination by the Assembly that the best interests of the Borough require such discussion in executive session.
- D. If subjects excepted by law or this section are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss excepted subjects shall be determined by a majority vote of the Assembly. No subjects may be considered at an executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at an executive session.

(Ord. 89-3, Sec. 2.08.050, part, 1987)

2.08.060 Absences.

No member may absent himself from any meeting of the Assembly except for good and sufficient reason.

(Ord. 89-3, Sec. 2.08.060, part, 1987)

TITLE 2

ADMINISTRATION

Chapter 2.12 -- Assembly Procedures

Sections:

2.12.010	Presiding Officer.
2.12.020	Meetings - Order of Business.
2.12.030	Agenda.
2.12.040	Minutes.
2.12.050	Council-Assembly Rules.
2.12.060	Veto.
2.12.070	Duties of the Clerk at Assembly Meetings.

2.12.010 Presiding Officer.

- A. The Mayor shall be the Presiding Officer at meetings of the Assembly. He shall preserve order and decorum among the Assembly members, and is responsible for conduct of all meetings in compliance with the rules of the Assembly. He may at any time make such rules as he deems proper to preserve order among the spectators in the Borough Assembly chamber during sessions of the Assembly.

The Presiding Officer may speak to points of order in preference to other members, and shall decide all points of order, subject to appeal to the Assembly by motion duly seconded as herein provided. He may at any time call any member to the chair during any meeting, such substitution to discontinue when he elects to resume the chair and in no event beyond adjournment of the meeting at which such substitution is made.

- B. In the temporary absence or disability of the Presiding Officer, any member of the Borough Assembly may call the Assembly to order at any duly called meeting to elect a president pro tempore from among its number and the president pro tempore shall exercise all the powers of chairman during such temporary absence or disability of the Presiding Officer and may also vote.

(Ord. 88-1, Sec. 2.12.010, part, 1987)

2.12.020 Meetings - Order of Business.

At every regular meeting of the Borough Assembly the order of business shall be as follows:

- A. Call to Order;
- B. Invocation;
- C. Roll Call;
- D. Minutes of Previous Meeting;
- E. Communications and Appearance Requests;
- F. Consent Agenda;
- G. Hearings, Ordinances and Resolutions;
- H. Old Business;
- I. New Business;
- J. Administrator/Manager Reports;
- K. Audience Participation;
- L. Assembly Comments; and,
- M. Adjournment.

(Ord. 92-6 (Amended Ord. 88-1), Sec. 2.12.020, part, 1987)

2.12.030 Agenda.

- A. Regular and Special Assembly Meetings. All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Assembly shall, at least seventy-two hours prior to each Assembly meeting, be delivered to the Borough clerk, whereupon the Mayor shall arrange a list of such matters according to the order of business. ~~__and~~ At least forty-eight hours in advance of the Assembly meeting, the Borough clerk shall ~~furnish~~ each member of the Assembly and the Mayor ~~with~~ a copy of the same in packet form. ~~-Distribution shall be by electronic mail to each Assembly member's email address of record as well as by posting on the Borough's website. If distribution by electronic means is not available, distribution shall be by delivery in person or mail to the Assembly member. at least forty-eight hours in advance of the assembly~~Assembly meeting, excluding Saturdays, Sundays and holidays.
- B. Work Sessions. Any matter to be considered by the Assembly in work sessions shall be listed in agenda form by the clerk and be given to the Assembly at least three days prior to said work session. Any written material for said work session shall be furnished by the Borough Clerk to the Mayor, Assemblymen and Borough administrator three days in advance of the scheduled day for said work session. Reasonable public notice for work sessions of the Assembly shall be required.

(Ord. 88-1, Sec. 2.12.030, part, 1987)

- C. Consent Agenda. Matters requiring Assembly approval that are determined by the Mayor to be routine or noncontroversial may be placed under the Consent Agenda for approval by the Assembly upon a single motion. An ordinance may not be placed under the Consent Agenda except for the purpose of introduction and setting of a public hearing date. An ordinance placed under the Consent Agenda shall include a notation indicating the proposed public hearing date. The presiding officer, at his own discretion or upon the request of any member of the Assembly, shall remove a Consent Agenda item and place it under the appropriate agenda item for action at the time such other agenda item comes up. Except for minor clarifications, Assembly members may not discuss, debate, or amend any matter while it is on the Consent Agenda. Discussion, debate and amendment on a Consent Agenda item may be had by requesting the item be removed and placed for action under the appropriate agenda item. All items remaining on the Consent Agenda are adopted by approval of a single motion to adopt the Consent Agenda.

(Ord. 92-6, Sec. 2.12.030, part, 1987)

2.12.040 Minutes.

- A. Minutes of all regular and special meetings shall be taken. Minutes shall be in the form of a summary of discussion including a verbatim report of motions made and actions taken plus a report of each vote cast by Assembly members when a roll call vote is made. Summary notes shall be provided for each work session.

All minutes of regular and special meetings, and summary notes of work sessions, shall be kept in the journal of the proceedings of the Assembly. Paper copies of aAll minutes of the Assembly shall be distributed by the Borough Clerk to the public desiring same after payment of a reasonable charge. One copy of the minutes shall be given free of charge to any person appearing in person and requesting same with extra copies in person or by mail available at twenty-five cents per copy per page, and subscriptions available by mail at the rate of ten dollars per year. All minutes shall also be posted on the Borough's website and available to the public free of charge.

- B. Unless a reading of the minutes of an Assembly meeting, regular or special, is requested by a member of the Assembly, such minutes may be approved without a reading if the Borough Clerk has previously furnished each member with a synopsis thereof.
- C. The Borough Clerk may be directed by the Mayor, with the consent of the Assembly, to enter in the minutes a synopsis of the discussion on any question coming regularly before the Assembly.

(Ord. 88-1 (amended by Ord. 90-5), Sec. 2.12.040, part, 1987)

2.12.050 Assembly Rules.

- A. In all matters of parliamentary procedure not covered in these rules, Robert's Rules of Order shall be applicable and govern.

(Ord. 88-1, Sec. 2.12.050, part, 1987)

2.12.060 Veto.

The Mayor may veto any ordinance, resolution, motion, or other action of the Assembly and may, by veto, strike or reduce items in appropriation ordinances. He shall submit to the Assembly at its next regular meeting a written statement advising of his veto and giving his reasons. A veto is overridden by the vote of two-thirds of the authorized membership of the Assembly within 21 days following exercise of the veto or at the next regular meeting whichever is later. The veto does not extend to appropriation items in school budget ordinances; actions of the governing body sitting as the board of equalization or the board of adjustment; or, adoption or repeal of a manager plan of government.

(Ord. 88-1, Sec. 2.12.060, part, 1987)

2.12.070 Duties of the Clerk at Assembly Meetings.

The Borough Clerk shall give notice of Borough Assembly meetings, shall attend all meetings of the Assembly and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open to public inspection. In case of the temporary absence of the Borough Clerk, the Borough Assembly may appoint a clerk pro tempore, with all the powers, duties and obligations of the Borough Clerk, who shall be duly qualified.

(Ord. 88-1, Sec. 2.12.080, part, 1987)

TITLE 2

ADMINISTRATION

Chapter 2.16 - Mayor

Section:

2.16.010	Mayor as Executive.
2.16.020	Mayor's Additional Duties.
2.16.030	Election and Term of Mayor.
2.16.040	Filling a Vacancy.
2.16.050	Mayor Pro Tempore.
2.16.060	Successor to Office of Mayor and Mayor Pro Tempore.
2.16.070	Salary of Mayor.
2.16.080	Financial Disclosure

2.16.010 Mayor as Executive.

- A. The Mayor is the chief executive officer of the Borough. He shall act as ceremonial head of the Borough, and sign documents on the Borough's behalf upon Assembly authorization.
- B. The Mayor shall:
1. Appoint Borough employees and administrative officers, except as provided otherwise in Sec. 2.20.050 and AS 14.14.065; he may hire necessary administrative assistants and may authorize an appointive administrative officer to appoint, suspend, or remove subordinates in his department;
 2. Suspend or remove by written order Borough employees and administrative officers, except as provided otherwise in Sec. 2.20.050 and AS 14.14.065;
 3. Supervise enforcement of Borough law;
 4. Prepare the annual budget and capital improvement program for the Assembly;
 5. Execute the budget and capital program as adopted;
 6. Make monthly financial reports to the Assembly on Borough finances and operations;

7. Report to the Assembly at the end of each fiscal year on the finances and administrative activities of the Borough;
8. Prepare and make available for public distribution an annual report on Borough affairs;
9. Serve as Borough personnel officer unless the Assembly authorizes him to appoint a personnel officer; and,
10. Execute other powers and duties specified in AS Title 29 or lawfully prescribed by the Assembly.

(Ord. 88-1, Sec. 2.16.010, part, 1987)

2.16.020 Mayor's Additional Duties.

The Mayor shall in addition to the powers and duties conferred on his office by Sec. 2.16.010:

- A. Direct and supervise the business of the Borough to assure that all ordinances and resolutions are executed; and,
- B. Act as ex-officio chairman of the board of adjustment for matters of building and zoning regulations of the Borough.

(Ord. 88-1, Sec. 2.16.020, part, 1987)

2.16.030 Election and Term of Mayor.

- A. A voter of the Borough is eligible to hold the office of Mayor. A voter must be a resident of the Borough no less than three consecutive years prior to serving as Mayor.
- B. The Mayor is elected at large for a term of three years and until a successor is elected and has qualified.
- C. The Mayor's regular term begins on the first Monday following his election, which is held on the first Tuesday of October.

(Ord. 88-1, Sec. 2.16.030, part, 1987)

2.16.040 Filling a Vacancy.

A vacancy in the office of Mayor occurring within six months of a regular election shall be filled by the Assembly. The person designated shall serve until the next

regular election and until a successor is elected and has qualified. If an Assemblyman is chosen, he shall resign his Assembly seat. If a vacancy occurs more than six months before a regular election; the Assembly shall call a special election to the unexpired term.

(Ord. 88-1, Sec. 2.16.040, part, 1987)

2.16.050 Mayor Pro Tempore.

Should the office of the Mayor become vacant, or if the existing Mayor is disabled or unable to act, the Assembly may appoint a Mayor pro tempore, to serve until the Mayor resumes his official duties, or until a new Mayor is qualified.

(Ord. 88-1, Sec. 2.16.050, part, 1987)

2.16.060 Successor to Office of Mayor and Mayor Pro Tempore.

Should the office of Mayor and Mayor pro tempore become vacant or should both the Mayor and Mayor pro tempore be absent or unable to perform the duties of the office of Mayor, the order of interim succession shall be determined as follows:

- A. The Assembly member with the longest total period of tenure in office shall assume the office of Mayor pro tempore.
- B. Should more than one Assemblyman have the same total period of tenure in office, that Assemblyman who received the largest plurality at the last election at which such Assembly members were elected shall assume the office of Mayor pro tempore.

(Ord. 88-1, Sec. 2.16.060, part, 1987)

2.16.070 Salary of Mayor.

- A. The office of the Mayor of the Borough may be filled on a part-time basis. The salary of the Mayor serving on a part-time basis shall be \$50,000.00 per annum increased annually on July 1 of each year by an amount equal to the increase of the Consumer Price Index (Urban) for the Anchorage area from the preceding July 1. The base date of computing increases is July 1, 1993. The salary of the Mayor, shall not be diminished during the Mayor's term but may be increased beyond the cost of living index increase provided in this subsection by an amount approved by the Assembly in the budget for the next fiscal year. Any increase beyond the annual consumer price index adjustment shall become effective on July 1 of the budget year for which approved unless otherwise provided by the Assembly.

(Ord. 01-01 (Amended Ord. 94-2), Subsection 6.04.042 A, part, 1987)

- B. The Borough Assembly may, at any time during the term of office of a Mayor, raise the salary of the Mayor to an amount the Assembly determines to be commensurate with the duties and responsibilities of the office of Mayor.
- C. The office of the Mayor shall be appropriately staffed, subject to Assembly approval, in order to meet the requirement of full service to the public.

(Ord. 94-2, (Amended Ord. 88-1) Sec. 2.16.070, part, 1987)

2.16.080 Financial Disclosure.

- A. Aleutians East Borough Mayor shall submit a financial and business disclosure form in accordance with and as required by Borough Code 1.28.
- B. Participation in all borough governmental activities without the required disclosure by the Mayor is prohibited.

(Ord. 12-03, New Sec. 2.16.080)

TITLE 2

ADMINISTRATION

Chapter 2.20 - Borough Offices and Officers

Sections:

2.20.010	Meetings Public.
2.20.020	Private Meetings.
2.20.030	Public Notice of Meetings.
2.20.040	Publication.
2.20.050	Emergency Meeting.
2.20.060	Oath of Office.
2.20.070	Salaries of Elected Officers Not to be Varied.
2.20.080	Appointment of Officers.
2.20.090	Prohibitions.
2.20.100	Conflicts of Interest.
2.20.110	Vacancies.

2.20.010 Meetings Public.

Meetings of all municipal bodies shall be public as provided in AS —44.62.310. The ~~assembly~~Assembly, all Boards and Commissions and ~~assembly~~Mayor shall provide reasonable opportunity for the public to be heard at regular and special meetings.

(Ord. 88-1, Sec. 2.20.010, part, 1987)

2.20.020 Private Meetings.

A. All meetings of the Assembly, Planning Commission, subcommittees of the Assembly, boards, administrative agencies and commissions created by this Code or by the Assembly, shall be open to the public; provided, however, that the following excepted subjects may be discussed in a private meeting by any of the above:

1. Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the Borough;
2. Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; or,
3. Matters which by law, municipal charter, or ordinance are required to be confidential.

- B. The following shall be discussed in a private meeting when the best interests of the Borough so require:
1. Topics that meet the standard of Chapter 2.08.050 of this Code;
 2. Negotiations with labor organizations representing Borough employees; or,
 3. Discussions of pending or threatened lawsuits in which the Borough has an interest.
- C. If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting, and the question of holding a private meeting to discuss matters that come within the exceptions contained in subsections (A) and (B) of this section shall be determined by a vote of the body. No subjects may be considered at the private meeting except those mentioned in the motion calling for the private meeting unless auxiliary to the main questions. No action may be taken at the private meeting.

(Ord. 88-1, Sec. 2.20.020, part, 1987)

2.20.030 Public Notice of Meeting.

Reasonable public notice shall be given of all meetings of an administrative body, board, commission, committee, subcommittee, authority, agency or other organization including subordinate units of the above groups of the Borough including but not limited to Assembly, Planning Commission, school board, platting board, commissions or organizations advisory or otherwise of the Borough.

(Ord. 88-1, Sec. 2.20.030, part, 1987)

2.20.040 Publication.

For the purpose of giving notice of meetings, reasonable public notice is given if a statement containing the date, time and place of the meeting is published in accordance with the publication requirements of Section 1.12.010 not less than twenty-four hours before the time of the meeting. ~~in accordance with 1.20.030(e).~~

(Ord. 88-1, Sec. 2.20.040, part, 1987)

2.20.050 Emergency Meeting.

An emergency meeting of the Assembly may be held after such public notice as is reasonable under the circumstances without regard to the publication

requirements in Sec. 2.20.040, upon the affirmative vote of all members present, or the affirmative vote of three-quarters of those elected that a public emergency affecting life, health, welfare or property exists and that reasonable public notice of the meeting has been given. Any action taken at an emergency meeting is valid only for sixty days.

(Ord. 88-1, Sec. 2.20.050, part, 1987)

2.20.060 Oath of Office.

A. All officers elected or appointed before entering upon the duties of office shall affirm in writing the following oath and affirmation:

"I do solemnly swear that I will support the Constitution of the United States and State of Alaska and the laws and ordinances of the Aleutians East Borough, State of Alaska, and that I will honestly, faithfully and impartially perform the duties of the office of. . . So help me God.

B. The Oath is filed with the Borough Clerk.

(Ord. 88-1, Sec. 2.20.060, part, 1987)

2.20.070 Salaries of Elected Officials Not to be Varied.

The Assembly may fix by ordinance the salaries of elected officials before they are elected. Salaries may not be changed during a term of office. An elected officer may not receive any other compensation for service to the Borough. Per diem payments or reimbursements for expenses are not compensation under this section.

(Ord. 88-1, Sec. 2.20.070, part, 1987)

2.20.080 Appointment of Officers.

The Borough Clerk, Borough Attorney and Administrator are appointed by the Mayor. Officers serve at the pleasure of the appointing authority. Appointments by the Mayor are subject to confirmation by the Assembly.

(Ord. 88-1, Sec. 2.20.080, part, 1987)

2.20.090 Prohibitions.

No person may be appointed to or removed from Borough office or be favored or discriminated against with respect to a Borough position because of race color,

sex, creed, national origin or, unless otherwise contrary to law, because of political opinions or affiliations.

(Ord. 88-1, Sec. 2.20.090, part, 1987)

2.20.100 Conflicts of Interest.

A member of the governing body shall declare a substantial financial interest that the member has in an official action and ask to be excused from a vote on the matter. The Presiding Officer shall rule on the request for abstention (excused). The decision of the Presiding Officer on the request may be overridden by the majority vote of the Assembly. An employee or official of the Borough, other than an Assembly member may not participate in an official action in which he has a substantial financial interest. 29.20.010

(Ord. 88-1, Sec. 2.20.100, part, 1987)

2.20.110 Vacancies.

An elected Borough office is vacated under the following conditions and upon the declaration of vacancy by the Assembly. The Assembly shall declare an elective office vacant when the person elected:

- A. Fails to qualify or take office within thirty days after his election or appointment;
- B. Is physically absent from the Borough for a ninety-day period, unless excused by the Assembly;
- C. Resigns and his resignation is accepted;
- D. Is physically or mentally unable to perform the duties of his office;
- E. Is removed from office;
- F. Misses three regular meetings annually unless excused; or
- G. Is convicted of a felony or of an offense involving a violation of his oath of office.

(Ord. 88-1, Sec. 2.20.110, part, 1987)

TITLE 2

ADMINISTRATION

Chapter 2.28 -- Borough Clerk

Sections:

- 2.28.010 Appointment--Term.
- 2.28.020 Borough Clerk.
- 2.28.030 Additional Duties of Clerk.
- 2.28.040 Acting Clerk.
- ~~2.28.050 Treasurer.~~
- ~~2.28.060 Additional Duties of the Treasurer.~~
- ~~2.28.070 Finance Department.~~
- ~~2.28.080 Administration.~~

2.28.010 Appointment.

The Borough clerk shall be appointed by the Mayor. He shall hold office at the pleasure of the Assembly.

(Ord. 88-1, Sec. 2.28.010, part, 1987)

2.28.020 Borough Clerk -- ~~Treasurer.~~

A. The Borough Clerk shall:

1. Give notice of the time and place of meetings of the Assembly and all Boards and Commissions meetings to the Assembly and to the public;
2. Attend meetings of the Assembly and of all Boards and Commissions meetings and keep the journal;
3. Arrange publication of notices, ordinances, and resolutions for the Assembly, and all Boards and Commissions;
4. Maintain and make available for public inspection an indexed file including the municipal ordinances, resolutions, rules, regulations, and codes;
5. Attest deeds and other documents; and,

6. -Perform other duties specified in this title or prescribed by the Mayor or by the Assembly and any Board or Commission of the Borough.

(Ord. 88-1, Sec. 2.28.020, part, 1987)

2.28.030 Additional Duties of the Clerk.

- A. The Borough Clerk shall record and certify all actions of the Assembly and Planning Commission.
- B. The Borough Clerk shall have the power to administer all oaths required by law.
- C. The Borough Clerk shall be custodian of the Borough seal and the official records of the Borough.
- D. The Borough Clerk shall give to the proper officials ample notice of the expiration or termination of any term of office and, when necessary, the conditions or requirements of all bonds, franchises, contracts or agreements.
- E. The Borough Clerk shall be the registrar of the Borough and shall be responsible for the calling and supervision of all Borough elections unless otherwise provided by law.

(Ord. 88-1, Sec. 2.28.030, part, 1987)

2.28.040 Acting Clerk.

In case of the temporary absence of the Borough Clerk, the Assembly may appoint an acting Borough Clerk, with all the powers and obligations of the Borough Clerk. The acting Borough Clerk shall be duly qualified.

The acting Borough Clerk shall in all cases sign all documents in the name of the Borough Clerk, subscribing his personal signature as acting Borough Clerk.

(Ord. 88-1, Sec. 2.28.040, part, 1987)

~~2.28.050 Treasurer.~~

- ~~A. There shall be a borough treasurer who shall be appointed by the Mayor.~~

~~B. The treasurer is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.~~

~~C. The treasurer shall give bond to the municipality in a sum which the assembly directs.~~

~~(Ord. 88-1, Sec. 2.28.050, part, 1987)~~

2.28.060 – Additional Duties of the Treasurer.

The treasurer shall:

~~A. Be responsible for all matter pertaining to the maintenance of all fund accounts of the borough, and the maintenance and care of all property used for finance;~~

~~B. Certify all appropriation encumbrances as to availability of appropriation balances and funds;~~

~~C. Prepare and submit to the Mayor such financial reports and other data as may be required;~~

~~D. Prescribe and control such procedures as are necessary to protect borough funds and property;~~

~~E. Perform such other duties as the Mayor may require.~~

~~(Ord. 88-1, Sec. 2.28.060, part, 1987)~~

TITLE 2

ADMINISTRATION

Chapter 2.29 – Finance Department

Sections:

2.29.010 Finance Department.

2.29.020 Finance Department Director

2.29.010 ~~2.28.070~~ **Finance Department.**

There shall be a Finance Department, the head of which shall be the Borough Treasurer. The Finance Director may create divisions in the Finance Department, which approval of the Mayor, the officers of which shall be appointed by the Mayor and under the direction of the Borough Treasurer. The number of employees shall be determined by, and each such employee shall be appointed by the Mayor except as he may delegate such power to the treasurer.

(Ord. 88-1, Sec. 2.28.070, part, 1987)

2.29.020 Finance Department Director.

A. There shall be a Borough Finance Department Director who shall be appointed by the Mayor.

B. The Finance Department Director is the custodian of all municipal funds. He shall keep an itemized account of money received and disbursed. He shall pay money on vouchers drawn against appropriations.

C. The Finance Department Director shall:

1. Give bond to the municipality in a sum which the Assembly directs;
2. Be responsible for all matter pertaining to the maintenance of all fund accounts of the Borough, and the maintenance and care of all property used for finance;
3. Certify all appropriation encumbrances as to availability of appropriation balances and funds;

4. Prepare and submit to the Mayor such financial reports and other data as may be required;
5. Prescribe and control such procedures as are necessary to protect Borough funds and property; and,
6. Perform such other duties as the Mayor may require.

TITLE 2

ADMINISTRATION

Chapter 2.40 -- Public Works Department

Sections:

2.40.010 Department Established.

2.40.020 Functions.

2.40.010 Department Established.

There is established the Borough Public Works Department. The head of the public works department is the ~~Public Works~~Maintenance Director who is appointed by, and serves at the pleasure of, the Mayor. The ~~Public Works~~Maintenance Director shall supervise and be responsible for the work and functions of the Borough Public Works Department. Employees of the department shall be hired by the Mayor and supervised by the Director. The department shall be managed and supervised subject to the directions of the Mayor.

(Ord. 97-5, Sec. 2.40.010)

2.40.020 Functions.

The Department shall be responsible for:

- A. The maintenance, repair and upkeep of buildings, harbor, marine and other public facilities for which the Borough is responsible;
- B. The maintenance of equipment assigned to the department;
- C. The inspection of all Borough owned schools, docks and other marine facilities and other public facilities owned by the Borough or for which it has contractually assumed maintenance and repair responsibilities;
- D. Regularly reporting to the Mayor the condition of all Borough owned buildings and other public facilities;
- E. Annually preparing a report on the status and condition of all schools and related facilities for the Assembly and School Board;

- F. Preparing a 6 year capital projects plan to accomplish the Borough needs for major and minor repair, rehabilitation and replacement of Borough owned buildings and other public facilities including school facilities;
- G. Providing such review of the design, plans, maps and specifications for public works projects as may be requested by the Mayor or Administrator;
- H. Coordinating with the Borough's engineer and contractors on public works projects as may be needed;
- I. Performing or supervising minor construction projects; and,
- J. Other functions assigned by the Mayor.

(Ord. 97-5, Sec. 2.40.020)

TITLE 2

ADMINISTRATION

Chapter 2.50 – Health Department

Section:

2.50.010 — Health Department Established, Functions.

2.50.010 — Health Department Established, Functions.

There is established the Borough Health Department. The head of the Health Department shall be appointed by the Mayor. Pursuant to powers assumed by the Aleutians East Borough, the department is responsible for providing mental and physical health. The department shall provide to the Aleutians East Borough Health Board information requested by the Board which is not required by law, regulation or ordinance to be kept confidential.

(Ord. 91-9, Sec. 2.50.010)

~~TITLE 2~~

~~ADMINISTRATION~~

~~Chapter 2.51 – Aleutians East Borough Health Board~~

Sections:

~~2.51.010 – Board Established, Purpose.~~

~~2.51.020 – Members Qualifications.~~

~~2.51.030 – Term.~~

~~2.51.040 – Appointments.~~

~~2.51.050 – Organization.~~

~~2.51.060 – Procedures.~~

~~2.51.070 – Meetings.~~

~~2.51.080 – Expenses, Reimbursement.~~

2.51.010 – Board Established, Purpose.

~~(a) – There is established the Aleutians East Borough Health Board consisting of six regular members and up to six additional members.~~

~~(b) – The Board shall monitor and evaluate the delivery of health services within the Borough, including services not delivered by the Borough, and shall make such recommendations as it finds appropriate to the Health Department, Mayor and the Assembly. The Health Director will work as staff to the Board. The Board shall review the budget proposed by the Health Department. It shall review and make recommendations of proposed Health Department policies.~~

~~(Ord. 91-9, Sec. 2.51.010)~~

2.51.020 – Members, Qualifications.

~~(a) – Members of the Board shall be classified as regular members or alternate members. The classification of a member shall be determined and stated by the Mayor when appointing a member to the Board.~~

~~(b) – There shall be one regular member from each of the six communities within the Borough.~~

~~(c) – For the reason of population, the level of the delivery of publicly provided health services or for other reasons determined to be appropriate by the Mayor, the Mayor may appoint from any one or more of the six communities~~

~~in the Borough as additional regular member to represent the community. Additional regular members serve a term of three years. The first year of the term of a person appointed as an additional regular member runs until December 31 of the year of the appointment.~~

~~(d) The Mayor may appoint an alternate member from each of the six communities. The alternate member will serve a term ending on the same date as the regular member appointed by the community. An alternate member may attend Board meetings and exercise all rights of a regular Board member when the seat of the regular Board member is vacant or when the regular member of the community is unable to attend a Board meeting.~~

~~(e) Board members must be bona fide residents of the Borough and of the community from which they are appointed at the time of appointment and during their tenure on the Board.~~

~~(Ord. 91-9, Sec. 2.51.020)~~

~~**2.51.030** Term.~~

~~The term of regular members of the Board shall be three years with the term of two seats ending each year. Terms shall begin on January 1. Terms ending in a particular year shall end on December 31; provided, regular members and alternates continue to serve after the end of their term until a replacement has been appointed and takes their seat.~~

~~(Ord. 91-9, Sec. 2.51.030)~~

~~**2.51.040** Appointments.~~

~~Appointments to the Board shall be made by the Mayor and confirmed by the Assembly. The Mayor shall consider recommendations made by the City Council of a community or by a recognized community group.~~

~~(Ord. 91-9, Sec. 2.51.040)~~

~~**2.51.050** Organization.~~

~~At the first meeting after January 1 at which one or more new members or reappointed members attend, the Board shall organize and elect from its membership a chair, a vice chair and a secretary.~~

~~(Ord. 91-9, Sec. 2.51.050)~~

2.51.060 Procedures.

~~The Board procedures shall be governed by the most current version of Roberts Rules of Order with such additions or changes as the Board or the Assembly adopts. A quorum shall be the number of members exceeding one-half the total membership of the Board. The total membership of the Board is the six regular members plus a number equal to the number of regular additional member seats as are filled at the time the determination is made.~~

~~(Ord. 91-9, Sec. 2.51.060)~~

2.51.070 Meetings.

~~The Board shall meet at least once each quarter and may meet by teleconference. All regular and special Board meetings and meetings of any subcommittee of the Board shall comply with the Alaska Open Meetings statute, AS 44.62.310. The Board shall maintain minutes of its meetings and shall provide the Mayor and Assembly a copy of both draft and approved minutes.~~

~~(Ord. 91-9, Sec. 2.51.070)~~

2.51.080 Expenses Reimbursement.

~~Board members shall receive reimbursement for expenses and per diem at the same rate as provided for Assembly members unless the Assembly by resolution establishes a different rate for the Board; provided, no expenses may be reimbursed unless there is an appropriation or other Assembly authorization for such expense. No expense or per diem may be paid to any Board member unless the expense is first approved by the Mayor or is incurred in accordance with procedures established by the Mayor. Expenses of the Board for such things as teleconferencing, copying and distribution of materials to Board members shall be an expense of the Health Department but may be incurred only to the extent that funds within the Department have been appropriated or allocated to such purposes.~~

~~(Ord. 91-9, Sec. 2.51.080)~~

TITLE 2

ADMINISTRATIVE

CHAPTER 2.60 -- NATURAL RESOURCES DEPARTMENT

Sections:

- 2.60.010 Natural Resources Department - Established
- 2.60.020 Natural Resources Department - Functions

2.60.010 Natural Resources Department - Established.

There is established the Borough Natural Resources Department. The head of the department shall be appointed by and serve at the pleasure of the Mayor and shall be known as the director of the department. Employees of the department shall be hired and terminated by or with the approval of the Mayor and shall work under the direction and supervision of the director.

(Ord. 92-13, Sec. 2.60.010)

2.60.020 Natural Resources Department - Functions.

The department is responsible for:

- A. the identification of land and interests in land that are appropriate for selection by the Borough under any entitlement.
- B. The acquisition, management, and disposal of land and interests in land,
- C. The study, investigation, and monitoring of fish, wildlife and other natural resources within the Borough.
- D. The promotion of development, use, and renewal of natural resources within the Borough.
- E. The provision of assistance and guidance, to other responsible parties, on the protection, development, management, and renewal of natural resources within or affecting the Borough, and
- F. Maximizing benefits to the Borough and its residents from the presence, development, use and renewal of natural resources within and affecting the Borough.

(Ord. 92-13, Sec. 2.60.020)

TITLE 40

ALEUTIANS EAST BOROUGH
PLANNING, PLATTING AND LAND USE

CHAPTER

40.01 GENERAL PROVISIONS

40.02 APPEALS TO THE PLANNING COMMISSION

40.03 APPEALS TO THE BOARD OF ADJUSTMENT

40.04 APPEALS TO SUPERIOR COURT

40.05 PLANNING COMMISSION

40.06 PLANNING DEPARTMENT

40.10 COMPREHENSIVE PLAN

40.15 ZONING DISTRICTS

40.20 RESOURCE DEVELOPMENT PERMITS

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.01
General Provisions

Sections:

40.01.010	Purpose.
40.01.020	Geographic Scope.
40.01.030	Borough Administration.
40.01.040	Permit Approval Required.
40.01. 050 040	Compliance.
40.01. 060 050	Fees and Penalties.
40.01.070	Elevation.
40.01.080	Applicant's Opportunity to Appeal.
40.01. 090 060	Definitions.

40.01.010 Purpose.

This title creates land management principles and procedures for administering development within the Borough. The purpose of this title is to:

- A. Achieve the goals and objectives and implement the policies of the Borough's Comprehensive Plan;
- B. Establish the Borough's Land Use Regulations;
- C. Establish a Planning Commission and a Planning Department;
- D. Administer the Comprehensive Plan and Coastal Zone Management Plan;
- E. Establish Zoning Districts;
- F. Promote and protect the public health, safety, morals, and general welfare, as well as the historical, economic, social, and cultural interest of the Borough's residents;
- G. Protect fish resources and ensure continuation of a productive commercial fishery;
- H. Protect subsistence resources;
- I. Ensure the future growth and development is in accord with the values of its residents;
- J. Secure the beneficial effects of development for present and future residents;
- K. Identify, avoid, and mitigate the negative effects of development;

- L. Ensure future development is of the proper type, design, and location and is served by a proper range of public services and facilities;
- M. Protect human health and the environment by prohibiting adverse impacts of industrial pollution;
- N. Ensure public involvement in permitting, planning, and zoning decisions;
- O. Encourage local business development;
- P. Maintain all Borough maps and resource data within a ~~Geographic Information System~~ an electronic system;
- Q. Implement the requirements of the Borough Charter and AS 29.40 as they pertain to Planning, Platting, and Land Use Regulations; and
- R. Encourage public and private development to:
 - 1. Provide the maximum long term local benefits that reach the maximum number of Borough residents;
 - 2. Develop the undeveloped resources of the Borough or otherwise diversify the economic base of the Borough;
 - 3. Be a stable economic force that maximizes local employment;
 - 4. Minimize the adverse impact of the development on the environment, natural resources, neighboring properties and communities, and on public infrastructure;
 - 5. Bear its share of burden on local governments of providing public facilities and services and should contribute to improving the quality of life in the Borough; and
 - 6. Be sensitive and responsive to the subsistence and other life styles that exist in the communities that the development will affect.

40.01.020 Geographic Scope.

This title applies to all private, state, federal, Borough, and municipally owned lands, tidelands, submerged lands and waters within the Borough's boundaries. This title does not apply to federally restricted town site lots or allotments unless allowed by federal law. This title does not apply to any lands within the municipal boundaries of Akutan, Cold Bay, King Cove, False Pass and Sand Point; planning, platting and land use is administered by these municipalities under Chapter 45.05.030, which governs Planning, Platting and Land Use Regulations within the Borough.

40.01.030 Borough Administration.

- A. All planning, platting and land use permit approvals require Assembly approval unless otherwise specifically delegated to the Planning Commission or Administrator in this Code.
-Only minor amendments, to previously approved Resource Development projects, may be approved by the Planning Director under 40.20.010 (d).
- B. The Planning Commission reviews all planning, platting and land use permit applications that require Assembly approval and major amendments to previous approved projects. Planning Commission and prepares a recommendation for Assembly action. The Planning Commission also decides planning, platting and land use permit applications that are elevated by the Administrator to the Planning Commission.
- C. The Administrator and Planning Director serve as staff to the Mayor, Assembly, and Planning Commissions to carry out the requirements of this title. The Administrator is authorized to approve certain planning, platting and land use permit approvals as delegated in this Code. The Administrator may delegate its authority to approve a permit to a designee in his absence.

40.01.040 Permit Approval Required.

- A. All Resource Development within the Resource Development District requires an approved land use permit approval prior to construction or operation, to ensure compliance with the Code.
- B. The Assembly, Planning Commission, or Administrator may place conditions upon issuance of any permit that is necessary or desirable to ensure that a rule, policy, standard or intent will be implemented in a manner consistent with this Code.

40.01.050 040 Compliance.

- A. Permittees must comply with all terms, conditions, and permit stipulations included in an approved permit.
- B. Permittee must comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations.
- C. Any use that does not comply with the applicable provisions of a permit, approval, or other authorization issued under this Code is a violation of this Code.
- D. Permits are revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.

- E. Any person may bring to the attention of the Administrator suspected violation of this Code. The complaint must be submitted to the Borough in writing using the Borough Land Use Complaint Form.
- F. The Administrator is authorized to investigate any credible complaints in order to ensure compliance with this Code. The Administrator, or his authorized representative, has the the right to enter and inspect or investigate land uses approved under a Borough permit or approval for compliance with that approval or violations of this Code.
- G. After a violation has been discovered, investigated, and verified, the Administrator will notify by written finding the person responsible for the violation (Notice of Violation) and the property owner by personal notice, certified mail and/or notice posted on the site of the violation. A copy of the Notice of Violation will concurrently be provided to the Assembly and Planning Commission members.
- H. The Notice of Violation will specify the violation(s) and may ~~The Administrator may~~ revoke, suspend, or modify any permit or approval that is in conflict with this ~~title~~ Code or any applicable state or federal requirement and may specify the range of fines or penalties to be imposed and shall direct the person to cease the violation, or appeal the finding within 10 days after receipt, mailing or posting of the notice.
- I. The Administrator will provide an update on all Notices of Violation at each scheduled Planning Commission and Assembly meeting.
- J. The Administrator may elevate a compliance decision to the Planning Commission to decide. The Planning Commission may elevate a compliance decision to the Assembly to decide.
- K. The Administrator may approve continued operation under a Compliance Plan until the compliance violation is remedied or require the use to cease, ~~or may~~ elevate this decision to the Planning Commission or Assembly to decide.
- L. Application fees may be collected by the Administrator pursuant to Chapter 40.01.050.
- M. Penalties for non-compliance may be assessed by the Administrator pursuant to Chapter 1.24, which pertains to penalties.

40.01.060 40.01.050 Fees and Penalties.

The Planning Commission will ~~establish-propose~~ a schedule of fees and penalties for compliance with this title, for Assembly approval. The Assembly will establish procedures for the Administrator to follow when pursuing civil and criminal penalties.

40.01.070 Elevation.

- A. The Administrator may elevate a decision to the Planning Commission based on a written finding that the permit application may:
1. Have potential, significant or negative impacts on or conflict with Borough interests, resources or activities in a manner or to a degree that warrants consideration by the Commission;
 2. Conflict with adopted Borough policies in a manner or to a degree that warrants consideration by the Commission and cannot be easily decided by the Borough Planning Director; or,
 3. Raised a particular issue or set of issues that warrants consideration by the Commission.
- B. Decisions elevated to the Planning Commission will be placed on the next scheduled meeting of the Planning Commission. The permit applicant must participate in the Planning Commission meeting at a location designated by AEB, and present its application. The Planning Commission decision will be made at the meeting. The permit will either be approved or denied.

40.01.080 Applicant's Opportunity to Appeal.

- A. An applicant may appeal the decision of the Administrator made under this Chapter to the Planning Commission pursuant to procedures of Chapter 40.02.
- B. An applicant may appeal the decision of the Planning Commission made under Chapter to the Board of Adjustment pursuant to the procedures of Chapter 40.03.
- C. The Board of Adjustment's decision is final and may be appealed to the Alaska Superior Court in accordance with Alaska State Law.

40.01.090 060 Definitions.

The definitions listed below are in addition to those listed in Chapter 1.12.010, which provides general definitions for the Code:

- A. "Aggrieved Party" means a resident, landowner, municipality, tribes, or Native Corporation in the Aleutians East Borough, or the Applicant.

- B. “Applicant” means the person who makes an application for use under the provisions of this title, and successors in title or interest;
- C. “Casual Recreational Use” means a recreational use of Borough land that is nonexclusive and involves only minimal disturbance to the land by an individual or group of people that are not involved in the commercial provision of commercial recreation services. Nonexclusive examples of a casual recreational use may include: fishing, hunting, camping, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips on existing trails or under conditions that will not cause damage to the land or vegetation, snow machine trips, dog-mushing, sight-seeing, bird watching, wildlife viewing, and subsistence activities.
- A-D. “Coal Mining” means mining, extraction, harvesting removing or producing for sale, profit or commercial use any coal and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources.
- E. “Commercial” means use involving the storing, wholesaling, retailing, or rental of any article, service, or substance for cash, trade, or any form of compensation, and supporting activities, but excludes such uses when they are conducted in a dwelling unit or accessory building and are clearly subordinate to the use of the dwelling for residential purposes provided that the primary use and appearance of the lot and accessory building remains residential and generally conforming to the appearance of the surrounding area. For the purposes of this title, Resource Development activities are administered as a separate and distinct commercial activity and are not included in this definition;
- B-F. “Commercial Recreation” means the commercial provision of services in support of any of the following: fishing, hunting, camping, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips, snow machine trips, sight-seeing, bird watching, wildlife viewing, hotels and lodges, and tours. This definition includes professional guides and outfitters. This definition does not include: (a) Casual Recreational Use, (b) any commercial recreation activities conducted by Native Corporations or tribes that are Aleutian East Borough landowners, or (c) local residents that only provide transportation to a fishing, hunting, or recreational location but do not provide hunting, fishing, or ecotourism guide services.
- C-G. “Compliance Plan” means a written plan developed by the Administrator to bring development into compliance with this title;
- H. “Comprehensive Plan” means a document officially adopted by the Assembly including text, charts, graphics, or maps, or any combination, designed to portray general long-range proposals for the arrangement of land uses and development of an economic base and human resources and which is intended to guide

government policy towards achieving orderly and coordinated development of the entire community;

- I. “Direct Marketing Seafood Processor” means a for-profit or non-profit cooperative, partnership or individual fisherman who processes or exports only their own catch or has their own catch custom processed for sale.
- J. “Eco-Tourism” means the commercial provision of camping, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips, snow machine trips, sight-seeing, bird watching, wildlife viewing, and tours.
- K. “Fishing Guide” means the commercial provision of fishing guide services.
- L. “Hotel and Lodge Operator” means the commercial provision of hotel and lodge accommodations.
- ~~D.M.~~ “Hunting Guide” means the commercial provision of hunting guide services.
- N. “Industrial” means an intensive land use and economic activity involved with manufacturing and production. For the purposes of this title, Resource Development activities area administered as a separate and distinct industrial activity and are not included in this definition;
- O. “Large Mining Operations” means Coal Mining or Mineral Mining operations of five (5) acres or more at any one time.
- P. “Mineral Mining” means mining, extraction, harvesting removing or producing for sale, profit or commercial use any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound or combination of mineral products and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources;
- Q. “Mineral and Coal Exploration” means exploration for minerals and coal, including two dimensional or three dimensional seismic surveys run in search of minerals and coal, but and does not include Mineral Mining or Coal Mining operations.
- R. “Offshore Seafood Processor” means a for-profit company that buys, processes, and/or exports a fishery resource using facilities located offshore. This definition includes floating processors that are anchored or docked at the shoreline. This definition excludes Onshore Seafood Processors and Direct Marketing Seafood Processors.
- S. “Oil and Gas” includes the exploration for (including seismic surveys and drilling) development of and production of petroleum or natural gas, including all

associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources;

- T. “Onshore Seafood Processor” means a for-profit company that buys, processes, and/or exports a fishery resource using facilities located onshore. This definition excludes Offshore Seafood Processors and Direct Marketing Seafood Processors.
- U. “Professional Researcher” means a person, company or organization that conducts on its own behalf, or is funded to conduct research on another’s behalf, including, but not limited to a: organization or company operating for profit; non-governmental organization; local government; state government; federal government; or university. Research conducted by local elementary, junior-high or high-school students in support of school educational activities and cultural surveys conducted by Native Corporations and tribes is excluded from this definition.
- V. “Recreational Mining” means recreational gold panning; hard-rock mineral prospecting or mining using light portable field equipment, such as a hand-operated pick, shovel, pan, earth auger, or a backpack power drill or auger; or suction dredging using a suction dredge with a nozzle intake of six inches or less, powered by an engine of 18 horsepower or less, and pumping no more than 30,000 gallons of water per day.
- W. “Research” means research conducted by Professional Researchers that require field work anywhere within AEB boundaries, and may include one or more of the following types of research:
1. wildlife, habitat or other biological research;
 2. air quality, meteorological, water quality, hydrological studies, or soil research;
 3. archeological or paleontological research for artifacts relating to human and prehistoric animal life;
 4. geological surveys that result in minimal disturbance of the ground surface, excluding: two dimensional or three dimensional seismic surveys run in search of oil, gas, or other minerals; drilling of holes; or excavation;
 5. socioeconomic research;
 6. land surveying or mapping;
 7. engineering assessments; and/or,
 8. any research or studies required to support Resource Development.
- This definition does not include earthquake monitoring equipment located in the Borough.

X. “Research Conducted in Support of Resource Development” means Research conducted by a Resource Development Operator, or a Professional Researcher hired by the Resource Development Operator, to conduct research to support a Resource Development Project.

Y. “Research Conducted for Other Purposes” means Research conducted by a Professional Researcher for any other purpose than to support a Resource Development Project.

E.Z. “Residential” means a use involving the occupation of a building or structure for living, cooking, sleeping, and accessory uses;

AA. “Resource Development” means:

1. Hydrocarbon Exploration and Development; exploration and development of petroleum, natural gas;
2. Coal Mining;
3. Mineral Mining;
4. Mineral or Coal Exploration
5. Sand, Gravel, and Rock Mining;
6. Research; and
- 1-7. Commercial Recreation, coal, metal ore, sand, gravel, other natural resources, and minerals, and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources and bring them to market, for example core drilling, seismic work, and trenching;

BB. “Sand, Gravel, and Rock Mining” means gravel mining, quarrying, or producing for sale, profit or commercial use and sand, gravel, or rock, including all associated processing and transportation and distribution infrastructure required to commercially develop these resources.

CC. “Scientific Advisory Council” means a council ~~that may be~~ is appointed by the Mayor to evaluate ~~the Study and Research, Project Monitoring Plans, and Remediation Plans, as needed and requested by the Mayor,~~ to determine if they are acceptable; this council will work closely with the Borough’s Natural Resource Department described in Chapter 2.6 of this Code.

DD. “Small Mining Operations” means Coal Mining or Mineral Mining operations that are limited to less than five (5) acres at any one time. This definition does not include Recreational Mining.

F.EE. “Technically Feasible” means technical solutions using commercially available technology that are safe and appropriate to achieve the intended purpose.

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.02
Appeals to the Planning Commission

Sections:

<u>40.02.010</u>	<u>Persons Who May Appeal.</u>
<u>40.02.020</u>	<u>Commencement of Appeal – Stay.</u>
<u>40.02.030</u>	<u>Appeal Hearing – Notice, Preparation of Record</u>
<u>40.02.040</u>	<u>Appeal Hearing.</u>
<u>40.02.050</u>	<u>Decision.</u>

40.02.010 **Persons Who May Appeal.**

An Applicant or any Aggrieved Party that submitted timely comments to the Administrator during the public comment period may appeal a decision of the Administrator made under Chapter 40.01 to the Planning Commission.

40.02.020 **Commencement of Appeal – Stay.**

- A. A decision of the Administrator is final unless appealed to the Planning Commission within 14 calendar days of receipt of the Administrator's decision received by certified mail.
- B. A written notice of appeal must be filed with the Borough Clerk, specifically stating the reason for the appeal, the relief sought, and payment of a \$500 appeal fee. In the event the Appellant prevails, the appeal fee will be returned.
- C. The decision of the Administrator is stayed upon receipt of an appeal.

40.02.030 **Appeal Hearing – Notice, Preparation of Record.**

- A. Upon timely submittal of an appeal, the Borough Clerk shall schedule the appeal hearing, mail notice of the appeal, prepare the appeal record and notify the Planning Commission of the appeal.
- B. Within 15 calendar days of receipt of an appeal, notice of the appeal shall be given by certified mail, at a minimum, to the Permit Applicant, Appellant, adjoining property owners, Planning Commission Members, and all persons that submitted written comments on the decision under appeal. The appeal notice shall include

the Appellant's notice of appeal, describe the decision appealed from, state the date of the appeal hearing and time within which written argument supporting or opposing the appeal may be submitted, and contain the substance of subsection F of this section regarding the availability of the appeal record.

- C. The Permit Applicant, Appellant, adjoining property owners, and all persons that submitted written comments on the decision under appeal may submit to Borough Clerk written argument supporting or opposing the appeal within 15 calendar days of receipt of the notice of appeal. Written argument submitted shall become part of the appeal record.
- D. The appeal record shall be completed within 30 calendar days from the date that the notice of appeal was mailed by certified mail. The appeal record shall include the Administrator's written decision, the appeal, any written comments received supporting or opposing the appeal, and supporting documentation.
- E. Following completion of the record, the Borough Clerk shall, by certified mail, serve a copy of the appeal record on the Permit Applicant and the Appellant. The Borough Clerk shall deliver a copy of the appeal record to the Borough staff assigned responsibility for the appeal and the Planning Commission.
- F. A copy of the appeal record shall be available for public inspection at the Administrator's office and the Borough Clerk's office. Any person may obtain a copy of the record upon payment of the copying and postage charges.

40.02.040 Appeal Hearing.

- A. The Planning Commission shall hold a public hearing on the appeal at its first regular meeting which must be at least seven (7) calendar days after the appeal record has been completed and provided to the Planning Commission Members.
- B. Appeal hearings will be recorded.
- C. At the hearing before the Planning Commission, only persons who have received written notice of the appeal or submitted written comments on the appeal may present oral argument. Oral argument shall be subject to the following order and time limitations, unless the Planning Commission, for good cause shown, permits a change in the order or an enlargement of time.
 - 1. Administrator: 10 minutes to present the decision and to set forth the evidence and reasons relied upon for the decision.
 - 2. Permit Applicant, Appellant: 10 minutes each.
 - 3. Private persons supporting or opposing the appeal: 10 minutes each.

4. Permit Applicant, Appellant, and Administrator: 10 minutes each for rebuttal.

D. Failure to observe the above procedures in a hearing shall not affect the validity of the decision so long as the Appellant has had a reasonable opportunity to be heard.

E. The Planning Commission shall decide the appeal upon the appeal record and the written and oral argument presented on the appeal.

40.02.050 Decision.

A. The Planning Commission shall either affirm or reverse the decision of the Administrator in whole or in part.

B. Every decision of the Planning Commission to affirm or reverse an action of the Administrator shall be based upon findings and conclusions adopted by the Planning Commission. Such findings must be reasonably specific so as to provide the Applicant, Appellant, any other Aggrieved Party, the community and, where appropriate, reviewing authorities, a clear and precise understanding of the reason for the decision.

C. The Planning Commission's decision affirming or reversing the decision of the Administrator shall be sent by certified mail to the Permit Applicant, Appellant, adjoining property owners, and all persons that submitted written comments on the decision under appeal within five working days after the appeal decision and approval of findings of fact. A copy of the decision will also be provided to each Assembly Member.

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.03
Appeals to the Board of Adjustment

Sections:

<u>40.03.010</u>	<u>Organization</u>
<u>40.03.020</u>	<u>Powers of the Board.</u>
<u>40.03.030</u>	<u>Persons Who May Appeal</u>
<u>40.03.040</u>	<u>Commencement of Appeal - Stay</u>
<u>40.03.050</u>	<u>Appeal Hearing – Notice, Preparation of Record</u>
<u>40.03.060</u>	<u>Appeal Hearing.</u>
<u>40.03.070</u>	<u>Decision</u>
<u>40.03.080</u>	<u>Judicial Review</u>

40.03.010 **Organization.**

The Assembly is the Board of Adjustment for the Aleutians East Borough.

40.03.020 **Powers of the Board.**

The Board of Adjustment shall hear and decide appeals from the decisions of the Planning Commission.

40.03.030 **Persons Who May Appeal.**

A written decision of the Planning Commission granting or denying approval under the requirements of this Title may be appealed by the Applicant or any person who submitted timely written comments on the permit application, met the requirements of Chapter 40.02, or gave oral testimony at the public hearing before the Planning Commission.

40.03.040 **Commencement of Appeal - Stay.**

A. A decision of the Planning Commission is final unless appealed to the Board of Adjustment within 14 calendar days of receipt of the Planning Commission's decision received by certified mail.

- B. A written notice of appeal must be filed with the Borough Clerk, specifically stating the reason for the appeal, the relief sought, and payment of a \$500 appeal fee. In the event the Appellant prevails, the appeal fee will be returned.
- C. The decision of the Planning Commission is stayed upon receipt of an appeal.

40.03.050 Appeal Hearing – Notice, Preparation of Record.

- A. Upon timely commencement of an appeal, the Borough Clerk shall schedule the appeal hearing, mail notice of the appeal, prepare the appeal record, and notify the Administrator, Planning Commission and Board of Adjustment of the appeal.
- B. Within 15 calendar days of receipt of an appeal, notice of the appeal shall be given by certified mail, at a minimum, to the: Permit Applicant, Appellant, adjoining property owners, any person who submitted timely written comments on the permit application, met the requirements of Chapter 40.02, or gave oral testimony at the public hearing before the Planning Commission, the Administrator, Planning Commission Members, and Board of Adjustment. The appeal notice shall include the Appellant's notice of appeal, describe the decision appealed from, state the date of the appeal hearing and time within which written argument supporting or opposing the appeal may be submitted, and contain the substance of subsection F of this section regarding the availability of the appeal record.
- C. The Permit Applicant, Appellant, adjoining property owners, and all persons that submitted written comments on the decision under appeal may submit to Borough Clerk written argument supporting or opposing the appeal within 15 calendar days of receipt of the notice of appeal. Written argument submitted shall become part of the appeal record.
- D. The appeal record shall be completed within 30 calendar days from the date that the notice of appeal was mailed by certified mail. The appeal record shall include the Planning Commission's written decision, the appeal, any written comments received supporting or opposing the appeal, minutes of the proceedings before the Planning Commission, and any written documents considered by the Planning Commission, and supporting documentation.
- E. Following completion of the record, the Borough Clerk shall, by certified mail, serve a copy of the appeal record on the Permit Applicant and the Appellant. The Borough Clerk shall deliver a copy of the appeal record to the Borough staff assigned responsibility for the appeal, the Planning Commission and the Board of Adjustment.
- F. A copy of the appeal record shall be available for public inspection at the Borough Clerk's office or Borough Administrator's office. Any person may obtain a copy of the record upon payment of the copying and postage charges

40.03.060 Appeal hearing.

- A. The Board of Adjustment shall hold an appeal hearing on the appeal at its first regular meeting which must be at least seven (7) calendar days after the appeal record has been completed and provided to the Board of Adjustment.
- B. Appeal hearings will be recorded.
- C. At the hearing before the Board of Adjustment only persons who have received written notice of the appeal, submitted written argument on the appeal, or testified before the Planning Commission, or submitted written comments to the Planning Commission may present oral argument. Oral argument shall be subject to the following order and time limitations, unless the Board of Adjustment for good cause shown, permits a change in the order or an enlargement of time.
1. Planning Commission Chairman: 10 minutes to present the decision below and to set forth the evidence and reasons relied upon for the decision.
 2. Permit Applicant, Appellant: 10 minutes each.
 3. Private person supporting or opposing the appeal: 10 minutes each.
 4. Permit Applicant, Appellant and Planning Commission Chairman, for rebuttal, 10 minutes each.
- D. Failure to observe the above procedures in a hearing shall not affect the validity of the decision so long as the appellant has had a reasonable opportunity to be heard.
- E. The Board of Adjustment shall decide the appeal upon the appeal record, the written and oral argument, and the testimony and evidence presented on the appeal. The Board of Adjustment may exercise its independent judgment on the legal and factual issues raised by the Appellant.

40.03.070 Decision.

- A. The Board of Adjustment shall either affirm or reverse the decision of the Planning Commission in whole or in part. The Board of Adjustment may make its own findings on factual issues, based upon the evidence in the record.
- B. Every decision of the Board of Adjustment to affirm or reverse an action of the Planning Commission shall be based upon findings and conclusions adopted by the Board of Adjustment. Such findings must be reasonably specific so as to provide the Applicants, Appellant, any other Aggrieved Party, the community and,

where appropriate, reviewing authorities, a clear and precise understanding of the reason for the decision.

- C. The Board of Adjustment’s decision affirming or reversing the decision of the Administrator shall be sent by certified mail to the Permit Applicant, Appellant, adjoining property owners, and all persons that submitted written comments on the decision under appeal within five working days after the appeal decision and approval of findings of fact. A copy of the decision will also be provided to the Administrator, and each Planning Commission Member.

40.03.080 Judicial review.

An Aggrieved Party may appeal the final decision of the Board of Adjustment under this chapter to the Superior Court within 30 days of the date of the decision. An appeal to the Superior Court shall be heard solely on the record before the Board of Adjustment or its Hearing Examiner and the Planning Commission. The appeal procedure shall be governed by the rules set forth in Part Six of the Rules of Appellate Procedure of the State of Alaska. The findings of the Board of Adjustment shall not be reversed if, in light of the whole record, they are supported by substantial evidence.

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.04
Appeals to Superior Court

Sections:

40.04.010 Persons Who May Appeal

40.04.020 Judicial Review

40.04.010 **Persons Who May Appeal.**

A written decision of the Assembly or a final decision of the Board of Adjustment may be appealed by the Applicant or any person who submitted timely written comments or gave oral testimony pursuant to the requirements of Chapter 40, may appeal that decision to the Superior Court within 30 days of the date of the decision.

04.04.020 **Judicial review.**

An appeal to the Superior Court shall be heard solely on the Assembly's record of decision or the record before the Board of Adjustment. The appeal procedure shall be governed by the rules set forth in Part Six of the Rules of Appellate Procedure of the State of Alaska. The findings of the Assembly or Board of Adjustment shall not be reversed if, in light of the whole record, they are supported by substantial evidence.

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.05
Planning Commission

Sections:

40.05.010	Planning Commission.
40.05.020	Appointment.
40.05.030	Term of Membership.
40.05.040	Vacancy.
40.05.050	Filling Vacancy.
40.05.060	Organization.
40.05.070	Rules of Procedure.
40.05.080	Meetings.
40.05.090	Reimbursement and Compensation.
40.05.100	Powers and Duties.
40.05.110	Financial Disclosure

40.05.010 Planning Commission.

A Borough Planning Commission is adopted pursuant to authority set forth in Alaska Statute 29.40.020 and consists of seven Borough residents appointed by the Mayor and confirmed by the Assembly.

40.05.020 Appointment.

A. The Mayor shall appoint the Planning Commission members as follows: two from the City of Sand Point, a first class city; two from the City of King Cove, a first class city; and three from the Aleutians East Borough, outside the corporate limits of the cities of Sand Point and King Cove. Members appointed from the cities of Sand Point and King Cove must be appointed from a list of recommendations submitted by the Council of the respective City that the Planning Commission member is to represent. The list must contain at least two names for each vacancy. People recommended must be residents of the respective City the Commission member will represent. -Each member of the Planning Commission has one vote.

A.B. The Mayor may appoint one youth representative as an advisory nonvoting member to be seated on the Planning Commission for a term of one year. Appointments to fill vacancies in the youth position shall be for the unexpired term.

No youth representative may serve more than one term as youth member on the Planning Commission. The youth representative position shall be open to all Borough residents between the ages of 16 and 25 years of age.

40.05.030 **–Term of Membership.**

A. The term of a member shall begin on January 1, and shall continue for the duration of three years and until a successor is appointed and takes office.

B. Members first appointed shall draw lots for one, two and three-year terms.

A.C. Appointments to fill vacancies are for the unexpired term.

(Ord. 88-4, Sec. 40.05.030)

40.05.040 **Vacancy.**

The office of a member of the Planning Commission becomes vacant upon:

A. The death or resignation of a member;

B. The failure of a member to attend three consecutive regular meetings without first being excused by the Planning Commission;

C. Failure of the member to attend two-thirds of the regular and special meetings of the Planning Commission during any twelve month period without first being excused by the Planning Commission;

D. Upon a two-thirds vote of the Assembly to remove the member from office;

E. If a member moves its permanent residence from the Borough;

F. If a members resignation is submitted to and accepted by the Mayor;

~~D.G.~~ If a member is convicted of a felony or an offense involving a violation of his oath of office, or

H. The occurrence of any other event that by ordinance or other law causes the office to become vacant.

40.05.050 **–Filling Vacancy.**

If a vacancy occurs on the Planning Commission, the vacant position shall be filled by Mayor appointment for the unexpired term of the Commission member being replaced.

40.05.060 Organization.

At the first meeting of each calendar year, following the day the Assembly confirms the ~~annual~~ appointments to the Planning Commission, the Planning Commission shall elect one member to chair meetings of the Planning Commission. The chair shall appoint a recording secretary.

~~Annually, It~~ the Planning Commission shall establish and publish in accordance with the publication requirements of Section 1.12.010 in a newspaper of general circulation in the Borough regular meeting dates for the Planning Commission. The Planning Commission will meet at least quarterly each year. Schedule revisions ~~shall must~~ be published 30 days in advance of the meetings.

40.05.070 Rules of Procedure.

A. Robert's Rules of Order, Newly Revised, shall govern the procedures of the Planning Commission to the extent it does not conflict with other provisions of this Code. The Planning Commission may, by resolution, modify Robert's Rules of Order.

A.B. At its first meeting of each year, the Planning Commission shall elect a chairperson to conduct the affairs of the Planning Commission and a vice-chairperson in his absence.

C. A quorum of the Planning Commission for the conduct of any meeting or public hearing shall be a majority of the commission. No actions shall be taken by the commission except by concurrence of at least four members.

B.D. All formal actions of the Planning Commission shall be made by resolution or permit approval or denial.

C.E. Any and all final decisions of the Planning Commission may be overruled or reversed by the Assembly, but only upon a vote of five Assembly members in favor of such overruling or reversal.

40.05.080 Meetings.

A. ~~Regular-M~~meetings of the Planning Commission shall be held as set out in the schedule of ~~regular~~ meetings pursuant to Chapter 40.05.060.

B. All reports, communications, ordinances, resolutions, permit applications or other matters to be submitted to the Planning Commission shall, at least seventy-two

hours prior to each Planning Commission meeting, be delivered to the Borough Clerk, whereupon the Planning Commission Chairperson shall arrange a list of such matters according to the order of business. At least forty-eight hours in advance of the Planning Commission meeting, the Borough Clerk shall furnish each member of the Planning Commission a copy of the same in packet form. Distribution shall be by electronic mail to each Planning Commission member's email address of record as well as by posting on the Borough's website. If distribution by electronic means is not available, distribution shall be by delivery in person or mail to the Planning Commission member.

C. Special meetings of the Planning Commission may be called by the chairman or by three members. Reasonable notice of the meeting shall be given to all members and the public. The notice must state the subject or subjects of the meeting. No action may be taken on any matter that was not within the scope or subject of the meeting as set out in the notice.

D. At every regular meeting of the Borough Assembly the order of business shall be as follows:

1. Call to Order;
2. Invocation;
3. Roll Call;
4. Minutes of Previous Meeting;
5. Consent Agenda;
6. Hearings, Ordinances, Resolutions, and Permit Applications;
7. Old Business;
8. New Business;
9. Administrator/Manager Reports;
10. Audience Participation;
11. Planning Commission Comments; and,
12. Adjournment.

E. Minutes of all regular and special meetings shall be taken. Minutes shall be in the form of a summary of discussion including a verbatim report of motions made and actions taken plus a report of each vote cast by Planning Commission members when a roll call vote is made. Summary notes shall be provided for each work session.

F. All minutes of regular and special meetings, and Planning Commission. Paper copies of all minutes of the Planning Commission shall be distributed by the Borough Clerk to the public desiring same after payment of a reasonable charge. One copy of the minutes shall be given free of charge to any person appearing in person and requesting same with extra copies in person or by mail available at twenty-five cents per copy per page, and subscriptions available by mail at the rate

of ten dollars per year. All minutes shall also be posted on the Borough's website and available to the public free of charge.

G. Unless a reading of the minutes of a Planning Commission meeting, regular or special, is requested by a member of the Planning Commission, such minutes may be approved without a reading if the Borough Clerk has previously furnished each member with a synopsis thereof.

H. The Borough Clerk shall give notice of Planning Commission meetings, shall attend all meetings of the Planning Commission and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book or file kept for that purpose all ordinances and resolutions duly indexed and open to public inspection. In case of the temporary absence of the Borough Clerk, the Borough Assembly may appoint a clerk pro tempore, with all the powers, duties and obligations of the Borough Clerk, who shall be duly qualified.

40.05.090 Reimbursement and Compensation.

Each member of the Planning Commission shall receive a meeting fee of three hundred dollars for each Planning Commission meeting day attended, including appeal hearings. The meeting fee shall be paid monthly and shall be subject to all applicable taxes and withholdings.

~~Planning Commission members shall be reimbursed, or paid a per diem, for such reasonable and necessary expenses the member incurs in the discharge of the member's duties. The Assembly may, by resolution, establish per diem rates, rules relating to reimbursement and other payments, and may authorize additional reimbursable item payments in lieu of, as well as payment of, compensation for an honorarium.~~

40.05.100 Powers and Duties.

The Planning Commission shall:

- A. Prepare and submit to the Assembly a proposed Comprehensive Plan in accordance with AS 29.40.030 for systematic and organized development of the Borough;
- B. Recommend amendments to the Comprehensive Plan to the Assembly for approval;
- C. Review, recommend, and administer measures necessary to implement the Comprehensive Plan, including measures provided under AS 29.40.040 and Chapter 40.15 (Land Use Regulations) of this Title;
- D. Act as the Aleutians East Borough Platting Board;

- E. Have the authority to prepare and submit to the Assembly for its approval a Master Plan for the physical development of the Borough, including the general location, character and extent of streets, bridges, parks, waterways, and other public ways, grounds and spaces, together with the general location of the public buildings and other public property, public utilities, and the extent and location of any public housing projects. The Planning Commission shall recommend modifications to the Master Plan from time to time, as it deems in the Borough's interest;
- F. Prepare and recommend to the Assembly a comprehensive zoning ordinance and map, or propose amendments or revisions thereof, with such provisions as the commission shall deem necessary or desirable for the promotion of health, safety, morals, and general welfare of the inhabitants of the Borough;
- G. Act as the platting board and exercise other functions with respect to land subdivisions, planning, and zoning as may be prescribed elsewhere in this Code or any other ordinance of the Borough, not inconsistent with the provisions of the Borough charter;
- H. Review all applications, and major amendments to previous approved projects, and prepare recommendations for Assembly action;
- I. Cause minutes of each meeting to be recorded and forwarded to the Borough Assembly through the Borough Assembly; and
- J. Perform other duties as may be prescribed by ordinance or requested by the Assembly.

(Ordinance 04-02, Chapter 40.05)

40.05.110 Financial Disclosure.

- A. Planning Commission members shall submit a financial and business disclosure form in accordance with and as required by Borough Code 1.28.
- B. Participation in all borough governmental activities without the required disclosure is prohibited.

(Ord. 12-03, New Sec. 40.05.110)

TITLE 40

PLANNING, PLATTING and LAND USE

Chapter 40.06
Planning Department

Sections:

- 40.06.010 Planning Department.
- 40.06.020 Planning Director.
- 40.06.030 Planning Department Functions.

40.06.010 Planning Department.

The Planning Department Director is appointed by the Mayor, confirmed by the Assembly, and reports to the Administrator. If a Planning Department Director is not appointed, the Administrator or his designee completes these duties. The Planning Department carries out the Borough functions described in:

- A. Chapter 40.06 Planning Department
- B. Chapter 40.10 Comprehensive Plan
- C. Chapter 40.15 Zoning Districts
- D. Chapter 40.20 Resource Development

40.06.020 Planning Director.

The Planning Director is responsible for providing balanced and orderly Resource Development within the Borough. Local, state, and federal law and regulations will govern the actions of the Planning Director.

40.06.030 Planning Department Functions.

The Planning Department functions include:

- A. Maximizing Resource Development benefits for Borough residents, while ensuring protection of human health and safety, the environment, commercial fishery resources, subsistence resources, cultural and historic sites, and other economic opportunities within AEB;
- B. Ensuring all Resource Development within the Borough complies with the Borough's Comprehensive Plan and all other local, state, and federal laws;

- C. Preparing written recommendations ~~to the Planning Commission for each Resource Development application; to either on whether to~~ approve ~~the project,~~ deny ~~it,~~ or approve permit applications ~~it~~-with conditions;
- D. Review and comment on state and federal permits and approvals required for Resource Development projects within the Borough to ensure compliance with local requirements and address local concerns;
- E. Inspecting and auditing Resource Development projects for compliance with local requirements, and notifying state, and federal or federal requirements authorities of potential non-compliance with state or federal requirements;
- F. Preparing written recommendations on whether to conduct enforcement actions; and
- G. Maintaining complete and accurate maps and documentation on each Resource Development project within a ~~Geographic Information System~~electronic mapping system and/or hard copy.

TITLE 40

PLANNING, PLATTING and LAND USE

Chapter 40.10
Comprehensive Plan

Sections:

40.10.010	Description and Purpose.
40.10.020	Planning Commission Review and Recommendations.
40.10.030	Assembly Action.
40.10.040	Adoption and Contents.

40.10.010 Description and Purpose.

The Comprehensive Plan is a guide for the systematic and organized physical, social and economic development, both public and private, of the Borough and serves as a long-range policy guide for the development of the Borough as a whole.- It may include separate elements that deal with discrete topics such as transportation, education, subsistence, economic development, tourism, public infrastructure, comprehensive development plans for specific communities or areas, delivery of public services, Borough lands management, and other subjects that may affect the orderly and beneficial development of the Borough.

It is the purpose of the Comprehensive Plan to:

- A. Encourage maximum, sound and reasonable development and use of renewable and nonrenewable resources within the Borough;
- B. Minimize the adverse impact of such development and use on the residents and environment of the Borough;
- C. Promote a healthy and stable ecosystem;
- D. Minimize the occurrence of incompatible land uses; and.
- E. Promote the health, welfare, and safety of the residents of the Borough.

The Comprehensive Plan shall be implemented through the adoption and application of land use regulations, conditional use and other permitting, zoning, platting, site development and other land use and related regulations.

40.10.020 Planning Commission Review and Recommendations.

The Planning Commission shall regularly review the Comprehensive Plan and recommend additions, deletions, and revisions to the Assembly.

40.10.030 Assembly Action.

The Assembly may expand, contract, or amend the Comprehensive Plan by ordinance.

40.10.040 Adoption and Contents.

The Borough Comprehensive Plan is adopted and consists of the following plans, statements, programs, reports, policies, recommendations, goals, standards, maps and documents:

~~A. Aleutians East Borough Coastal Management Program, titled, "Coastal Area Boundary Policies Implementation Resource Inventory and Analysis," prepared by Jon Isaacs and Associates Resource Analysis Fineline Graphics. Effective Date, November, 1992; reprinted April, 1993.~~

~~A.B.~~ Aleutians East Borough Transportation Improvement Program, prepared by HDR Alaska, Inc., dated September 2001.

~~CB.~~ Overall Economic Development Plan 1999, City of False Pass, prepared by The Stadum Group for the City of False Pass, dated July, 1999.

~~DC.~~ Strategic Economic and Community Development Plan 2001, Nelson Lagoon, prepared for Nelson Lagoon by The Stadum Group, dated November 2001.

~~ED.~~ Overall Economic Development Plan 1999, City of Cold Bay, prepared for the City of Cold Bay by The Stadum Group, dated July 1999.

~~FE.~~ Aleutians East Borough Resolution Number 04-10 entitled A Resolution of the Aleutians East Borough Adopting General Borough Policies to Guide Public and Private Development and Other Significant Activities within the Borough.

~~GF.~~ Coastal Resources Inventory and Environmental Sensitivity Maps, prepared by Research Planning, Inc Columbia, South Carolina, dated September 2001.

G. Aleutians East Borough, Alaska, Overall Economic Development Plan, dated March 1, 1994.

~~H. Borough Land Use Standards Document, dated February 2007.~~

-(Ordinance 04-02, Chapter 40.10)

TITLE 40

PLANNING, PLATTING and LAND USE

Chapter 40.15
Zoning Districts

Sections:

- 40.15.010 Enacting Clause.
- 40.15.020 Scope.
- 40.15.030 Compliance Required.
- 40.15.040 Official Zoning Districts, Boundaries, and Map.
- 40.15.050 Amendments.

40.15.010 Enacting Clause.

The zoning standards contained herein, together with all amendments, shall officially constitute the zoning regulations of the Aleutians East Borough.

40.15.020 Scope.

A. Minimum Requirements

In interpreting and applying the provisions of this Ordinance such provisions shall be the minimum requirements for the promotion of the public health, safety, and general welfare.

Whenever the requirements of this title are at variance with the requirements of any other lawfully adopted ordinance of the Borough, those imposing the higher standards shall apply.

B. Replacement of Other Ordinances

The provisions of this Ordinance shall not be deemed or construed to repeal, amend, modify, alter, or change any other Ordinance or any part thereof not specifically repealed, amended, modified, altered, or changed herein, except in such particulars or matters where this Ordinance is more restrictive than such other Ordinances or parts thereof; and if this

Ordinance is found to be more restrictive, and each other Ordinance is found to be less restrictive, each such other Ordinance shall remain in full force and effect and shall prevail.

C. Compliance With Other Ordinances and Laws

Nothing in this Ordinance shall be construed to authorize the use of lands, buildings, and/or structures in violation of this Ordinance or any other applicable statutes, ordinances, or laws.

D. Reference to Any Portion of this Ordinance

Whenever reference is made to any portion of this Ordinance, or any other law or ordinances, the reference shall apply to all amendments and additions now or hereafter made.

E. Severability

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of provisions thereof other than the part so decided to be invalid or unconstitutional.

40.15.030 Compliance Required.

All land, and buildings, structures, or appurtenances located thereon within the Borough, and subject to this Ordinance, which are hereafter occupied, used, erected, altered, or converted shall be used, placed, and erected in conformance with the Land Use Standards prescribed for the Zoning District in which such land, or buildings, structures, and appurtenances are located, except as hereinafter provided.

To insure that public uses and structures conform to the general community pattern and to regulations governing private uses and development, agencies of the federal government, the state, and the Borough shall submit plans and receive approvals in conformance with the requirements outlined in this title.

Whenever private use is made of any public land or public structures, such use shall fully conform to the regulations set forth in this title.

40.15.040 Establishment of Official Zoning Districts, Boundaries, and Map.

A. Zoning District Established

The unincorporated areas within the corporate limits of the Borough are hereby divided into zoning districts. The districts established herein shall be known as:

<u>Abbreviated Designation</u>	<u>Zoning District Name</u>
R	Residential
C	Commercial
I	Industrial
<u>M</u>	<u>Municipality</u>
RD	Resource Development

1. **Residential:** The Borough contains one Residential Zoning District, which encompasses the Village of Nelson Lagoon and extends 10 miles from the Village boundary in each compass direction, with the exception of the Village of Nelson Lagoon airport and associated fuel and equipment storage facilities.
2. **Commercial:** The Borough contains one Commercial Zoning District, which encompasses the Village of Nelson Lagoon airport and associated fuel and equipment storage facilities.
3. **Industrial:** The Borough does not include any Industrial Zoning Districts at this time.
- 3.4. **Municipality:** Municipality zones include all areas exempted from the Chapter 40 Geographic Scope (40.01.020) where planning, platting and land use is administered by a municipality within the Borough.
- 4.5. **Resource Development:** A Resource Development Zoning District has been established, which includes all Borough Land ~~between the 160°00'00" and 162°00'00" degrees longitude, excluding the City of Sand Point and its boundaries, and the City of King Cove and its boundaries, and the Nelson Lagoon Residential and Commercial districts, except lands zoned Residential, Commercial, Industrial or as a Municipality.~~

B. Zoning District Map

The boundaries of the zoning districts set out herein are delineated and shown on the Zoning District Map of the Borough; said map being a part of this ordinance as fully as if the same were set forth herein in detail.

Two original, official, and identical copies of the Zoning Districts Map are hereby adopted, bearing the signature of the Mayor and the attestation of the Borough Clerk, and shall be filed and maintained as follows:

1. One copy shall be filed with the Borough Clerk and retained as the original record and shall not be changed in any manner;
2. One copy shall be filed with the Planning Commission and shall be maintained up to date by posting thereon all changes and subsequent amendments; and
3. Reproductions of the official Zoning Districts Map, as amended, may be made from time-to-time for informational purposes.

C. Zoning District Boundaries

The district boundary lines shown on the Zoning Districts Map are usually along streets, alleys, property lines or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Districts Maps, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such center line.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as following the centerline of creeks, drainage courses, or rivers shall be construed as following such centerline.
5. Boundaries indicated as parallel to, or extensions of, features indicated above shall so be construed. Distances not specifically indicated on the original Zoning Districts Map shall be determined by the scale of the map.

D. Zoning District Amendments

Zoning Districts Amendments require Assembly approval.
(Ordinance 05-05, Chapter 40.15)

TITLE 40

PLANNING, PLATTING AND LAND USE

Chapter 40.20
Resource Development Permits

Sections:

- 40.20.010 Commercial Recreation Land Use Permit Required.
- 40.20.020 Sand, Gravel and Rock Mining Land Use Permit Required.
- 40.20.030 Research Land Use Permit Required.
- 40.20.040 Mineral & Coal Exploration & Small Mining Operations Land Use Permit.
- 40.20.050 Offshore & Direct Marketing Seafood Processing Land Use Permit.
- 40.20.060 Onshore Seafood Processing Land Use Permit
- 40.20.070 Large Mining Operations Land Use Permit Required.
- 40.20.080 Oil and Gas Land Use Permit Required.
- ~~40.20.010 Approval Required~~
- ~~40.20.020 Purpose~~
- ~~40.20.030 Duration~~
- ~~40.20.040 Application Contents~~
- ~~40.20.050 Approval Criteria~~
- ~~40.20.060 Compliance and Enforcement~~
- ~~40.20.070 Resource Development Fund~~

~~**40.20.010 Approval Required**~~

~~All Resource Development within the Resource Development District requires Assembly approval prior to construction or operation.~~

~~**40.20.010 Commercial Recreation Operator Land Use Permit Required.**~~

~~**A. Land Use Permit Required**~~

- ~~1. Commercial Recreation Operators conducting business within the Resource Development District must apply for and receive an approved Commercial Recreation Operator Land Use Permit from the Borough prior to conducting Commercial Recreation activities within the Borough each year, using the application form required by the Borough.~~
- ~~2. A separate permit application must be submitted by each Commercial Recreation Operator.~~
- ~~3. The land use permit shall be valid for a period of one year commencing on January 1st and expiring December 31st, provided applicant is in compliance~~

with permit terms and conditions.

4. The land use permit must be renewed at least 30 days prior to expiration if continued operations are planned.
5. Once the land use permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
6. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
7. Commercial Recreation Operators are only authorized to conduct activities described in the permit application and authorized in the approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
8. Casual Recreational Use does not require a permit.

B. Land Owner Authorization Required

1. Commercial Recreation Operator's activities on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to a Commercial Recreation Operator Land Use Permit.
3. Land owner approval to access lands described in the land use permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Commercial Recreation Operator Land Use Permits do not grant the Commercial Recreation Operator the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Commercial Recreation Operator must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Approval Process

1. Commercial Recreation Operator Land Use Permits are approved by the Borough Administrator or his designee.
2. Within 10 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will: approve the permit; send a letter to the Applicant explaining why the application is incomplete or requires modification; elevate the permit application for a decision by the Planning Commission pursuant to Chapter 40.01.070; or, deny the permit application.
- 4.3. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the applicant has not provided sufficient information to approve the permit, the permit application will be denied.
4. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission member.
5. Permit decisions may be appealed pursuant to Chapter 40.01.080.

E. Fees and Penalties

Commercial Recreation Operators doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Commercial Recreation Operators must keep and preserve all records of business activities conducted within the Borough boundaries for a period of at least five (5) years.
3. Commercial Recreation Operators must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Reporting Obligation

On or before February 1st of each year, after this permit expires, the Permittee shall submit a report to the Borough, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as nearly as possible to pre-existing conditions.

40.20.020 Sand, Gravel and Rock Land Use Permit Required.

A. Land Use Permit Required

1. Sand, Gravel, and Rock Miners conducting business within the Resource Development District must apply for and receive an approved Sand, Gravel, and Rock Mining Land Use Permit from the Borough prior to conducting Sand, Gravel, and Rock Mining activities within the Borough, using the application form required by the Borough.
2. A separate land use permit application must be submitted for each separate Sand, Gravel, and Rock mining location.
3. The land use permit shall be valid for the mining operation period requested in the application, up to a maximum period of five (5) years.
4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 60 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Sand, Gravel, and Rock Miners are only authorized to conduct activities described in the permit application and authorized in the approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.

B. Land Owner Authorization Required

1. Sand, Gravel and Rock Mining on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to a Sand, Gravel, and Rock Mining Land Use Permit.
3. Land owner approval to access lands described in the permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Sand, Gravel and Rock Mining Land Use Permits do not grant the Sand, Gravel, and Rock Miner the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Sand, Gravel and Rock Miner must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Approval Process

1. Sand, Gravel and Rock Mining Permits are approved by the Borough Administrator or his designee.
2. Within 30 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will: approve the permit; send a letter to the Applicant explaining why the application is incomplete or requires modification; elevate the permit application for a decision by the Planning Commission pursuant to Chapter 40.01.070; or deny the permit application.
- 4.3. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the applicant has not provided sufficient information to approve the permit, the permit application will be denied.
4. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written

comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission member.

5. Permit decisions may be appealed pursuant to Chapter 40.01.080.

E. Fees and Penalties

Sand, Gravel and Rock Miners doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Sand, Gravel and Rock Miners must keep and preserve all records of business activities conducted within the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Sand, Gravel and Rock Miners must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Severance Tax

Sand, Gravel and Rock Miners are subject to Borough Severance Tax pursuant to Chapter 60.40.

H. Reporting Obligation

Within 180 days of permit expiration, the Sand, Gravel, and Rock Miner must submit a report to the Borough confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

40.20.030 Research Land Use Permit Required.

A. Land Use Permit Required

1. Professional Researchers conducting Research within the Resource Development District must apply for and receive an approved Research Land Use Permit from the Borough prior to conducting Research within the Borough, using the application form required by the Borough.
2. A separate land use permit application must be submitted for each separate Research project.
3. The land use permit shall be valid for the Research period requested in the application, up to a maximum period of five (5) years.
4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 30 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Researchers are only authorized to conduct activities described in the land use permit application and authorized in the approval. Any change to the Research will require a permit amendment application to be submitted and approved prior to conducting those activities.
9. Research conducted by local elementary, junior-high or high-school students in support of school educational activities does not require a permit.

B. Land Owner Authorization Required

1. Research activities on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify all land owner authorizations related to a Research Land Use permit.

3. Land owner approval to access lands described in this permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Research Land Use Permits do not grant the Professional Researcher the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Professional Researcher must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Approval Process

1. Research Land Use Permits are approved by the Borough Administrator or his designee.
2. Within 10 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will: approve the land use permit; send a letter to the Applicant explaining why the application is incomplete or requires modification; elevate the permit application for a decision by the Planning Commission pursuant to Chapter 40.01.070; or, deny the permit application.
3. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the applicant has not provided sufficient information to approve the permit, the permit application will be denied.
4. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission member.
5. Permit decisions may be appealed pursuant to Chapter 40.01.080.

E. Fees and Penalties

Professional Researchers doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the land use permit.
2. Professional Researchers must keep and preserve all records of business activities conducted with the Borough boundaries for a period of at least five (5) years.
3. Professional Researchers must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Reporting Obligation

1. On or before February 1st of each year, the Professional Researcher must submit an interim report to the Borough, providing an update on the status of the research, summarize any significant findings, and provide a schedule update on the time required to complete the research.
2. Within 180 days of completing its research, the Professional Researcher must submit a copy of its final research report to the Borough.

40.20.040 Mineral & Coal Exploration & Small Mining Operations Land Use Permit Required.

A. Land Use Permit Required

1. Mineral & Coal Exploration & Small Mining Operations (less than 5 acres at any one time) anywhere within the Resource Development District must apply for and receive an approved Mineral & Coal Exploration & Small Mining Operations Land Use Permit from the Borough prior to conducting Mineral & Coal Exploration or Small Mining Operations within the Borough, using the application form required by the Borough.
2. A separate land use permit application must be submitted for each separate project.
3. The land use permit shall be valid for the period requested in the application, up to a maximum period of five (5) years.

4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 60 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Exploration and small mining Operators are only authorized to conduct activities described in the land use permit application and authorized in the approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
9. Recreational Mining does not require a permit.

B. Land Owner Authorization Required

1. Mineral and/or coal exploration and Small Mining Operations on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to a Mineral & Coal Exploration & Small Mining Operations Land Use Permit.
3. Land owner approval to access lands described in the land use permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Mineral & Coal Exploration & Small Mining Operations Land Use Permits do not grant the Operator the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Operator must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Approval Process

1. Mineral & Coal Exploration & Small Mining Operations Land Use Permits are approved by the Borough Administrator or his designee.
2. Within 30 calendar days of application receipt, excluding Saturday, Sunday, and Borough holidays, the Borough will: approve the permit; send a letter to the Applicant explaining why the application is incomplete or requires modification; elevate the permit application for a decision by the Planning Commission pursuant to Chapter 40.01.070; or deny the permit application.
3. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the applicant has not provided sufficient information to approve the permit, the permit application will be denied.
4. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission member.
5. Permit decisions may be appealed pursuant to 40.01.080.

E. Fees and Penalties

Mineral & Coal Exploration & Small Mining Operators doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Mineral & Coal Exploration & Small Mining Operators must keep and preserve all records of business activities conducted within the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Mineral & Coal Exploration & Small Mining Operators must permit the Borough, or its authorized representatives, to examine, inspect, and copy the

business records.

4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Severance Tax

Mineral & Coal Exploration & Small Mining Operators are subject to Borough Severance Tax pursuant to Chapter 60.40.

H. Reporting Obligation

Within 180 days of permit expiration, the Mineral & Coal Exploration & Small Mining Operators must submit a report to the Borough confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

40.20.050 Offshore & Direct Marketing Seafood Processing Land Use Permit Required.

A. Land Use Permit Required

1. Offshore Seafood Processors and Direct Marketing Seafood Processors anywhere within the Resource Development District must apply for and receive an approved Offshore & Direct Marketing Seafood Processing Land Use Permit from the Borough prior to conducting operations within the Borough, using the application form required by the Borough.
2. A separate land use permit application must be submitted for each separate Offshore Seafood Processor and each Direct Marketing Seafood Processor.
3. The land use permit shall be valid for a period of one year commencing on January 1st and expiring December 31st, provided applicant is in compliance with permit terms and conditions.
4. The land use permit must be renewed at least 30 days prior to expiration if continued operations are planned.
5. Once the land use permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
6. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.

7. Offshore Seafood Processors and each Direct Marketing Seafood Processors are only authorized to conduct activities described in the permit application and authorized in the approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.

B. Permanent Facilities, Structures and Access Routes

1. Offshore & Direct Marketing Seafood Processing Land Use Permits do not grant the Operator the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Operator must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

C. Land Use Permit Approval Process

1. Offshore & Direct Marketing Seafood Processing Land Use Permits are approved by the Borough Administrator or his designee.
2. Within 30 calendar days of application receipt, excluding Saturday, Sunday, and Borough holidays, the Borough will: approve the permit; send a letter to the Applicant explaining why the application is incomplete or requires modification; elevate the permit application for a decision by the Planning Commission pursuant to Chapter 40.01.070; or deny the permit application.
3. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the applicant has not provided sufficient information to approve the permit, the permit application will be denied.
4. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission member.
5. Permit decisions may be appealed pursuant to 40.01.080.

D. Fees and Penalties

Offshore Seafood Processors and each Direct Marketing Seafood Processors doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

E. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Offshore Seafood Processors and each Direct Marketing Seafood Processors must keep and preserve all records of business activities conducted within the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Offshore Seafood Processors and each Direct Marketing Seafood Processors must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

F. Severance Tax

Offshore Seafood Processors and each Direct Marketing Seafood Processors are subject to Borough Tax pursuant to Chapter 60.20.

40.20.060 Onshore Seafood Processing Land Use Permit Required.

A. Land Use Permit Required

1. Onshore Seafood Processors operating within the Resource Development District must apply for and receive an approved Onshore Seafood Processing Land Use Permit from the Borough prior to conducting operations within the Borough, using the application form required by the Borough.

2. A separate land use permit application must be submitted for each separate Onshore Seafood Processing Operation.
3. The land use permit shall be valid for the mining operation period requested in the application, up to a maximum period of five (5) years.
4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 180 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Onshore Seafood Processors are only authorized to conduct activities described in the land use permit application and authorized in the approval. Any change to the operation will require a land use permit amendment application to be submitted and approved prior to conducting those activities.

B. Land Owner Authorization Required

1. Onshore Seafood Processing operations on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to an Onshore Seafood Processing Land Use Permit.
3. Land owner approval to access lands described in the permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Onshore Seafood Processing Land Use Permits do not grant the Operator the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Operator must obtain legal access and the authorization from the landowner prior to these activities.

3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Application and Approval Process

1. Pre-application Meeting

The Onshore Seafood Processor must meet with the Borough for a pre-application meeting at least 180 days prior to submitting the land use permit application for approval. At the pre-application meeting the Applicant shall present the project scope and timeline to the Borough and explain how this project will comply with the requirements of this title and state and federal laws and regulations

2. Application Meeting

The Onshore Seafood Processor must meet with the Borough at least 180 days prior to construction or operation to submit an application for Borough approval.

3. Land Use Permit Application Contents

The Applicant must fill out all the information required by the Onshore Seafood Processing Land Use Permit Application Form and follow all instructions. The application shall contain, at a minimum the following:

- a. Plan of Operations;
- b. Local Economic Development Plan;
- c. Design Plans
- d. Historical and Cultural Resources Protection Plan;
- e. Water, Waste Water, and Solid Waste Management Plan;
- f. Emergency & Medical Plan;
- g. Hazardous Materials and Hazards Assessment Plan;
- h. A copy of all required State and Federal permits
- i. Reclamation Plan;
- j. Copy of State of Alaska Business Licenses; and,
- k. Fees & Payments.

4. Approval Process

- a. The Borough Administrator or his designee will have 90 days to review the land use permit application excluding Saturday, Sunday and Borough holidays, including a 30 calendar day public notice period requesting written comments. Public notice will be made in accordance with the publication requirements of Section 1.12.010. The Borough

Administrator or his designee may extend review time periods for complex projects. The public notice period will not commence until the Borough Administrator or his designee has determined that the application is complete and ready for Borough consideration.

- b. Within 30 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will issue the permit for public review or send a letter to the Applicant explaining why the application is incomplete or requires modification.
- c. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the Applicant has not provided sufficient information to approve the permit, the permit application will be returned to the Applicant. By the end of the 90 day review period, the Borough Administrator or his designee will submit a written recommendation to the Planning Commission. The Planning Commission will have 60 days, excluding Saturday, Sunday and Borough holidays to develop a written recommendation to the Assembly and will hold one meeting with the opportunity for oral or written public comment.
- e. The Assembly will grant the approval with or without conditions, or deny the application with explanation within 30 days excluding Saturday, Sunday and Borough holidays of receiving the Planning Commission's written recommendation and will hold one meeting with the opportunity for oral or written public comment before making its decision. The Assembly may extend review period for complex projects.
- f. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission and Assembly member.
- g. Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations), may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the.
- h. A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments are approved by the Administrator within 30 days. Major amendments require Assembly approval and can take 3-6 months. A minor amendment includes

administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

5. Approval Criteria

The Planning Commission will establish procedures for the Planning Director to follow when reviewing land use permit applications for approval. At a minimum, the Planning Director must verify the application is complete and meets the requirements of this title prior to recommending it for Planning Commission consideration. The Planning Commission will make a recommendation for Assembly approval.

Due deference will be given to residents affected by the proposed development when setting the terms and conditions of approval.

Based on Planning Director and Planning Commission recommendation for Approval, the following criteria must be met for the Assembly to approve Resource Developments:

a. Plan of Operations

The plan of operations shall be submitted in written form by the Owner/Operator and must include, at a minimum the following information:

1. Information on proposed Applicant (Operator) and any partners in the planned seafood processing operation;
2. Proposed seafood processing operations, location and timing;
3. Size and purpose of the operation;
4. Landownership and legal agreements that allow seafood processing plant on the property and any past seafood processing operations at this site;
5. A list and description of the required equipment, facilities, infrastructure and personnel;
6. Amount and type of fuel and chemicals that will be used and stored at the seafood processing plant and spill prevention measures that will be used;
7. Amounts and type of seafood to be processed and how the seafood will be processed;
8. Environmentally or culturally sensitive areas at or near the seafood processing plant;
9. Water and fish habitat protection measures that will be used;

10. Water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and instream requirements);
11. Anticipated restrictions on other surface uses of the area, including public access;
12. Noise, smell, and visual mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
13. Safety and security that will be used at the site; and,
14. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained provide the permit number and date of expiration. If permits are in the process of being issued provide information on the date you applied for the permit and the expected date of issue.

The project scope and schedule must be compatible with existing and proposed adjacent uses, commercial fisheries, subsistence activities, and projected community needs.

The seafood processing operation must adhere to the goals and objectives of the Aleutians East Borough Comprehensive Plan.

Maps of proposed project must be submitted electronically for incorporation into the Borough's Geographic Information System.

b. Local Economic Development Plan

A Local Economic Development Plan shall include a local hire manpower plan, local business contracting plan, training program, and mentoring program for both construction and operation phases of the project.

The Local Economic Development Plan shall, at a minimum, include the following:

1. A plan to train local residents to become qualified for jobs at the project prior to start-up and during the period the seafood processing plant is actively operating. Training shall be provided in the lease area, or the Operator shall provide transportation and funding for local residents to obtain training in an alternate location. Paid apprenticeship positions shall provide hands-on training as part of this program;

2. A plan for recruiting and hiring local residents, including a mechanism for announcing jobs and recruiting locally qualified applicants in the lease area;
3. A plan for using local contractors and local businesses, including mandatory notification to qualified local contractors and businesses announcing contract opportunities; and,
4. A quarterly and annual reporting process documenting the success of the Economic Opportunity Plan in providing local hire and contracting opportunities to AEB residents.

c. Transportation Plan

Transportation Plan shall describe existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the seafood processing plant (including a map of these routes).

Transportation infrastructure (e.g., roads, bridges, runways, marine facilities, etc.) built by the Applicant on Borough, state, or federal lands must be available for all AEB resident use and access, unless waived by the Assembly.

Wherever possible, existing transportation infrastructure should be expanded to meet the Applicant's needs to minimize duplication and environmental impact.

The Applicant is responsible for construction, maintenance, and operating costs for the transportation infrastructure required to support their activities.

At cessation of operations, the transportation infrastructure must be donated to AEB for public use, or the transportation infrastructure must be completely removed and the area must be remediated to AEB's satisfaction.

d. Historical and Cultural Resources Protection Plan

A Historical and Cultural Resources Protection Plan must be submitted to demonstrate that traditional, historical and cultural sites may not be disturbed or adversely impacted during the construction or operation of the seafood processing plant.

e. Good Neighbor Plan

The Good Neighbor Plan shall, at a minimum, include the following:

1. A plan to ensure surrounding residential properties and residents are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter, interference with media reception;
 2. Charitable and/or in-kind contributions to support local education, art, and charities, provide employment training programs to maximize local hire.
 3. A plan for providing services that includes contracting locally for fuel, power, waste, water, transportation, medical services, emergency and other services. If local service capacity is insufficient to meet the Operator's needs, the Operator shall expand capacity, unless it is infeasible. In cases where it is infeasible to expand existing services, the Operator may provide their own. The Operator's activities shall not adversely impact community access to existing services, and should improve and provide opportunities for more cost-effective services;
 4. A plan for communicating with the affected community members, to obtain their input and address their concerns on a regular basis; and,
 5. An annual reporting process to document the success of the Good Neighbor Policy.
- f. Pollution Prevention Plan. The Pollution Prevention Plan must include best management practices for protecting drinking water, air, and local food sources from pollution, including a recycling program. The Pollution Prevention Plan must include:
1. A zero water pollution discharge standard unless the Applicant proves to the Borough that it is not technically feasible;
 2. Best available air emission control technology for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds), and hazardous air pollutants;
 3. The lowest air pollution impact fuel sources. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used;
 4. Vapory recovery systems on all equipment and facilities to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited;
 5. An inspection maintenance and repair program to ensure that all pollution prevention systems are inspected, maintained, and

repaired, including a Quality Assurance/Quality Control (QA/QC) Program for all pollution prevention systems;

6. Secondary containment systems for all fuel, hazardous materials and chemicals that will hold at least 110% of the tank capacity;
7. Cathodic protection, leak detection systems and overfill alarms for all tanks;
8. Double hull vessels for all supply and fuel vessels operating in the presence of ice; and,
9. Sufficient spill response equipment and trained personnel to contain and clean up any fuel and chemical spills that may occur.

g. Hazardous Materials and Hazards Assessment Plan

The plan must include an evaluation of all hazardous materials used at the seafood processing plan and any potential hazards including, but not limited to, geophysical hazards, fire, flood, landslides, erosion, earthquake, coastal storms, and ice. The plan must include proposed mitigation measures to eliminate or reduce the risk of the hazard.

h. Reclamation Plan

The Reclamation Plan must be provided in sufficient detail to determine surety requirements, provide a timetable for each step in the reclamation process, and describe the reclamation actions to be completed at cessation of operations. The plan must include a description of the measures to ensure that all debris and toxic materials are disposed of in a sound manner, a description of the steps to be taken to comply with applicable water quality laws and statutes, and restore, stabilize and re-vegetate all disturbed areas. The Reclamation Plan must be developed using best management practices and shall comply with AEB's Coastal Zone Enforceable Policies.

i. Emergency & Medical Plan

The Emergency & Medical Plan must provide for adequate medical, rescue, fire, spill response and other emergency services. The plan should preferably include proposals to fund expansion of existing Borough emergency services to support increased demands created by the new mining project.

j. Fees & Payments

E. Fees and Penalties

Onshore Seafood Processors doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough land use permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Onshore Seafood Processors must keep and preserve all records of business activities conducted with the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Onshore Seafood Processors must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Tax

Onshore Seafood Processors are subject to Borough Tax pursuant to Chapter 60.20.

H. Reporting Obligation

Compliance with Borough approval is required. Onshore Seafood Processors must submit annual reports demonstrating compliance with the approved plans listed in Chapter 40.20.050 by February 15th of each calendar year.

Within 180 days of permit expiration, the Onshore Seafood Processor must submit a report to the Borough confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

40.20.070 Large Mining Operations Land Use Permit Required.

A. Land Use Permit Required

1. Mineral and Coal Miners conducting Large Mining Operations (5 acres or more at any one time) within the Resource Development District must apply for and receive an approved Large Mineral & Coal Mining Operations Land Use Permit from the Borough prior to conducting Large Mining Operations within the Borough, using the application form required by the Borough. Mineral and Coal Exploration must obtain a permit pursuant to the requirements of Chapter 40.20.040.
2. A separate land use permit application must be submitted for each separate Large Mining Operation.
3. The land use permit shall be valid for the mining operation period requested in the application, up to a maximum period of five (5) years.
4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 180 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Large Mining Operations are only authorized to conduct activities described in the land use permit application and authorized in the approval. Any change to the operation will require a land use permit amendment application to be submitted and approved prior to conducting those activities.

B. Land Owner Authorization Required

1. Large Mining Operations on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.

2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to a Large Mining Operation Land Use Permit.
3. Land owner approval to access lands described in the permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Large Mining Operation Land Use Permits do not grant the Mineral and/or Coal Miner the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Mineral and/or Coal Miner must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Application and Approval Process

1. Pre-application Meeting:

The ~~Mineral and/or Coal Miner Owner/Operator~~ must meet with the Borough for a pre-application meeting at least 180 days prior to submitting the land use permit application for approval. At the pre-application meeting the Applicant ~~must shall~~ present the project scope and timeline to the Borough and explain how this project will comply with the requirements of this title and state and federal laws and regulations. At the pre-application meeting, the Applicant will be required to submit an initial payment of \$~~5025~~,000 to be placed in a Resource Development Review Large Mining Operations Permit Fee Fund for this project. The Applicant must maintain a minimum balance of \$10,000 in this fund at all times. The Borough will use these funds to pay for the cost of reviewing and approving the proposed ~~Resource Development project application and administering the permit during operations.~~ and will administer these funds in accordance with Chapter 40.20.070. Payment of the application fee does not guarantee approval of the project.

2. Application Meeting:

The ~~Mineral and/or Coal Miner Owner/Operator~~ must meet with the Borough at least 180 days prior to construction or operation to submit an application for Borough approval. 40.20.040 Application Contents.

To obtain Approval the Owner and Operator must submit the following to the Planning Director:

3. Land Use Permit Application Contents

The Applicant must fill out all the information required by the Large Mining Operations Land Use Permit Application Form and follow all instructions. The application shall contain, at a minimum the following:

- a. Project Scope and Schedule;
- b. Conflict Avoidance Plan (Fisheries & Subsistence Use);
- c. Study & Project Monitoring Plan;
- d. Local Economic Development Plan;
- e. Field Office Plan;
- f. Infrastructure Support Plan;
- g. Transportation Plan;
- h. Historical and Cultural Resources Protection Plan;
- i. Good Neighbor Plan;
- j. Pollution Prevention Plan;
- k. Hazard Assessment Plan;
- l. Surety Bond;
- m. Reclamation Plan;
- ~~n. Emergency Plan;~~
- ~~n. Copy of State of Alaska Business Licenses; and,~~
- o. ~~-Fees & Payments.~~

4c. Approval Process:

- a. The ~~Planning Director~~Borough Administrator or his designee will have 90 days to review the land use permit application excluding Saturday, Sunday and Borough holidays, including a 30 calendar day public notice period requesting written comments. Public notice will be made in accordance with the publication requirements of Section 1.12.010. The ~~Borough Administrator or his designee~~ Planning Director may extend review time periods for complex projects. The public notice period will not commence until the Borough Administrator or his designee ~~Planning Director~~ has determined that the application is complete and ready for Borough consideration.
- b. Within 30 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will issue the permit for public review or send a letter to the Applicant explaining why the application is incomplete or requires modification.
- c. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the Applicant has not provided

sufficient information to approve the permit, the permit application will be returned to the Applicant.

- d. By the end of the 90 day review period, the Borough Administrator or his designee Planning Director will submit a written recommendation to the Planning Commission. The Planning Commission will have 60 days, excluding Saturday, Sunday and Borough holidays to develop a written recommendation to the Assembly and will hold one meeting with the opportunity for oral or written public comment.
- e. The Assembly will grant the approval with or without conditions, or deny the application with explanation within 30 days excluding Saturday, Sunday and Borough holidays of receiving the Planning Commission's written recommendation and will hold one meeting with the opportunity for oral or written public comment before making its decision. The Assembly may extend review period for complex projects.
- f. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission and Assembly member.
- g. Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations), may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the.
- h. A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments are approved by the Administrator within 30 days. Major amendments require Assembly approval and can take 3-6 months. A minor amendment includes administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

i. Approval Criteria

~~40.20.050~~ Approval Criteria

The Planning Commission will establish procedures for the Planning Director to follow when reviewing land use permit applications for approval. At a minimum, the Planning Director must verify the application is complete and meets the requirements of this title prior to recommending it for Planning Commission consideration. The Planning Commission will make a recommendation for Assembly approval.

Due deference will be given to residents affected by the proposed development when setting the terms and conditions of approval.

Based on Planning Director and Planning Commission recommendation for Approval, the following criteria must be met for the Assembly to approve Resource Developments:

j. Project Scope and Schedule

 The project scope and schedule must shall be submitted in written form by the Owner/Operator and must include, at a minimum the following information:

1. Information on proposed Applicant (Operator) and any partners in the planned mine;
2. Proposed mining operations, location and timing;
3. Size and purpose of the operation;
4. Landownership and legal agreements that allow mining on the property and any past mining operations at this site;
5. A list and description of the required equipment, facilities, infrastructure and personnel;
6. Mining methods including overburden removal and storage and the amounts of material to be handled, processed or removed, and whether blasting, drilling, crushing, or screening will be performed.
7. Area and depth of the mining operation, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
8. Amount and type of fuel and chemicals that will be used and stored at the mine site and oil spill prevention measures that will be used;

9. Amounts of material to be handled, processed, or removed; how the material will be processed; and how the tailings will be disposed of;
10. The actions to be taken to minimize detrimental effects to fish and wildlife;
11. Environmentally or culturally sensitive areas at or near the mine site (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
12. Water and fish habitat protection measures that will be used;
13. Water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and instream requirements);
14. Type and quantity of any elements or chemicals to be used in mining or mineral recovery and storage plans;
15. Location and size of camp facilities and overland transportation;
16. Anticipated restrictions on other surface uses of the lease area, including public access;
17. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
18. Plans to comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough;
19. Safety and security that will be used at the site; and,
20. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained please provide the permit number and date of expiration. If permits are in the process of being issued please provide information on the date you applied for the permit and the expected date of issue.

The project scope and schedule must be compatible with existing and proposed adjacent uses, commercial fisheries, subsistence activities, and projected community needs.

The project-mining operation must adhere to the goals and objectives of the Aleutians East Borough Comprehensive Plan. ~~Facilities~~The mining operation must be consolidated as practical; site selection must include sufficient acreage to allow for reasonable expansion of ~~facilities~~the mine and should minimize site clearing, dredging, and disturbance of productive habitats. The mine operation and should be located in an area of least biological productivity, diversity, and vulnerability, and where effluents and spills can be contained.

Maps of proposed project must be submitted electronically for incorporation into the Borough's Geographic Information System.

k. Conflict Avoidance Plan (Fisheries & Subsistence Use)

1. Mining shall not adversely affect fish habitat, populations or productivity. Commercial fishing, subsistence use, and sport harvest have priority.
2. The Conflict Avoidance Plan must demonstrate that Commercial Fishing, Subsistence Use, and Sport Harvest Conflicts will be avoided. Alternative site locations, transportation routes, and other mitigation measures may be proposed to avoid conflict.
3. Commercial fishing, subsistence use, and sport harvest priority use means that mining shall be restricted in order to prevent conflicts with local commercial, subsistence, and sport harvest activities and achieve the following goals.
 - a. Commercial, subsistence, and sport harvest activities must not be displaced or precluded from access to fishing or hunting areas, unless they are adequately compensated for the displacement;
 - b. Fishermen must not be precluded from participating in designated fishing seasons, unless they are adequately compensated for the lost season(s);
 - c. Fishermen must be compensated in a timely manner for damage to fishing equipment, vessels, gear or decreased harvest value or loss of fishing quota caused by the mine;
 - d. Established patterns of navigation and shipping for commercial fishermen must not be interrupted;
 - e. Port infrastructure must be expanded to accommodate increased vessel traffic for the mine. This will ensure that fishermen have adequate harbor slips, long-term boat storage and maintenance facilities, and are not unnecessarily delayed for supply and refueling. The cost of port expansion and any increase in port operating costs is the sole burden of the mine.

l. Study & Project Monitoring Plan

A Study and Project Monitoring Plan ~~must~~ shall be comprehensive and collect sufficient baseline and periodic monitoring data to ~~must~~ ensure protection of human health and the environment is being achieved. The plan must be reviewed and approved by the Borough Scientific Advisory

Council or an expert designated by the Borough. The Study and Project Monitoring Plan shall, at a minimum, include a:

1. Commercial, Subsistence and Sports Fisheries Baseline Data Assessment to assess potential impacts of the proposed mine, including an assessment of all commercial, subsistence and sports fisheries species, as well as the marine flora, fauna, habitat and prey species on which they rely for survival. The assessment shall be of sufficient quality to:
 - a. Document the fisheries' distribution, abundance, productivity, movement and migration patterns, and quality as a food source; include data that documents natural variation in fish stock such that incremental impact from mining operations can be distinguished from natural variation;
 - b. Document past, present and future commercial, subsistence and sports fisheries use areas;
 - c. Be of sufficient quality, quantity, and age to allow scientists to collect additional data in the future (for comparison) and draw scientifically valid conclusions, as to whether or not the fisheries resources are being impacted the mine;
 - d. Include a complete economic assessment of the economic value of the fisheries including the economic value of wild Alaska seafood harvested in pristine waters; and,
 - e. Provide a well documented, scientifically supported, and statistically significant analysis sufficient to compensate fisherman for decreased harvest value, decreases in fisheries stock, and/or displacement or loss of work due to a catastrophic event such as mine pollution contamination.
2. Commercial, Subsistence and Sports Fisheries Monitoring and Mitigation Plan to monitor impacts of the proposed mine. Adverse impacts identified via the monitoring program shall be mitigated;
3. Baseline water quality assessment and/or additional baseline data collection plan;
4. Cumulative water pollution impact assessment;
5. Assessment of the technical feasibility for zero water pollution discharge;
6. Water quality monitoring system(s) that will be used to continuously monitor effluents to ensure compliance with pollutant limitations if zero water pollution discharge is not technically feasible;
7. Baseline air quality and meteorological data assessment and/or additional baseline data collection plan;
8. Cumulative air pollution impact assessment;

9. Assessment of the technical feasibility for air pollution discharge control and reduction;
10. Air quality monitoring system(s) that will be used to continuously monitor emissions to ensure compliance with pollutant limitations;
11. A Baseline Health and Socioeconomic Assessment to: document the current public health status of communities that will potentially be affected by the mine; document ways the mine can improve the quality of life for local residents; identify ways the mining Operator can work with the local communities to design, install and operate facilities that improve the quality of life for local residents; identify community or village-level health indicators to detect changes in public health and in social and economic conditions that influence health in the region; identify health disparities and vulnerable populations; identify the likely social, economic, environmental, and behavioral influences on health; and identify appropriate social, economic, environmental and health indicators for use in monitoring the effects (in terms of health risk and health outcomes);
12. Impact Analysis and Mitigation Plan summarizing the potential public health and socioeconomic impacts of mine and a means proposed to mitigate these impacts completed under the direction of a medical doctor with recognized expertise in Alaska Native public health and a socio-economist with recognized expertise in Aleutian Region;
13. Public Health Monitoring Program and Mitigation Plan to be implemented under the direction of a medical doctor with recognized expertise in Alaska Native public health that addresses the public health indicators identified in the Baseline Health and Socioeconomic Assessment. Adverse impacts identified via the monitoring program shall be mitigated;
14. Socioeconomic Monitoring Program and Mitigation Plan to be implemented under the direction of a socio-economist with recognized expertise in issues affecting the Aleutian Region. Adverse social and economic impacts identified via the monitoring program shall be mitigated; and,
15. A Noise Mitigation Plan that minimizes adverse health effects from aircraft and other noises associated with the mine operations. The plan shall include a baseline assessment of ambient noise level in the affected community must be completed for a mine requiring more than two flights per day to, through or from a community that estimates indoor and outdoor ambient noise levels and assess the anticipated contribution of the proposed activity to overall noise levels in the community using an FAA-approved noise model. Activities for ambient noise levels above safe thresholds, or noise levels that cause unacceptable disruptions to community activities

and sleep, shall not be permitted. Mitigation including flight path routing, airport siting and sound proofing equipment must be proposed and implemented.

m. Local Economic Development Plan

A Local Economic Development Plan ~~must~~ shall include a local hire manpower plan, local business contracting plan, training program, and mentoring program for both construction and operation phases of the ~~resource extraction~~ mining project.

The Local Economic Development Plan shall, at a minimum, include the following:

1. A plan to train local residents to become qualified for jobs at the mine prior to mine start-up and during the period the mine is actively operating. Training shall be provided in the lease area, or the Operator shall provide transportation and funding for local residents to obtain training in an alternate location. Paid apprenticeship positions shall provide hands-on training as part of this program;
2. A plan for recruiting and hiring local residents, including a mechanism for announcing jobs and recruiting locally qualified applicants in the lease area;
3. A plan for using local contractors and local businesses, including mandatory notification to qualified local contractors and businesses announcing contract opportunities; and,
4. A quarterly and annual reporting process documenting the success of the Economic Opportunity Plan in providing local hire and contracting opportunities to AEB residents.

n. Field Office Plan

~~Resource Development Large Mining Operations activities~~ are required to maintain a field office at the construction and operating site. The field office must be manned 24 hours per day to ensure proper oversight of the project activities. The field office staff must include, at a minimum, a Native and Community Liaison, a Fisheries Protection Biologist, and an Environmental Compliance Officer to provide project oversight, monitoring, address local concerns, and ensure compliance, unless waived by the Assembly.

o. Infrastructure Support Plan

~~Resource Development~~ The Applicants must meet with Village, Municipal

Government, and Tribal Leaders of all communities within 25 miles of their operations to determine whether it will be beneficial to expand community infrastructure to include resource extraction needs, or whether it would be more appropriate to institute enclave development requirements.

A joint tribal, local community and industry-Applicant agreement on this issue must be reached, approved by all parties, and submitted to the AEBBorough.

In the event there is agreement to expand existing community infrastructure to meet the needs of industrial development (e.g. medical clinic, school, community center, tank farm, recreation facilities, etc.), industry-the Applicant is responsible for construction, maintenance, and operation costs of expanding these facilities to support their activities.

p. Transportation Plan

Transportation Plan shall describe existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the mine site (including a map of these routes).

Transportation infrastructure (e.g., roads, bridges, runways, marine facilities, etc.) built by industry-the Applicant on Borough, state, or federal lands must be available for all AEB resident use and access, unless waived by the Assembly.

Wherever possible, existing transportation infrastructure should be expanded to meet industry-the Applicant's needs to minimize duplication and environmental impact.

The Applicant Industry is responsible for construction, maintenance, and operating costs for the transportation infrastructure required to support their activities. ~~Whenever possible, onshore exploration activities should be supported by air service, an existing road system or port facility, or by vehicles which do not cause significant damage to the ground surface or vegetation.~~

At cessation of operations, the transportation infrastructure must be donated to AEB for public use, or the transportation infrastructure must be completely removed and the area must be remediated to AEB's satisfaction.

q. Historical and Cultural Resources Protection Plan

A Historical and Cultural Resources Protection Plan must be submitted to demonstrate that traditional, historical and cultural sites may not be

disturbed or adversely impacted during the construction or operation of the Resource Development projectmine.

r. Good Neighbor Plan

The Good Neighbor Plan shall, at a minimum, include the following:

1. The Good Neighbor Plan must include a -A plan to ensure surrounding residential properties and residents are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter, ~~or~~ interference with media reception;
2. The plan should include Charitable and/or in-kind contributions to support local education, art, and charities, provide employment training programs to maximize local hire. This program should provide a fund for impact assistance if adverse impacts are realized by the community or individual residents;
3. A plan for providing services that includes contracting locally for fuel, power, waste, water, transportation, medical services, emergency and other services. If local service capacity is insufficient to meet the Operator's needs, the Operator shall expand capacity, unless it is infeasible. In cases where it is infeasible to expand existing services, the Operator may provide their own. The Operator's activities shall not adversely impact community access to existing services, and should improve and provide opportunities for more cost-effective services;
4. A system to compensate subsistence hunters and fishermen for disruptions to subsistence activities or to compensate for additional costs associated with relocating subsistence activities;
5. A system to compensate subsistence hunters and fishermen for costs of providing alternative food sources in the event of a spill;
6. A plan for communicating with the affected community members, to obtain their input and address their concerns on a regular basis; and,
- 4.7. A quarterly and annual reporting process to document the success of the Good Neighbor Policy.

s. Pollution Prevention Plan

The Pollution Prevention Plan must include best management practices for protecting drinking water, air, and local food sources from pollution, including and a recycling program. The Pollution Prevention Plan must include:

1. A zero water pollution discharge standard unless the Applicant proves to the Borough that it is not technically feasible;

2. Best available air emission control technology for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds), and hazardous air pollutants;
3. The lowest air pollution impact fuel sources. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used;
4. Vapor recovery systems on all equipment and facilities to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited;
5. An inspection maintenance and repair program to ensure that all pollution prevention systems are inspected, maintained, and repaired, including a Quality Assurance/Quality Control (QA/QC) Program for all pollution prevention systems;
6. Secondary containment systems for all fuel, hazardous materials and chemicals that will hold at least 110% of the tank capacity;
7. Cathodic protection, leak detection systems and overfill alarms for all tanks;
8. Double hull vessels for all supply and fuel vessels operating in the presence of ice; and,
9. Sufficient spill response equipment and trained personnel to contain and clean up any fuel and chemical spills that may occur.

t. Hazard Assessment Plan

A Hazard Assessment Plan must include an evaluation of all potential hazards to the Resource Development Project including, but not limited to, geophysical hazards, fire, flood, landslides, erosion, earthquake, coastal storms, and ice. The plan must include proposed mitigation measures to eliminate or reduce the risk of the hazard.

u. Surety Bond

A Surety Bond, or other financial instrument approved by the Assembly, must be appropriate for the magnitude, type, cost, nature, and duration of the development.

Surety must be provided in an amount sufficient to fund:

1. Environmental clean-up and restoration requirements;

2. Compensate residents for any adverse human health impacts
3. Compensate commercial fisherman and subsistence users for adverse impacts;
4. Dismantle, remove, and restore the Resource Development site to its original condition prior to development; and
5. The liability under the surety provisions shall continue until such time as released, or in its entirety, by the ~~Planning Director~~Administrator.

v. Reclamation Plan

The Reclamation Plan must be provided in sufficient detail to determine surety requirements, provide a timetable for each step in the reclamation process, -and describe the reclamation actions to be completed at cessation of operations. The plan must include a description of the measures to ensure that all debris and toxic materials are disposed of in a sound manner, a description of the steps to be taken to comply with applicable water quality laws and statutes, and restore, stabilize and re-vegetate all disturbed areas. The Reclamation Plan must be developed using best management practices and shall comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough.

w. Emergency Plan

The Emergency Plan must provide for adequate medical, rescue, fire, spill response and other emergency services. The plan should preferably include proposals to fund expansion of existing Borough emergency services to support increased demands created by the new ~~Resource Development~~mining project.

x. Fees & Payments

~~————Large Mining Operations Permit Resource Development Fee~~ Fund payments (Chapter 40.20.070) and all fees required by Chapters 40.01.060 must be paid.

~~40.20.030 — Duration.~~

~~Approvals are valid while Owner/Operator is in compliance with this title, conditions of Borough approval, and all state and federal requirements. Approvals expire automatically within 12 months, if no construction or activity has commenced or if construction has been suspended for 12 consecutive months.~~

5d. Amendments:

~~Resource Development Approval~~ Large Mining Land Use Permit

Amendments will require Borough approval. The Borough Administrator or his designee ~~Planning Director~~ will determine the significance of the proposed amendment. Minor amendments may be approved by the Borough Administrator or his designee within 30 days ~~Planning Director~~. A minor amendment is defined as an administrative, scope or timing change that does not increase impact over the original permit approval. A major amendment requires Assembly approval and a 30 day public comment period.

~~Significant amendments may warrant public and Planning Commission review, and Assembly approval, as determined by the Planning Director.~~

6. Appeals

Land use permit decisions may be appealed pursuant to Chapter 40.010.080.

E. Fees and Penalties

Mineral and Coal Miners doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

~~Each Resource Development project~~ Large Mining Operations ~~are will be~~ required to fund the cost for Borough review and approval of their application, and the cost of inspection and oversight of the project once it is in operation.

Large Mining Operations Permit Fee ~~The Resource Development~~ Fund requirements are triggered at the pre-application meeting, or at the discretion of the ~~Planning Director~~ Borough Administrator, if Borough is incurring costs to participate in project meeting, discussions, and review prior to the pre-application meeting.

At the pre-application meeting, the Applicant will be required to submit an initial payment ~~of \$50,000~~ of \$25,000 to be placed in a ~~Resource Development~~ Large Mining Operations Permit Fee Fund for this specific project. ~~Each month~~ Quarterly, the ~~Planning Director~~ Finance Director will provide the Applicant with an account describing how the funds were used by the Borough to review, approve, or monitor project compliance.

The Applicant must maintain a minimum balance ~~of \$10,000~~ of \$25,000 in this fund at all times.

Failure to maintain and provide adequate funding within the Large Mining Operations Permit Fee Fund~~Resource Development Fund~~ for the project will trigger compliance actions under 40.01.040 and will automatically suspend all work on permit application review, processing, and approval.

Unused funds will be returned to the Aapplicant at the completion of the project and the site has been remediated to the Borough's satisfaction, or if an application is withdrawn from consideration.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough land use permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Mineral and Coal Miners must keep and preserve all records of business activities conducted within the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Mineral and Coal Miners must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

G. Severance Tax

Mineral and Coal Miners are subject to Borough Severance Tax pursuant to Chapter 60.40.

H. Reporting Obligation

Compliance with Borough approval is required. Mineral and Coal Miners ~~The Operator~~ must submit quarterly reports demonstrating compliance with the approved plans listed in Chapter 40.20.050 by January 15th, April 15th, July 15th and October 15th and of each calendar year. ~~Compliance violations will be subject to enforcement under Chapter 40.01.040 and may be subject to penalties under Chapter 40.01.050~~

Within 180 days of permit expiration, the Mineral and/or Coal Miner must submit a report to the Borough confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

40.20.080 Oil and Gas Land Use Permit Required.

A. Land Use Permit Required

1. Oil and Gas projects anywhere within the Resource Development District must apply for and receive an approved Oil and Gas Land Use Permit from the Borough prior to conducting operations within the Borough, using the application form required by the Borough.
2. A separate land use permit application must be submitted for each separate Oil and Gas project.
3. The land use permit shall be valid for the Oil and Gas project period requested in the application, up to a maximum period of five (5) years.
4. Once approved by the Borough, the land use permit is valid for the approved permit term, provided applicant is in compliance with permit terms and conditions.
5. The land use permit must be renewed at least 180 days prior to expiration if continued operations are planned.
6. An amended land use permit is only valid for the remaining term on the originally issued permit.
7. The land use permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party.
8. Oil and Gas Operators are only authorized to conduct activities described in the land use permit application and authorized in the approval. Any change to the operation will require a land use permit amendment application to be submitted and approved prior to conducting those activities.

B. Land Owner Authorization Required

1. Oil and Gas projects on private, local, state, or federal land may not commence without land owner approval, including travel across lands and use of lands.
2. The Borough reserves the right to request a copy and verify any and all land owner authorizations related to an Oil and Gas Land Use Permit.

3. Land owner approval to access lands described in the permit must be maintained during the permit term or the permit is null and void.

C. Permanent Facilities, Structures and Access Routes

1. Oil and Gas Land Use Permits do not grant the Oil and Gas Operator the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries.
2. The Oil and Gas Operator must obtain legal access and the authorization from the landowner prior to these activities.
3. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

D. Land Use Permit Application and Approval Process

1. Pre-application Meeting

The Oil and Gas Operator ~~Owner/Operator~~ must meet with the Borough for a pre-application meeting at least 180 days prior to submitting the land use permit application for approval. At the pre-application meeting the Applicant shall present the project scope and timeline to the Borough and explain how this project will comply with the requirements of this title and state and federal laws and regulations. At the pre-application meeting, the Applicant will be required to submit an initial payment of \$50,000 to be placed in a Resource Development Review–Oil and Gas Permit Fee Fund for this project. The Applicant must maintain a minimum balance of \$25,000 in this fund at all times. The Borough will use these funds to pay for the cost of reviewing and approving the proposed Resource Development Project application and administering the permit during operations and will administer these funds in accordance with Chapter 40.20.070. Payment of the application fee does not guarantee approval of the project.

2. Application Meeting

The Oil and Gas Operator ~~Owner/Operator~~ must meet with the Borough at least 180 days prior to construction or operation to submit an application for Borough approval.

3. Land Use Permit Application Contents

The Applicant must fill out all the information required by the Oil and Gas Land Use Permit Application Form and follow all instructions. The application shall contain, at a minimum the following:

- a. Project Scope and Schedule;

- b. Conflict Avoidance Plan (Fisheries & Subsistence Use);
- c. Study & Project Monitoring Plan;
- d. Local Economic Development Plan;
- e. Field Office Plan;
- f. Infrastructure Support Plan;
- g. Transportation Plan;
- h. Historical and Cultural Resources Protection Plan;
- i. Good Neighbor Plan;
- j. Pollution Prevention Plan;
- k. Hazard Assessment Plan;
- l. Surety Bond;
- m. Reclamation Plan;
- n. Emergency Plan;
- o. Copy of State of Alaska Business Licenses; and,
- p. Fees & Payments.

43. Approval Process

- a. The Planning Director Borough Administrator or his designee will have 90 days to review the land use permit application excluding Saturday, Sunday and Borough holidays, including a 30 calendar day public notice period requesting written comments. Public notice will be made in accordance with the publication requirements of Section 1.12.010. The Borough Administrator or his designee Planning Director may extend review time periods for complex projects. The public notice period will not commence until the Borough Administrator or his designee Planning Director has determined that the application is complete and ready for Borough consideration.
- b. Within 30 calendar days of application receipt, excluding Saturday, Sunday and Borough holidays, the Borough will issue the permit for public review or send a letter to the Applicant explaining why the application is incomplete or requires modification.
- c. Incomplete applications will be retained at the Borough for a period of 60 calendar days. If after 60 calendar days the Applicant has not provided sufficient information to approve the permit, the permit application will be returned to the Applicant.
- d. By the end of the 90 day review period, the Borough Administrator or his designee Planning Director will submit a written recommendation to the Planning Commission. The Planning Commission will have 60 days, excluding Saturday, Sunday and Borough holidays to develop a written recommendation to the Assembly and will hold one meeting with the opportunity for oral or written public comment.

- e. The Assembly will grant the approval with or without conditions, or deny the application with explanation within 30 days excluding Saturday, Sunday and Borough holidays of receiving the Planning Commission's written recommendation and will hold one meeting with the opportunity for oral or written public comment before making its decision. The Assembly may extend review period for complex projects.
- f. Final permit decisions will be mailed to the Permit Applicant or Permit Operator, adjoining property owners, and all persons that submitted written comments on the decision, by certified mail. A copy of the final permit decision will be provided to each Planning Commission and Assembly member.
- g. Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations), may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the.
- h. A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments are approved by the Administrator within 30 days. Major amendments require Assembly approval and can take 3-6 months. A minor amendment includes administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

5. Approval Criteria

The Planning Commission will establish procedures for the Planning Director to follow when reviewing land use permit applications for approval. At a minimum, the Planning Director must verify the application is complete and meets the requirements of this title prior to recommending it for Planning Commission consideration. The Planning Commission will make a recommendation for Assembly approval.

Due deference will be given to residents affected by the proposed development when setting the terms and conditions of approval.

Based on Planning Director and Planning Commission recommendation for Approval, the following criteria must be met for the Assembly to approve Oil and Gas Land Use Permits:

a. Project Scope and Schedule

The project scope and schedule ~~must~~ shall be submitted in written form by the Owner/Operator and must include, at a minimum the following information:

1. Information on proposed Applicant (Operator) and any partners in the planned Oil and Gas project;
2. Proposed Oil and Gas operations, location and timing;
3. Size and purpose of the operation;
4. Landownership and legal agreements that allow Oil and Gas operations on the property and any past mining operations at this site;
5. A list and description of the required equipment, facilities, infrastructure and personnel;
6. Area of Oil and Gas operations, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
7. Amount and type of oil, fuel, and chemicals that will be used and stored at the mine site and oil spill prevention measures that will be used;
8. The actions to be taken to minimize detrimental effects to fish and wildlife;
9. Environmentally or culturally sensitive areas at or near the project (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
10. Water and fish habitat protection measures that will be used;
11. Water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and in stream requirements);
12. Location and size of camp facilities and overland transportation;
13. Anticipated restrictions on other surface uses of the lease area, including public access;
14. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
15. Plans to comply with AEB's Coastal Zone Enforceable Policies if Oil and Gas is planned in the coastal lands and waters of the Borough;
16. Safety and security that will be used at the site; and,

17. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained please provide the permit number and date of expiration. If permits are in the process of being issued please provide information on the date you applied for the permit and the expected date of issue.

The project scope and schedule must be compatible with existing and proposed adjacent uses, commercial fisheries, subsistence activities, and projected community needs.

The ~~project~~ Oil and Gas project must adhere to the goals and objectives of the Aleutians East Borough Comprehensive Plan. ~~Facilities~~ The Oil and Gas project must be consolidated as practical; site selection must include sufficient acreage to allow for reasonable expansion of the project and should minimize site clearing, dredging, and disturbance of productive habitats. The project and should be located in an area of least biological productivity, diversity, and vulnerability, and where effluents and spills can be contained.

Maps of proposed project must be submitted electronically for incorporation into the Borough's Geographic Information System.

b. Conflict Avoidance Plan (Fisheries & Subsistence Use)

1. Oil and Gas operations shall not adversely affect fish habitat, populations or productivity. Commercial fishing, subsistence use, and sport harvest have priority.

~~4.2.~~ _____ The Conflict Avoidance Plan must demonstrate that Commercial Fishing, Subsistence Use, and Sport Harvest Conflicts will be avoided. Alternative site locations, transportation routes, and other mitigation measures may be proposed to avoid conflict.

3. Commercial fishing, subsistence use, and sport harvest priority use means that Oil and Gas operations shall be restricted in order to prevent conflicts with local commercial, subsistence, and sport harvest activities and achieve the following goals.

a. Commercial, subsistence, and sport harvest activities must not be displaced or precluded from access to fishing or hunting areas, unless they are adequately compensated for the displacement;

b. Fishermen must not be precluded from participating in designated fishing seasons, unless they are adequately compensated for the lost season(s);

- c. Fishermen must be compensated in a timely manner for damage to fishing equipment, vessels, gear or decreased harvest value or loss of fishing quota caused by the Oil and Gas project;
- d. Fishermen must be compensated for any lost fishing opportunities caused by additional Endangered Species Act (ESA) restrictions put in place because of oil and gas activities;
- e. Established patterns of navigation and shipping for commercial fishermen must not be interrupted;
- f. Season restrictions on oil and gas activities may be required to avoid commercial fisheries and subsistence seasonal impacts;
- g. Additional seismic activity, if needed, must not impact fish resources, and must be planned and implemented to maximize data sharing and reduce the number of surveys required;
- h. Offshore oil and gas facilities may not be used for aquaculture; and
- i. Port infrastructure must be expanded to accommodate increased vessel traffic for the Oil and Gas project. This will ensure that fishermen have adequate harbor slips, long-term boat storage and maintenance facilities, and are not unnecessarily delayed for supply and refueling. The cost of port expansion and any increase in port operating costs is the sole burden of the mine.

c. Study & Project Monitoring Plan

A Study and Project Monitoring Plan ~~must~~ shall be comprehensive and collect sufficient baseline and periodic monitoring data to ensure protection of human health and the environment is being achieved. The plan must be reviewed and approved by the Borough Scientific Advisory Council or an expert designated by the Borough. The Study and Project Monitoring Plan shall, at a minimum, include a:

- 1. Commercial, Subsistence and Sports Fisheries Baseline Data Assessment to assess potential impacts of the proposed Oil and Gas project, including an assessment of all commercial, subsistence and sports fisheries species, as well as the marine flora, fauna, habitat and prey species on which they rely for survival. The assessment shall be of sufficient quality to:
 - a. Document the fisheries' distribution, abundance, productivity, movement and migration patterns, and quality as a food source; include data that documents natural variation in fish stock such that incremental impact from Oil and Gas project can be distinguished from natural variation;
 - b. Document past, present and future commercial, subsistence and sports fisheries use areas;

- c. Be of sufficient quality, quantity, and age to allow scientists to collect additional data in the future (for comparison) and draw scientifically valid conclusions, as to whether or not the fisheries resources are being impacted the mine;
 - d. Include a complete economic assessment of the economic value of the fisheries including the economic value of wild Alaska seafood harvested in pristine waters; and,
 - e. Provide a well documented, scientifically supported, and statistically significant analysis sufficient to compensate fisherman for decreased harvest value, decreases in fisheries stock, and/or displacement or loss of work due to a catastrophic event such as mine pollution contamination.
2. Commercial, Subsistence and Sports Fisheries Monitoring and Mitigation Plan to monitor impacts of the proposed Oil and Gas project. Adverse impacts identified via the monitoring program shall be mitigated;
 3. Baseline water quality assessment and/or additional baseline data collection plan;
 4. Cumulative water pollution impact assessment;
 5. Assessment of the technical feasibility for zero water pollution discharge;
 6. Water quality monitoring system(s) that will be used to continuously monitor effluents to ensure compliance with pollutant limitations if zero water pollution discharge is not technically feasible;
 7. Baseline air quality and meteorological data assessment and/or additional baseline data collection plan;
 8. Cumulative air pollution impact assessment;
 9. Assessment of the technical feasibility for air pollution discharge control and reduction;
 10. Air quality monitoring system(s) that will be used to continuously monitor emissions to ensure compliance with pollutant limitations;
 11. A Baseline Health and Socioeconomic Assessment to: document the current public health status of communities that will potentially be affected by the mine; document ways the mine can improve the quality of life for local residents; identify ways the Oil and Gas Operator can work with the local communities to design, install and operate facilities that improve the quality of life for local residents; identify community or village-level health indicators to detect changes in public health and in social and economic conditions that influence health in the region; identify health disparities and vulnerable populations; identify the likely social, economic,

environmental, and behavioral influences on health; and identify appropriate social, economic, environmental and health indicators for use in monitoring the effects (in terms of health risk and health outcomes);

12. Impact Analysis and Mitigation Plan summarizing the potential public health and socioeconomic impacts of mine and a means proposed to mitigate these impacts completed under the direction of a medical doctor with recognized expertise in Alaska Native public health and a socio-economist with recognized expertise in Aleutian Region;

13. Public Health Monitoring Program and Mitigation Plan to be implemented under the direction of a medical doctor with recognized expertise in Alaska Native public health that addresses the public health indicators identified in the Baseline Health and Socioeconomic Assessment. Adverse impacts identified via the monitoring program shall be mitigated;

14. Socioeconomic Monitoring Program and Mitigation Plan to be implemented under the direction of a socio-economist with recognized expertise in issues affecting the Aleutian Region. Adverse social and economic impacts identified via the monitoring program shall be mitigated; and,

15. A Noise Mitigation Plan that minimizes adverse health effects from aircraft and other noises associated with the Oil and Gas project. The plan shall include a baseline assessment of ambient noise level in the affected community must be completed for a project requiring more than two flights per day to, through, or from a community that estimates indoor and outdoor ambient noise levels and assess the anticipated contribution of the proposed activity to overall noise levels in the community using an FAA-approved noise model. Activities for ambient noise levels above safe thresholds, or noise levels that cause unacceptable disruptions to community activities and sleep, shall not be permitted. Mitigation including flight path routing, airport siting and sound proofing equipment must be proposed and implemented.

d. Local Economic Development Plan

A Local Economic Development Plan ~~must~~shall include a local hire manpower plan, local business contracting plan, training program, and mentoring program for both construction and operation phases of the Oil and Gas project.

The Local Economic Development Plan shall, at a minimum, include the following:

1. A plan to train local residents to become qualified for jobs at the Oil and Gas project prior to mine start-up and during the period the project is actively operating. Training shall be provided in the project area, or the Operator shall provide transportation and funding for local residents to obtain training in an alternate location. Paid apprenticeship positions shall provide hands-on training as part of this program;
2. A plan for recruiting and hiring local residents, including a mechanism for announcing jobs and recruiting locally qualified applicants in the lease area;
3. A plan for using local contractors and local businesses, including mandatory notification to qualified local contractors and businesses announcing contract opportunities; and,
4. A quarterly and annual reporting process documenting the success of the Economic Opportunity Plan in providing local hire and contracting opportunities to AEB residents.

e. Field Office Plan

~~Resource Development activities~~ Oil and Gas projects are required to maintain a field office at the construction and operating site. The field office must be manned 24 hours per day to ensure proper oversight of the project. The field office staff must include, at a minimum, a Native and Community Liaison, a Fisheries Protection Biologist, and an Environmental Compliance Officer to provide project oversight, monitoring, address local concerns, and ensure compliance, unless waived by the Assembly.

f. Infrastructure Support Plan

The Applicant must meet with Village, Municipal Government, and Tribal Leaders of all communities within 25 miles of their operations to determine whether it will be beneficial to expand community infrastructure to include resource extraction needs, or whether it would be more appropriate to institute enclave development requirements.

A joint tribal, local community and Applicant agreement on this issue must be reached, approved by all parties, and submitted to the Borough.

In the event there is agreement to expand existing community infrastructure to meet the needs of industrial development (e.g. medical clinic, school, community center, tank farm, recreation facilities, etc.), the Applicant is responsible for construction, maintenance, and operation costs of expanding these facilities to support their activities.

g. Transportation Plan

Transportation Plan shall describe existing and new transportation infrastructure needed, anticipated routes and points of ingress and egress to the project site (including a map of these routes).

Transportation routes, utility corridors and infrastructure shall be carefully sited and constructed to allow for the free passage and movement of fish and wildlife, to avoid construction during critical migration periods for fish and wildlife. Pipelines shall be buried wherever possible. The siting of facilities, other than docks, roads, utility or pipeline corridors, or terminal facilities, is prohibited within one-half mile of the coast, barrier islands, reefs and lagoons, fish bearing waterbodies and 1,500 feet from all surface water drinking sources.

Transportation infrastructure (e.g., roads, bridges, runways, marine facilities, etc.) built by the Oil and Gas Operator on Borough, state, or federal lands must be available for all AEB resident use and access, unless waived by the Assembly.

Wherever possible, existing transportation infrastructure should be expanded to meet the Applicant's needs to minimize duplication and environmental impact.

The Applicant is responsible for construction, maintenance, and operating costs for the transportation infrastructure required to support their activities.

At cessation of operations, the transportation infrastructure must be donated to AEB for public use, or the transportation infrastructure must be completely removed and the area must be remediated to AEB's satisfaction.

h. Historical and Cultural Resources Protection Plan

A Historical and Cultural Resources Protection Plan must be submitted to demonstrate that traditional, historical and cultural sites may not be disturbed or adversely impacted during the construction or operation of the ~~Resource Development project~~ Oil and Gas project.

i. Good Neighbor Plan

The Good Neighbor Plan shall, at a minimum, include the following:

1. A plan to ensure surrounding residential properties and residents are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter, or interference with media reception;
- 1.2. Charitable and/or in-kind contributions to support local education, art, and charities, provide employment training programs to maximize local hire. This program should provide a fund for impact assistance if adverse impacts are realized by the community or individual residents;
3. A plan for providing services that includes contracting locally for fuel, power, waste, water, transportation, medical services, emergency and other services. If local service capacity is insufficient to meet the Operator's needs, the Operator shall expand capacity, unless it is infeasible. In cases where it is infeasible to expand existing services, the Operator may provide their own. The Operator's activities shall not adversely impact community access to existing services, and should improve and provide opportunities for more cost-effective services;
4. A system to compensate subsistence hunters and fishermen for disruptions to subsistence activities or to compensate for additional costs associated with relocating subsistence activities;
5. A system to compensate subsistence hunters and fishermen for costs of providing alternative food sources in the event of a spill;
6. A plan for communicating with the affected community members, to obtain their input and address their concerns on a regular basis; and,
7. A quarterly and annual reporting process to document the success of the Good Neighbor Policy.

j. Pollution Prevention Plan

The Pollution Prevention Plan must include best management practices for protecting drinking water, air, and local food sources from pollution, including a recycling program. The Pollution Prevention Plan must include:

1. A zero water pollution discharge standard unless the Applicant proves to the Borough that it is not technically feasible;
2. Best available air emission control technology for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds), and hazardous air pollutants;

3. The lowest air pollution impact fuel sources. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used;
4. Vapor recovery systems on all equipment and facilities to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited;
5. An inspection maintenance and repair program to ensure that all pollution prevention systems are inspected, maintained, and repaired, including a Quality Assurance/Quality Control (QA/QC) Program for all pollution prevention systems;
6. An oil spill trajectory analysis representing the worst-case oil spill volume to determine the maximum impacted region from a spill and identification of spill prevention measures that will be implemented to reduce the risk or impact of a spill. Drilling, pipeline and tank discharge scenarios must be considered. Tanker discharge scenarios must be considered for offshore projects;
7. Secondary containment systems for all fuel, oil, hazardous materials and chemicals that will hold at least 110% of the tank capacity;
8. Cathodic protection, leak detection systems and overfill alarms for all tanks;
9. Tank and pump systems capable of evacuating pipeline contents;
10. Cathodic protection and redundant leak detection systems for all pipelines;
11. Blowout prevention systems installed prior to drilling into over-pressured or hydrocarbon bearing zones on all drilling rigs;
12. Double hull tankers with redundant navigation and safety systems for all oil or LNG transportation;
13. Double hull vessels for all supply and fuel vessels operating in the presence of ice;

k. Hazard Assessment Plan

A Hazard Assessment Plan must include an evaluation of all potential hazards to the Oil and Gas project including, but not limited to, geophysical hazards, fire, flood, landslides, erosion, earthquake, coastal storms, marine hazards, and ice. The plan must include proposed mitigation measures to eliminate or reduce the risk of the hazard.

I. Surety Bond

A Surety Bond, or other financial instrument approved by the Assembly, must be appropriate for the magnitude, type, cost, nature, and duration of the Oil and Gas project.

Surety must be provided in an amount sufficient to fund:

1. Environmental clean-up and restoration requirements;
2. Compensate residents for any adverse human health impacts;
3. Compensate commercial fisherman and subsistence users for adverse impacts;
4. Dismantle, remove, and restore the Resource Development site to its original condition prior to development; and
5. The liability under the surety provisions shall continue until such time as released, or in its entirety, by the Administrator.

m. Reclamation Plan

_____ The Reclamation Plan must be provided in sufficient detail to determine surety requirements, provide a timetable for each step in the reclamation process, and describe the reclamation actions to be completed at cessation of operations. The plan must include a description of the measures to ensure that all debris and toxic materials are disposed of in a sound manner, a description of the steps to be taken to comply with applicable water quality laws and statutes, and restore, stabilize and re-vegetate all disturbed areas. The Reclamation Plan must be developed using best management practices and shall comply with AEB's Coastal Zone Enforceable Policies if Oil and Gas is planned in the coastal lands and waters of the Borough.

n. Emergency Plan

_____ The Emergency Plan must provide for adequate medical, rescue, fire, spill response and other emergency services. The plan should preferably include proposals to fund expansion of existing Borough emergency services to support increased demands created by the new Oil and Gas project.

o. Fees & Payments

Resource Development Oil and Gas Permit Fee Fund must be paid.

6. Amendments

Oil and Gas Land Use Permit amendments will require Borough approval. The Planning Director-Borough Administrator or his designee will determine the significance of the proposed amendment. Minor amendments may be approved by the Borough Administrator or his designee within 30 days. A minor amendment is defined as an administrative, scope or timing change that does not increase impact over the original permit approval. A major amendment requires Assembly approval and a 30 day public comment period.

7. Appeals

Land use permit decisions may be appealed pursuant to Chapter 40.010.080.

E. Fees and Penalties

Oil and Gas Operators doing business within Borough boundaries are subject to the fee and penalty schedule approved by the Borough Assembly, pursuant to Chapters 1.24 and 40.01.060.

Oil and Gas projects are required to fund the cost for Borough review and approval of their application, and the cost of inspection and oversight of the project once it is in operation.

Oil and Gas Permit Fee Fund requirements are triggered at the pre-application meeting, or at the discretion of the Borough Administrator, if Borough is incurring costs to participate in project meeting, discussions, and review prior to the pre-application meeting.

At the pre-application meeting, the Applicant will be required to submit an initial payment -of \$50,000 to be placed in a ~~Resource Development~~ Oil and Gas Permit Fee Fund for this specific project. Quarterly, the Finance Director will provide the Applicant with an account describing how the funds were used by the Borough to review, approve, or monitor project compliance.

The Applicant must maintain a minimum balance of \$25,000 in this fund at all times.

Failure to maintain and provide adequate funding within the Oil and Gas Permit Fee Fund for the project will trigger compliance actions under 40.01.040 and will automatically suspend all work on permit application review, processing, and approval.

Unused funds will be returned to the Applicant at the completion of the project and the site has been remediated to the Borough's satisfaction, or if an application is withdrawn from consideration.

F. Inspection and Recordkeeping

1. Authorized representatives of the Borough have the right to enter and inspect land uses approved under a Borough land use permit to ensure uses are being or have been conducted in accordance with the terms and conditions of the permit.
2. Oil and Gas Operators must keep and preserve all records of business activities conducted with the Borough boundaries for a period of at least five (5) years after the site has been remediated to the Borough's satisfaction and the permit has been discontinued.
3. Oil and Gas Operators must permit the Borough, or its authorized representatives, to examine, inspect, and copy the business records.
4. If an enforcement action commences, business records must be kept and preserved until enforcement action proceedings are complete.

H. Reporting Obligation

Compliance with Borough approval is required. Oil and Gas Operators must submit quarterly reports demonstrating compliance with the approved plans listed in Chapter 40.20.050 by January 15th, April 15th, July 15th and October 15th and of each calendar year.

Within 180 days of permit expiration, the Oil and Gas Operator must submit a report to the Borough confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

TITLE 45
POWERS AND FUNCTIONS

CHAPTERS:

- 45.05 AREAWIDE POWERS
- 45.10 NON-AREAWIDE POWERS
- 45.15 SERVICE AREA POWERS

TITLE 45

POWERS AND FUNCTIONS

Chapter 45.05 -- Areawide Powers

Sections:

- 45.05.010 Areawide Powers and Functions.
- 45.05.020 Assessment and Collection of Taxes.
- 45.05.030 Planning, Platting and Land Use Regulations.
- ~~45.05.040 Medical and Mental Health Services.~~
- 45.05.0450 Airport Powers.
- 45.05.0560 Docks, Ports and Harbors.
- 45.05.0670 Transportation Systems.

45.05.010 Areawide Powers and Functions.

The powers and functions set out in this chapter are areawide and shall be exercised both inside and outside cities with such exceptions as are set out in this chapter or are as specifically set out in other provisions of this Code.

(Ord. 88-3, Sec. 45.05.010)

45.05.020 Assessment and Collection of Taxes.

- A. The Borough shall assess and collect sales and use taxes that are levied within its boundaries as provided in AS 29.45 with the exception of city sales and use taxes as set out in subsection (b).
- B. Pursuant to the authority granted under AS 29.45.700(a), the Assembly authorizes each city within the Borough to levy and collect at their own expense sales and use taxes on such sources as each city may at any time provide by ordinance.

(Ord. 88-3, Sec. 45.05.020)

45.05.030 Planning, Platting and Land Use Regulation.

- A. The Borough shall provide for planning, platting and land use regulation as provided in AS 29.40.010 with the exception of those areas of the Borough that are within cities as set out in subsection (b).
- B. Pursuant to the authority granted in AS 29.40.010(b), the Assembly authorizes each city within the Borough, at its own expense, to exercise within the boundaries of the city all of the powers and duties of the Borough

~~under AS 29.40. The delegation under this subsection is effective only if a city accepts and consents to the delegation by July 1, 1988.~~

(Ord. 88-3, Sec. 45.05.030)

~~**45.05.040** **Medical and Mental Health Services.**~~

~~A. The Borough shall exercise on an areawide basis the power to provide medical and mental health services, including treatment for substance abuse. The power includes the power to provide facilities within which to provide the services authorized under this section and to provide financial assistance for those medical services it may not provide directly as set out in subsection (b).~~

~~B. The power assumed under this section shall be broadly construed; provided, there is specifically excluded from such power the power to directly provide emergency medical services or to directly operate clinics for medical health practitioners.~~

~~C. The power under this section is assumed pursuant to Aleutians East Borough Resolution 90-7, adopted on February 22, 1990 and approved by separate majority votes both inside all cities and outside all cities at a special election held on March 21, 1990.~~

(Ord. 90-10, Sec. 45.05.040)

45.05.0450 **Airport Powers.**

A. The Borough shall exercise on an areawide basis the power to construct, operate, maintain, expand and regulate public airports.

B. This power is assumed pursuant to the exercise of said power on a non-areawide basis pursuant to voter approval of a proposition at a special Borough election held on March 21, 1990 and acceptance by the Borough under Borough Ordinance 91-3 of the transfer of the power from the City of Akutan by Akutan Ordinance No. 90-04 adopted on June 29, 1990; from the city of Cold Bay, by Cold Bay Ordinance No. 90-03, adopted on June 26, 1990; from the city of King Cove by King Cove Ordinance 90-5, adopted on May 17, 1990; and from the City of Sand Point by Sand Point Ordinance No. 90-9, adopted on May 8, 1990; said four cities being all the cities within the Aleutians East Borough on September 11, 1990. The airport power shall be exercised on an areawide basis commencing on September 11, 1990.

C. There is retained by each city and there is granted to each city formed within the Borough after September 11, 1990 such powers as are necessary to permit each city to enter into one or more agreements, leases

or other arrangements for the city to acquire, construct, operate and maintain airports acquired, owned, to be owned, or otherwise held by the Borough under its areawide airport power and to enter into joint exercise of powers agreements with the Borough.

(Ord. 91-3, Sec. 45.05.050)

45.05.0560 Docks, Ports and Harbors.

- A. The Borough shall exercise on an areawide basis the power to construct, operate, maintain, and regulate public docks, ports and harbors upon which construction was started after September 11, 1990, along with such other powers as may be necessary or convenient thereto, including the power to acquire and own such facilities.
- B. This power is assumed pursuant to the exercise of said power on a non-areawide basis pursuant to voter approval of a proposition at a special Borough election held on March 21, 1990 and acceptance by the Borough of the transfer of the power from the City of Akutan by Akutan Ordinance No. 90-04 adopted on June 29, 1990; from the City of Cold Bay, by Cold Bay Ordinance No. 90-03, adopted on June 26, 1990; from the City of King Cove by King Cove Ordinance 90-5, adopted on May 17, 1990; and Sand Point Ordinance No. 90-9, adopted on May 8, 1990; said four cities being all the cities within docks, ports and harbors power shall be exercised on an areawide basis commencing on September 11, 1990.
- C. Only the following docks, ports and harbors were under construction or constructed prior to September 11, 1990.
 - 1. In the City of Sand Point:
 - a. Sand Point City Dock
 - b. Sand Point Boat Harbor
 - c. Sand Point Harbor Expansion Dock and Uplands as more specifically shown on Exhibit A to Sand Point Ordinance 90-9.
 - 2. In the City of King Cove, King Cove Boat Harbor as more specifically shown on Exhibit A to King Cove Ordinance 90-5.
 - 3. In the City of Akutan:
 - a. The Akutan City Dock and Uplands Support Facilities
 - b. The Akutan Seaplane Ramp and Turn-around, and

- c. The barge situated at the Old Seawest Dock, all as more particularly shown on Exhibit A to Akutan Ordinance 90-04.
- 4. In the City of Cold Bay, there are no docks, ports or harbors constructed or operated by the City upon which construction was started prior to September 11, 1990.
- D. There is retained by each city and there is granted to each city formed within the Borough after September 11, 1990 such powers as are necessary to permit each city to enter into one or more agreements, leases or other arrangements for the city to acquire, construct, operate and maintain docks, ports and harbors acquired, owned, to be owned, or otherwise held by the Borough under its areawide docks, ports, and harbors power and to enter into joint exercise of power agreements with the Borough.

(Ord. 91-4, Sec. 45.05.060)

45.05.070060 Transportation Systems.

- A. The Borough shall exercise on an areawide basis the power to provide transportation systems.
- B. The power set out in this section is assumed pursuant to Alaska Statute 29.35.210(b)(1) and consists of the power to acquire, construct, maintain, regulate and operate roads, vessels, and vehicles, including passenger, marine, and vehicle terminals and all related equipment and facilities that are necessary or appropriate for the construction, maintenance, regulation and operation of roads, vessels and vehicles that comprise a transportation system that interconnects cities and communities within the Borough.
- C. There is retained by each city, and there is granted to each city formed within the Borough after the effective date of Ordinance 99-02, such powers as are necessary to permit each city to enter into one or more agreements, leases or other arrangements for the city to acquire, construct, operate and maintain parts of the transportation systems held by the Borough under its areawide transportation systems power and to enter into joint exercise of power agreements with the Borough.

(Ordinance 99-02, Sec.45.05.070)

TITLE 45

POWERS AND FUNCTIONS

Chapter 45.10 - Non-Areawide

Sections:

45.10.010	General.
45.10.020	Economic Development Power.
45.10.030	Airport Powers.
45.10.040	Docks, Ports and Harbors

45.10.010 General.

- A. The Borough assumes and may exercise on a non-areawide basis the powers and functions set out in this chapter.
- B. The Borough may enter into agreements with the United States, the State of Alaska, or with one or more cities for the cooperative or joint administration of all or any part of a power subject this chapter.
- C. Upon the transfer of all or a portion of a power by a city by ordinance and approval of the transfer by the Assembly by ordinance, the Borough shall exercise the transferred power within the city. Upon the assumption of the power by the Borough on a non-areawide basis and the transfer of the power by all cities within the Borough, the power shall be exercised on an areawide basis.

(Ord. 89-2, Sec. 45.10.010)

45.10.020 Economic Development Power.

- A. The Borough shall exercise on a non-areawide basis the power to provide for economic development, as authorized under AS 29.35.210 (a).
- B. The exercise of the power to provide for economic development includes, but is not limited to:
 - 1. Providing financial and other forms of assistance to public and private groups for the conduct of activities intended to preserve or further the economic health or development of the Borough.
 - 2. Construct, improve, operate and maintain facilities such as docks, wharves, harbors, transportation facilities, and industrial development sites that will encourage, or accommodate the needs of, the fishing industry within the Borough.

- C. Such other similar or different activities as the Assembly determines to be intended for the preservation or expansion of the economy of the Borough.

(Ord. 89-2, Sec. 45.10.020)

45.10.030 Airport Powers.

Pursuant to the approval by the voters of the Aleutians East Borough at a special election held on March 21, 1990, the Borough assumes and shall exercise on a non-areawide basis the power to acquire, own, construct, operate, maintain and regulate public airports along with such other powers as may be necessary and convenient thereto.

(Ord. 91-3, Sec. 45.10.030)

45.10.040 Docks, Ports and Harbors

Pursuant to the approval by the voters of the Aleutians East Borough at a special election held on March 21, 1990, the Borough assumes and shall exercise on a non-areawide basis the power to acquire, own, construct, operate, maintain and regulate public docks, ports and harbors along with such other powers as may be necessary and convenient thereto.

(Ord. 91-4, Sec. 45.10.040)

~~TITLE 45~~

~~POWERS AND FUNCTIONS~~

~~Chapter 45.15 – Service Area Powers~~

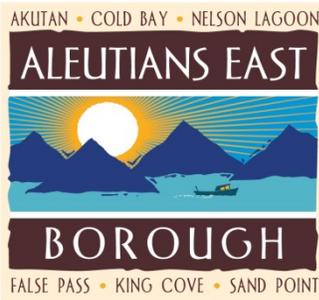
Section:

~~45.15.100 – Akutan Health Clinics Service Area~~

45.15.100 – Akutan Health Clinics Service Area.

~~This section adopted under Borough Ordinance 92-1, is repealed and the service area dissolved.~~

~~(Ord. 93-4 (Amended Ord. 92-1), Sec. 45.15.100)~~



ALEUTIANS EAST BOROUGH COMMERCIAL RECREATION OPERATOR LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], [REDACTED], 2013

Commercial Recreation Operator Land Use Permit Application Fees

- \$50/yr New Permit Application**
Once approved, the permit is valid for a one year period (January 1st through December 31st)
- \$25/each Amendment to Existing Approved Permit Application**
Once approved, the amendment is valid for original permit term.

Commercial Recreation Operator Penalties

- \$0 Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate the Commercial Recreation Operators of the new requirement and to provide the Operators with the opportunity to come into compliance within 30 days.
- During the calendar year 2014 the Borough will be conducting outreach and education about the new Commercial Recreation Operator Land Use Permit requirement and process. During this time, the Borough will issue letters to Commercial Recreation Operators that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- \$250 Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a land use permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$250 penalty. The Borough will issue a letter notifying the Commercial Recreation Operator that it has failed to submit a land use permit application, assessing the \$250 penalty, and providing the Commercial Recreation Operator with a land use permit application form. In addition to the \$250 penalty, the \$50 application fee must also be paid.
- The Borough will issue a letter to Commercial Recreation Operators that have failed to submit a land use permit application. The letter will state that a land use permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a land use permit application is received.
- \$50/day Failure to Submit a Permit Application, 31 days after Initial Notification (Starting 2013)**
If the Borough has issued a letter to Commercial Recreation Operator notifying the Operator that it has failed to submit a land use permit, and that Operator does not submit a land use permit application within 30 days from date the Borough letter was issued, a daily penalty of \$50/day will be assessed. The daily

penalty will be assessed starting on day 31 and will continue to be assessed each day until a land use permit application is received.

\$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation.

The Borough encourages Permittees to immediately report any violation, of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$100 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$100 penalty by day 30, will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500 Notice of Violation Issued by Borough

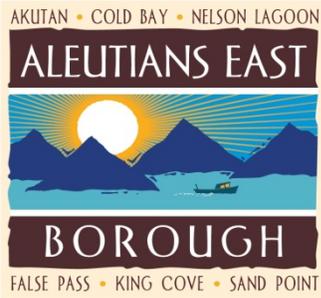
Violations reported to and confirmed by the Borough, or found by the Borough will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30, will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$50/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from date the Borough letter was issued, a daily penalty of \$50 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100/day Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

COMMERCIAL RECREATION OPERATOR LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
 Aleutians East Borough
 P.O. Box 349
 Sand Point, Alaska 99661
 907-383-2699

AEB Use Only	
Permit No.	CRO: 20__-__-__
Date Received:	___/___/___
Date Approved:	___/___/___

Section No. 1: Permit Applicant Information	
<input type="checkbox"/> Fishing Guide <input type="checkbox"/> Hunting Guide <input type="checkbox"/> Eco-Tourism <input type="checkbox"/> Hotel/Lodge Operator <input type="checkbox"/> New Permit <input type="checkbox"/> Permit Renewal <input type="checkbox"/> Permit Amendment	
Reason for the Amendment: _____	
Name of Commercial Recreation Guide/Operator: _____	
Business Name: _____	
Address: (Street) _____ (City) _____ (State) _____ (Zip) _____	
Contact Person: (name) _____ (title) _____	
Office Phone: (____) - ____ - ____	Cell Phone: (____) - ____ - ____
Satellite Phone: (____) - ____ - ____	Office Fax: (____) - ____ - ____
Email Address: _____@_____	Webpage Address: www. _____
Number of Years in Business: _____	Average Number of Clients Per Year: _____
Average No. of Trips/ Year (Total All Areas): _____	Average No. of Clients/Trip (Total All Areas): _____
Average No. of Trips/ Year (AEB Area Only): _____	Average No. of Clients/Trip (AEB Area Only): _____
State of Alaska Business License No.: _____	Issue Date: _____ Expiration Date: _____
Master-Guide Outfitter License No.: _____	Issue Date: _____ Expiration Date: _____
Registered-Guide Outfitter Lic. No.: _____	Issue Date: _____ Expiration Date: _____
USCG License No.: _____	Issue Date: _____ Expiration Date: _____
Federal Tax Identification EIN No. _____	

Section No. 2: Commercial Recreation Operator Services Description, Location and Timing
Describe Services : _____
Months of Operation: <input type="checkbox"/> January <input type="checkbox"/> February <input type="checkbox"/> March <input type="checkbox"/> April <input type="checkbox"/> May <input type="checkbox"/> June <input type="checkbox"/> July <input type="checkbox"/> August <input type="checkbox"/> September <input type="checkbox"/> October <input type="checkbox"/> November <input type="checkbox"/> December
Location of Guide Services (describe): _____

<input type="checkbox"/> Map(s) of Location Attached to Application (Required) <input type="checkbox"/> Routes of Access Shown on Map(s) (Required)
Authorized Guide Use Area No(s): _____

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land

Private (Name): _____ Other (Name): _____

Contact Name: _____ Phone: _____

Site Access: Air Water ATV Snow Machine By Foot Other _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Section No. 4: Temporary Facilities and Equipment Used

Temporary Facilities/Equipment: Tents Portable Latrines Fire Pits Waste Bins

Temporary Fuel Storage Type & Amount: Gasoline _____ (gallons) Diesel _____ (gallons)

Aviation Gas _____ (gallons)

Additional Description: _____

Section No. 5: Permanent Facilities and Equipment Used

Permanent Facilities: Lodge Hotels Gravel Road Runway Port/Dock

Fire Pits Waste Bins Sanitation Systems Water Supply Systems Power Generation

Buildings (describe): _____ Other (describe): _____

Fuel Storage Type & Amount: Gasoline _____ (gallons) Diesel _____ (gallons)

Aviation Gas _____ (gallons)

Additional Description: _____

Section No. 6: Required Attachments to Permit Application

- Location Map(s): Must clearly show land ownership, natural features, and township, range and section.
- Routes of Access Marked on Map(s) showing ingress and egress routes.
- A copy of State of Alaska Business License
- A copy of any required Master-Guide Outfitter, Registered-Guide Outfitter and USCG Licenses
- Waste Management Plan
- Emergency & Medical Plan
- Design Plans (If new permanent facilities will be constructed)
- Fee Payment (Check for \$50 annual permit fee, or \$25 for each permit amendment made payable to AEB)

Section No. 7: Prior Operating Experience in Aleutians East Borough

I have operated this business in AEB Boundaries in prior years. Yes No Number of Years: _____

I have all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

This business has operated compliance with all local, state & federal requirements since inception. Yes No

Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 8: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 9: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No. _____ Amount: _____

Approved: Approval Date: _____ Expiration Date: December 31, _____

Elevated: Reason: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No.10 Permit Stipulations) Yes No

AEB Administrator or Designee Name (printed): _____

AEB Administrator or Designee Signature: _____

Section No. 10: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed one year. All permits expire on December 31st of each year. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application. Permittee shall comply with its approved Emergency Medical Plan, Waste Management Plan, and Design Plans. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from its use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations to for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License, Master-Guide Outfitter License (if required), Guide Use Area Registration (if required), USCG License (if required) and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Subsistence Protection:** Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat. Vehicles shall be operated without disturbing the vegetative mat and underlying substrate. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited. To the extent practicable, to avoid destroying tundra vegetation, campfires should be located 100 feet away from water bodies, on hard surfaces that are already lacking a protective tundra mat (e.g. exposed gravel or sandy areas), and only dead wood should be burned if allowed by the land owner. No standing wood may be cut and burned in a campfire, unless specifically allowed by the land owner.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.

- ✚ **Grey Water and Human Waste Disposal:** All grey water and human waste shall be disposed of in a pit, cathole, or containment that can easily be transported to allow for disposal at an ADEC approved disposal site. If a pit or cathole is used, it shall be located at least 100' from the ordinary high water mark of the nearest waterbody, and back-filled prior to leaving the site.
- ✚ **Fuel Storage:** All fuel storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✚ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✚ **Public Access:** Permittee shall not prevent access used by the general public to AEB, State, or Federal lands.
- ✚ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✚ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination. The lands shall be restored as nearly as possible to pre-existing conditions, upon completion of activities.
- ✚ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✚ **Permit Evidence and Inspection:** Permittee, and Permittee's employees shall carry a copy of this permit at all times. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✚ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the Commercial Recreation Operator business permitted under this authorization is purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.
- ✚ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the Commercial Recreation Operator activities described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✚ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✚ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✚ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✚ **Recordkeeping:** Permittee shall keep and preserve all record of business activities conducted in AEB for at least 5 years.
- ✚ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✚ **Annual Report:** On or before February 1st of each year, after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as nearly as possible to pre-existing conditions.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Commercial Recreation Operators to obtain a land use permit within the Aleutians East Borough boundaries, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.090). Commercial Recreation may occur, if permitted by AEB, within the Aleutians East Borough Resource Development District.
 - ✦ “Commercial Recreation” means the commercial provision of services in support of any of the following: fishing, hunting, camping, eco-tourism, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips, snow machine trips, sight-seeing, bird watching, wildlife viewing, hotels and lodges, and tours. This definition includes professional guides and outfitters. This definition does not include: (a) Casual Recreational Use, (b) any commercial recreation activities conducted by Native Corporations or tribes that are Aleutian East Borough landowners, or (c) local residents that only provide transportation to a fishing, hunting, or recreational location but do not provide hunting, fishing, or ecotourism guide services.
 - ✦ “Casual Recreational Use” means a recreational use of Borough land that is nonexclusive and involves only minimal disturbance to the land by an individual or group of people that are not involved in the commercial provision of commercial recreation services. Nonexclusive examples of a casual recreational use may include: fishing, hunting, camping, hiking, skiing, climbing, canoeing, kayaking, rafting, paddle sports, water sports, scuba, adventure activities, sports, boating, all-terrain vehicle trips on existing trails or under conditions that will not cause damage to the land or vegetation, snow machine trips, dog-mushing, sight-seeing, bird watching, wildlife viewing, and subsistence activities.
- ✦ **Do I need a permit if I plan to run a Commercial Recreation business within an AEB Municipality that has delegated land use planning authority under AEBMC 40.01.020?** You may be required to obtain a local business license, register your business and/or obtain a municipal land use permit. Please contact the AEB Municipality for more information on their requirements.
- ✦ **Do I need an AEB permit if I am a local resident and only provide transportation to someone involved in commercial recreation?** No. You do not need an AEB permit if you are a local resident that only provides transportation to a fishing, hunting, or recreational location, but does not provide hunting, fishing, or ecotourism guide services. However, please be aware of state and federal transporter licensing and certification requirements that may apply.
- ✦ **Is this a new requirement?** Yes. AEB’s Assembly adopted a new requirement in the AEBMC in year 2013, requiring Commercial Recreation Operators to obtain a land use permit within the AEB boundaries.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** The AEB prefers typed applications whenever possible. However, if you do not have access to a computer, the AEB will accept a hand written application. Please print clearly and legibly.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the fees and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$50 per year, and \$25 for each amendment to an existing permit.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 30 days prior to the time you need an approved permit. Most permit approvals should be issued within 10 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for a one year period from January 1 to December 31 of a calendar year. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, including fee payment will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Permits are issued each year for a one year period from January 1 to December 31 of a calendar year. A new application must be submitted each year.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant shall explain the reason for the permit amendment. A reduced permit application fee of \$25 is charged for each amendment.

Section No. 1 Instructions:

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- What if I don't have a State of Alaska Business License?** All business operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You shall obtain a license before submitting your application.
- What if I don't have a Federal Tax ID?** All business operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You shall obtain a federal Tax ID before submitting your application.
- Am I required to have a Master-Guide Outfitter License, a Registered-Guide Outfitter License, and/or a USCG License?** Hunting and Fishing Guides are required to have a Master-Guide Outfitter License (see <http://www.dced.state.ak.us/occ/pub/gui4010.pdf>), and a Registered-Guide Outfitter License (see <http://www.dced.state.ak.us/occ/pub/gui4013.pdf>). If you are providing Hunting and Fishing Guide services in the AEB you must obtain these licenses and show evidence of these licenses before submitting your application.
- Am I required to have a USCG License?** Mariners are required to have USCG licenses (see http://www.uscg.mil/nmc/mariner_information_center.asp). You shall obtain all required USCG licenses before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Describe the services you provide as a Commercial Recreation Operator. If you have a company brochure, you can provide a brief description in the application form and mark "see attached brochure" for more information.

- What is an Authorized Guide Use Area?** The State of Alaska is divided into 26 Game Management Units (GMU). The Big Game Commercial Services Board has divided each GMU into "Guide Use Areas" (GUA). Some GMUs have only one GUA while others have multiples GUAs. A Master/Registered Guide-Outfitter shall register with the Department the GUA which they will be providing big game services in annually, at least 30 days prior to providing big game services. All GUAs expire annually on December 3; however, there are multiple year registrations. It is unlawful for a Master/Registered Guide-Outfitter to contract, to provide big game services in a GMU for which they are not certified or a GUA they are not registered for; therefore, the AEB requires guides to list the Guide Use Areas that they are authorized to provide commercial guide services within the Aleutians East Borough boundaries. See <http://www.dced.state.ak.us/occ/guideusemaps>
- Why do I have to provide maps of the area?** The AEB needs maps to be submitted to clarify the areas that you plan to operate your business. This will aide AEB in determining whether you have legal access to conduct business in that area, have a location map to use to inspect the location, and to work with the applicant to identify low impact ingress and egress options to mitigate habitat and subsistence use impacts.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Sections No. 4, 5, and 6 Instructions:

Please fill out all the required information in Sections No. 4, 5, and 6. Check all boxes that apply. Provide additional information in the description box if needed to explain the temporary and permanent facilities and equipment that will be used at the site.

- Who do I make the application fee check out to?** The Aleutians East Borough.
- Can I pay for the application fee using a credit card?** No. The AEB does not accept credit card payment at this time.
- Can I pay for the application fee using cash?** No. You shall pay by check.

Section No. 7 Instructions:

Please fill out all the required information in Section No. 7. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action or prior revocations in making its decision on whether or not to approve the permit.

Section No. 8 Instructions:

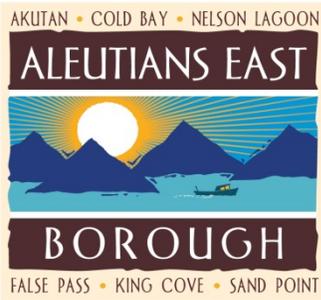
Please sign and date Section 8. Applications that are not signed will not be accepted.

Section No. 9 Instructions:

Section No. 9 is for AEB administrative use only. The AEB Administrator may elevate complex permits to the Planning Commission for a decision. In this case you will be notified by letter of the date of the Planning Commission meeting and will be expected to participate in the meeting, at a location designated by AEB, to discuss your application with the Commission. If you do not participate in the meeting, the Planning Commission will deny your permit. If your permit is denied by the AEB Administrator, you may submit an appeal to the Borough Board of Adjustment pursuant to Title 40 of the AEBMC.

Section No. 10 Instructions:

Section No. 10 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you shall comply with for your operation.



ALEUTIANS EAST BOROUGH

RESEARCH LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], 2013

Research Land Use Permit Application Fees

- \$500** **New Permit & Renewal Application**
Research Conducted in Support of Resource Development
Once approved, the permit is valid for period required to complete the research, up to a maximum of five (5) years. After (5) years, the permit must be renewed.
- \$250/each** **Amendment to Existing Approved Permit Application**
Research Conducted in Support of Resource Development
Once approved, the amendment is valid for original permit term.
- No Fee** **New Permit & Renewal Application**
Research Conducted for Other Purposes
Once approved, the permit is valid for period required to complete the research, up to a maximum of five (5) years. After (5) years, the permit must be renewed.
- No Fee** **Amendment to Existing Approved Permit Application**
Research Conducted for Other Purposes
Once approved, the amendment is valid for original permit term.

Penalties for Researchers

- \$0** **Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate Researchers of the new requirement and to provide the Researchers with the opportunity to come into compliance within 30 days.
- During the calendar year 2014 the Borough will be conducting outreach and education about the new Researcher Land Use Permit requirement and process. During this time, the Borough will issue letters to Researchers that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- \$1,000** **Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Research Conducted in Support of Resource Development
Failure to submit a land use permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$1,000 penalty. The Borough will issue a letter notifying the Researchers that it has failed to submit a land use permit application, assessing the \$1,000 penalty, and

providing the Researcher with a land use permit application form. In addition to the \$1,000 penalty, the \$500 application fee must also be paid.

The Borough will issue a letter to Researchers that have failed to submit a land use permit application. The letter will state that a land use permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

\$100 Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015) Research Conducted for Other Purposes

Failure to submit a land use permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$100 penalty. The Borough will issue a letter notifying the Researchers that it has failed to submit a land use permit application, assessing the \$100 penalty, and providing the Researcher with a permit application form. In addition to the \$100 penalty, the \$50 application fee must also be paid.

The Borough will issue a letter to Researchers that have failed to submit a land use permit application. The letter will state that a land use permit is required, provide a copy of the permit application, and notify the Researcher that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

\$50/day Failure to Submit a Land Use Permit Application, 31 days after Initial Notification (Starting 2013)

If the Borough has issued a letter to Researchers making notification that they have failed to submit a land use permit, and that Researchers does not submit a permit application within 30 days from date the Borough letter was issued, a daily penalty of \$50/day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a land use permit application is received.

\$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation.

The Borough encourages Permittees to immediately report any violation, of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$100 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$100 penalty by day 30, will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500 Notice of Violation Issued by Borough

Violations reported to and confirmed by the Borough, or found by the Borough will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30, will result

in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$50/day

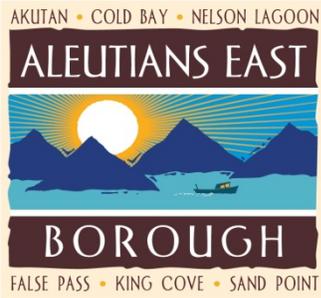
Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from date the Borough letter was issued, a daily penalty of \$50 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100/day

Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

RESEARCH LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
 Aleutians East Borough
 P.O. Box 349
 Sand Point, Alaska 99661
 907-383-2699

AEB Use Only	
Permit No.	RP: 20 ____ - ____ - ____
Date Received:	____/____/____
Date Approved:	____/____/____

Section No. 1: Land Use Permit Applicant Information
<input type="checkbox"/> Research Conducted in Support of Resource Development <input type="checkbox"/> Research Conducted for Other Purposes <input type="checkbox"/> New Permit <input type="checkbox"/> Permit Renewal <input type="checkbox"/> Permit Amendment
Reason for Amendment: _____
Name of Researcher: _____
Organization Name: _____
Contact Person: (name) _____ (title) _____
Address: (Street) _____ (City) _____ (State) _____ (Zip) _____
Office Phone: (____) - ____ - ____ Cell Phone: (____) - ____ - ____
Satellite Phone: (____) - ____ - ____ Office Fax: (____) - ____ - ____
Email Address: _____@_____ Webpage Address: www. _____

Section No. 2: Research Description, Location and Timing
Describe Purpose and Scope of Research : _____

Months of Operation: <input type="checkbox"/> January <input type="checkbox"/> February <input type="checkbox"/> March <input type="checkbox"/> April <input type="checkbox"/> May <input type="checkbox"/> June <input type="checkbox"/> July <input type="checkbox"/> August <input type="checkbox"/> September <input type="checkbox"/> October <input type="checkbox"/> November <input type="checkbox"/> December
Location of Research (describe): _____

<input type="checkbox"/> Map(s) of Location Attached to Application (Required) <input type="checkbox"/> Routes of Access Shown on Map(s) (Required)

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land

Private (Name): _____ Other (Name): _____

Contact Name: _____ Phone: _____

Site Access: Air Water ATV Snow Machine By Foot Other _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Section No. 4: Temporary Facilities and Equipment Used

Temporary Facilities/Equipment: Tents Portable Latrines Fire Pits Waste Bins

Temporary Fuel Storage Type & Amount: Gasoline _____ (gallons) Diesel _____ (gallons)

Aviation Gas _____ (gallons)

Additional Description: _____

Section No. 5: Permanent Facilities and Equipment Used

Permanent Facilities: Housing Offices Gravel Road Runway Port/Dock

Fire Pits Waste Bins Sanitation Systems Water Supply Systems Power Generation

Buildings (describe): _____ Other (describe): _____

Fuel Storage Type & Amount: Gasoline _____ (gallons) Diesel _____ (gallons)

Aviation Gas _____ (gallons)

Additional Description: _____

Section No. 6: Required Attachments to Permit Application

- Location Map(s): Must clearly show land ownership, natural features, and township, range and section.
- Routes of Access Marked on Map(s) showing ingress and egress routes.
- A document summarizing the research plans.
- Waste Management Plan
- Emergency & Medical Plan
- Design Plans (If new permanent facilities will be constructed)
- Fee for Research Conducted in Support of Resource Development [\$500/permit or renewal & \$250/ amendment].
- Fee for Research Conducted for Other Purposes [No Application Fee Required].

Section No. 7: Prior Operating Experience in Aleutians East Borough

I have conducted research in AEB boundaries in prior years. Yes No Number of Years: _____

I have all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

I have conducted all prior research in compliance with all local, state & federal requirements. Yes No

Permits, licenses and/or authorizations for this research are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this research have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 8: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my research and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the AEB harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the AEB boundaries by me, the organization I represent, and all contractors, subcontractors, guests, and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 9: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No. _____ Amount: _____

Approved: Approval Date: _____ Expiration Date: _____

Elevated: Reason: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No.10 Permit Stipulations) Yes No

AEB Administrator or Designee Name (printed): _____

AEB Administrator or Designee Signature: _____

Section No. 10: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any research or activities that are not specifically described in the permit application. Permittee shall comply with its approved Emergency Medical Plan, Waste Management Plan, and Design Plans. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from its use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations to for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain any private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations. This land use permit is not a local business license; an additional city business license or business registration may be required.
- ✦ **Subsistence Protection:** Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat. Vehicles shall be operated without disturbing the vegetative mat and underlying substrate. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited. To the extent practicable, to avoid destroying tundra vegetation, campfires should be located 100 feet away from water bodies, on hard surfaces that are already lacking a protective tundra mat (e.g. exposed gravel or sandy areas), and only dead wood should be burned if allowed by the land owner. No standing wood may be cut and burned in a campfire, unless specifically allowed by the land owner.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** All grey water and human waste shall be disposed of in a pit, cathole, or containment that can be transported for disposal at an ADEC approved disposal site. If a pit or cathole is used, it shall be located at least 100' from the ordinary high water mark of the nearest waterbody, and back-filled prior to leaving the site.

- ✦ **Fuel Storage:** All fuel storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Public Access:** Permittee shall not prevent access used by the general public to AEB, State, or Federal lands.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination. The lands shall be restored as nearly as possible to pre-existing conditions, upon completion of activities.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Permit Evidence and Inspection:** Permittee, and Permittee's employees shall carry a copy of this permit at all times. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If research permitted under this authorization is transferred to the responsibility of another organization or contractor who did not file this application, this permit is no longer valid. A new permit application shall be submitted by the new research organization, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the Research activities described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all record of business activities conducted in AEB for at least 5 years.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Annual Report:** On or before February 1st of each year, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, providing an update on the status of the research, summarize any significant findings, and provide a schedule update on the time required to complete the research.
- ✦ **Final Report:** Within 180 days of completing its research, the Permittee shall submit a copy of its final research report in both hard copy and PDF format, and a letter confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as nearly as possible to pre-existing conditions. The final report must be sent to the AEB at P.O. Box 349, Sand Point, Alaska 99661.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Professional Researchers to obtain a land use permit within the AEB boundaries to conduct Research, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.090).

Professional Researcher” means a person, company or organization that conducts on its own behalf, or is funded to conduct research on another’s behalf, including, but not limited to a: organization or company operating for profit; non-governmental organization; local government; state government; federal government; or university. Research conducted by local elementary, junior-high or high-school students in support of school educational activities and cultural surveys conducted by Native Corporations and tribes is excluded from this definition.

- ✦ **How is Research defined?** Research is defined as research conducted by Professional Researchers that require field work anywhere within AEB boundaries, and may include one or more of the following types of research: (a) wildlife, habitat or other biological research; (b) air quality, meteorological, water quality, hydrological studies, or soil research; (c) archeological or paleontological research for artifacts relating to human and prehistoric animal life; (d) geological surveys that result in minimal disturbance of the ground surface, excluding: two dimensional or three dimensional seismic surveys run in search of oil, gas, or other minerals; drilling of holes; or excavation; (e) socioeconomic research; (f) land surveying or mapping; (g) engineering assessments; and/or, (h) any research or studies required to support Resource Development. This definition does not include earthquake monitoring equipment located in the Borough.
- ✦ **Is this a new requirement?** Yes. AEB’s Assembly adopted a new requirement in the AEBMC in year 2013 requiring Professional Researchers to obtain a land use permit within the AEB boundaries.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** The AEB prefers typed applications whenever possible. However, if you do not have access to a computer, the AEB will accept a hand written application. Please print clearly and legibly.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the fees and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$500 for Research Conducted in Support of Resource Development and \$250 for an amendment to that permit once issued. The application fee is \$50 for Research Conducted for Other Purposes and \$25 for an amendment to that permit once issued.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 30 days prior to the time you need an approved permit. Most permit approvals should be issued within 10 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the Research period, up to a maximum period of five (5) years. After five (5) years the permit must be renewed. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, including fee payment will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** A renewal application must be submitted to renew your application, at least 30 days prior to expiration of your permit or 30 days before you need an approved permit. The renewal fee is the same a new permit application.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Describe the purpose and scope of the research. You may attach additional information to support your application if required, including a copy of the research funding, proposal or scope of work.

- ✚ **Why do I have to provide maps of the area?** The AEB needs maps to be submitted to clarify the areas that you plan to do your research. This will aide AEB in determining whether you have legal access to conduct research in that area, have a location map to use to inspect the location, and to work with the applicant to identify low impact ingress and egress options to mitigate habitat and subsistence use impacts.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✚ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct research on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for research purposes. Please provide a contact name and phone number that can verify your legal agreement.

Sections No. 4, 5, and 6 Instructions:

Please fill out all the required information in Sections No. 4, 5, and 6. Check all boxes that apply. Provide additional information in the description box if needed to explain the temporary and permanent facilities and equipment that will be used at the site.

- ✚ **Who do I make the application fee check out to?** The Aleutians East Borough.
- ✚ **Can I pay for the application fee using a credit card?** No. The AEB does not accept credit card payment at this time.
- ✚ **Can I pay for the application fee using cash?** No. You must pay by check.

Section No. 7 Instructions:

Please fill out all the required information in Section No. 7. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action or prior revocations in making its decision on whether or not to approve the permit.

Section No. 8 Instructions:

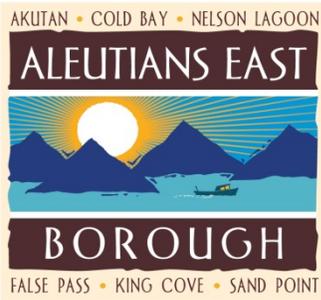
Please sign and date Section 8. Applications that are not signed will not be accepted.

Section No. 9 Instructions:

Section No. 9 is for AEB administrative use only. The AEB Administrator may elevate complex permits to the Planning Commission for a decision. In this case you will be notified by letter of the date of the Planning Commission meeting and will be expected to participate in the meeting, at a location designated by AEB, to discuss your application with the Commission. If you do not participate in the meeting, the Planning Commission will deny your permit. If your permit is denied by the AEB Administrator, you may submit an appeal to the Board of Adjustment pursuant to Title 40 of the AEBMC.

Section No. 10 Instructions:

Section No. 10 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

SAND, GRAVEL, ROCK MINING LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], [REDACTED], 2013

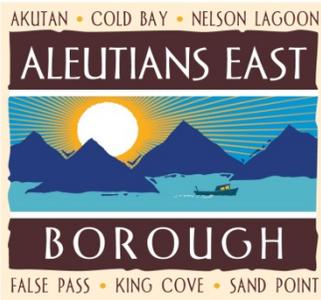
Sand, Gravel and Rock Mining Land Use Permit Application Fees

- \$100 New Permit & Renewal Application**
Once approved, the permit is valid for a period required to complete the mining, up to a maximum of five (5) years. After (5) years, the permit must be renewed.
- \$50/each Amendment to Existing Approved Permit Application**
Once approved, the amendment is valid for original permit term.

Penalties for Sand, Gravel and Rock Mining Operations

- \$0 Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate miners of the new requirement and to provide the miners with the opportunity to come into compliance within 30 days.
- During the calendar year 2014 the Borough will be conducting outreach and education about the new Sand, Gravel and Rock Mining Permit requirement and process. During this time, the Borough will issue letters to miners that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- This interim compliance assistance process does not apply to payment of Severance Tax required by AEBMC, Chapter 60.40 for sand, gravel, and rock mining. The Severance Tax requirement has been in place since 2005, and Chapter 60.40 includes a process and penalties for noncompliance.
- \$1,000 Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$1,000 penalty. The Borough will issue a letter notifying the miner that it has failed to submit a permit application, assessing the \$1,000 penalty, and providing the miner with a permit application form. In addition to the \$1,000 penalty, the \$100 application fee must also be paid.
- The Borough will issue a letter to the miners who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

- \$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation.**
 The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.
- If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$100 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$100 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$500 Notice of Violation Issued by Borough**
 Violations reported to and confirmed by the Borough, or found by the Borough will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$50/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification**
 If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from date the Borough letter was issued, a daily penalty of \$50 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$100/day Failure to Remedy Violation, As Agreed with Borough**
 Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

SAND, GRAVEL, ROCK MINING LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
Aleutians East Borough
P.O. Box 349
Sand Point, Alaska 99661
907-383-2699

AEB Use Only	
Permit No.	SGR: 20 ___-___-___
Date Received:	___/___/___
Date Approved:	___/___/___

Section No. 1: Permit Applicant Information

Type of Mining Sand Gravel Rock

New Permit Permit Renewal Permit Amendment Reason: _____

Name of Operator: _____

Business Name: _____

Address: (Street) _____ (City) _____ (State) _____ (Zip) _____

Contact Person: (name) _____ (title) _____

Office Phone: (____) - ____ - ____ Cell Phone: (____) - ____ - ____

Satellite Phone: (____) - ____ - ____ Office Fax: (____) - ____ - ____

Email Address: _____@_____._____ Webpage Address: www. _____.

Number of Years in Business: _____

State of Alaska Business License No.: _____ Issue Date: _____ Expiration Date: _____

Federal Tax Identification EIN No. _____

Section No. 2: Mining Description, Location and Timing

Township: _____, Range: _____ Section: _____, Meridian _____

Property Address : _____

Estimated number of cubic yards mined per year: Sand _____ Gravel _____ Rock _____

Estimated surface area to be disturbed: _____ (acres) Depth of excavation _____ (feet)

Describe Operations and Location: _____

Hours of Operation: _____ Start Date: _____ End Date: _____ Reclamation Date: _____

Days of Operation: Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Months of Operation: January February March April May June

July August September October November December

Map(s) of Location Attached to Application (required) Routes of Access Shown on Map(s) (required)

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land
 Private (Name): _____ Other (Name): _____
Contact Name: _____ Phone: _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Does the instrument used to obtain legal access allow for the type, location, amount and extent of sand, gravel, or rock excavation operations described in this permit application? Yes No

If you answered "yes", are there any limitations placed on your operations? Yes No

If you answered "yes", please describe the limitations _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Section No. 4: Required Attachments to Permit Application

- Location Map(s): Must clearly show land ownership, natural features, and township, range and section.
- Routes of Access Marked on Map(s) showing ingress and egress routes.
- Plan of Operations
- Reclamation Plan
- Design Plans (If new permanent facilities will be constructed)
- A copy of State of Alaska Business License and a copy of any local license or registration required.
- Fee Payment (Check for \$100 annual permit fee, or \$50 for each permit amendment made payable to AEB)

Section No. 5: Prior Operating Experience in Aleutians East Borough

I have operated this business in AEB boundaries in prior years. Yes No Number of Years: _____

I have all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

Business has operated in compliance with all local, state & federal requirements since inception. Yes No

I have paid severance tax to AEB as required since 2011. Yes No No mining since 2011

Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 6: Agreement to Comply with Severance Tax Payment

Sand, gravel and rock that is severed or harvested anywhere within the Aleutian East Borough is subject to a \$0.10 per cubic yard Severance Tax unless the annual gross production value of the operation does not equal or exceed \$5,000 annually. I agree to comply with Aleutian East Borough's Municipal Code Chapter 60.40, Severance Tax payment requirements.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 8: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No. _____ Amount: _____

Approved: Approval Date: _____ Expiration Date: _____

Elevated: Reason: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No.9 Permit Stipulations) Yes No

AEB Administrator or Designee Name (printed): _____

AEB Administrator or Designee Signature: _____

Section No. 9: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed five years. Permittee shall have an approved permit prior to conducting any mining operations. An approved permit must be maintained by the mining operator until the mining operations and Reclamation Plan is completed. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and the Plan of Operations submitted and approved as part of this permit. Permittee shall comply with its approved Plan of Operations, Reclamation Plan, and Design Plans. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from its use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Subsistence Protection:** Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat, except for those areas specifically authorized for mining of sand, gravel and rock. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Fish Habitat Protection:** Permittee's mining operations shall not adversely affect spawning, rearing, migrating, or over wintering areas for anadromous fish. Mining shall not be conducted in locations which have been documented to provide spawning, rearing or over wintering habitat for anadromous fish. Permittee's mining operations shall avoid causing increases in sedimentation, siltation and the resulting turbidity that could have a significant adverse impact to aquatic productivity and habitats, marine fish, shellfish, or anadromous fish populations in marine, estuarine, and freshwater environments. In streams and their floodplains which provide habitat for anadromous fish, mining operations shall minimize clearing of riparian vegetation and disturbance of natural banks and mining site configurations shall be shaped to blend with physical features and surroundings to provide for diverse riparian and aquatic habitats.
- ✦ **Explosives:** To protect fish, explosives shall not be detonated within, beneath, or adjacent to marine, estuarine, or fresh waters that support fish unless 1) the detonation of the explosives produces an instantaneous pressure change in the water body of no more than 2.7 pounds per square inch, and a vibration of no more than 0.5 inches per second or 2) the water body, including its substrate, is frozen, or 3) fish and marine mammals are not present.
- ✦ **In-stream Mining:** Sand and gravel mining operations in stream floodplains shall be located and designed to avoid adverse changes to channel hydraulics and the potential for channel diversion through the mining site. A stable bank and bed profile shall be maintained during mining of sand and gravel from a watercourse. A stable bank and bed profile is one that will not alter river currents or change erosion and deposition patterns downstream.

- ✦ **Stream Alteration:** Mining operations shall not adversely affect natural stream hydraulics by channelization, diversion, spur dike construction, or other activities.
- ✦ **Water Appropriation:** Mining operations shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas.
- ✦ **Water Quality:** Mining operations shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies.
- ✦ **Overburden Disposal:** No overburden shall be disposed of in lakes, within the mean annual floodplain of streams or rivers, or below the limit of mean high water in intertidal areas and estuaries. Overburden in upland areas shall be saved and replaced on the cleared area to conform to the natural topography as part of the reclamation procedure.
- ✦ **Transportation:** Transportation routes and methods used to bring equipment and supplies to the mine site and to transport recovered sand, gravel or rock from the mine site shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable or permanently installed sanitation systems shall be provided at the mining operation for workers use. All grey water and human waste shall be collected and disposed of at an ADEC approved disposal site.
- ✦ **Fuel Storage:** All fuel storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Reclamation:** Lands shall be restored to meet the Reclamation Plan submitted and approved as part of this permit.
- ✦ **Permit Evidence and Inspection:** Permittee, and Permittee's employees shall carry a copy of this permit at all times or a copy shall be posted at the mine site in a location visible to all employee and the public. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the mining business permitted under this authorization is purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.

- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the mining operations described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejection, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the site has been remediated to the AEB's satisfaction and the permit has been discontinued.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Annual Report:** On or before February 1st of each year, and within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.
- ✦ **Survey or Another Approved Measurement Method:** On or before February 1st of each year, and within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, providing survey data that verifies the amount of materials that were extracted from the mining operation. If a survey is not otherwise required by the land or mineral owner, or is cost prohibitive the Permittee may propose and obtain AEB approval of an alternative, equivalent measuring method. This information may be submitted as part of the Annual Report for efficiency.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Sand, Gravel and Rock Mining Operators to obtain a land use permit within the Aleutians East Borough Resource Development District, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.020). Sand, Gravel and Rock Mining may only occur, if permitted by AEB within the Aleutians East Borough Resource Development District. A separate permit application must be submitted for each Sand, Gravel and Rock Mining location.
- ✦ **Do I need a permit if I plan to mine within an AEB Municipality that has delegated land use planning authority under AEBMC 40.01.020?** You may be required to obtain a local business license, register your business and/or obtain a municipal land use permit. Please contact the AEB Municipality for more information on their requirements.
- ✦ **Is this a new requirement?** Yes. AEB's Assembly adopted a new requirement in the AEBMC in year 2013, requiring Sand, Gravel and Rock Mining Operators to obtain a land use permit within the AEB boundaries.
- ✦ **What is AEB's recommendation for selecting the lowest impact sand, gravel and rock mining areas?** AEB's Coastal Zone Enforceable Policy F-1 states that to the extent feasible and prudent, sources of sand and gravel shall be authorized using the following sequences: 1) existing gravel pits; 2) reuse of gravel from abandoned development areas; 3) new upland pits; 4) rivers, streams and lakes that do not support fish; 5) offshore gravel sources; and 6) floodplain gravel sources in fish bearing streams.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.

- ✦ **Can I submit a handwritten application?** The AEB prefers typed applications whenever possible. However, if you do not have access to a computer, the AEB will accept a hand written application. Please print clearly and legibly.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the fees and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$100 per year, and \$50 for each amendment to an existing permit.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 60 days prior to the time you need an approved permit. Most permit approvals should be issued within 30 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, including fee payment will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 60 days before your permit expires and costs \$100.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. A reduced permit application fee of \$50 is charged for each amendment.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✦ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✦ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Please provide a brief description of your operations and location. You are also required to provide a Plan of Operations with your permit application where you can provide more detail.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✦ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4.

- ✦ **What information must be included in a Plan of Operations?** The Plan of Operations shall include a description of the:
 1. Proposed mining operations, location and timing;

2. Landownership and legal agreements that allow mining on the property and any past mining operations at this site;
3. Equipment, facilities, infrastructure and personnel used to mine;
4. Methods used to mine including overburden removal and storage and the amounts of material to be handled, processed or removed, and whether blasting, drilling, crushing, or screening will be performed;
5. Area and depth of the mining operation, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
6. Transportation Plan, including existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the mine site (including a map of these routes);
7. Amount and type of fuel that will be used and stored at the mine site and oil spill prevention measures that will be used;
8. Environmentally or culturally sensitive areas at or near the mine site (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
9. Water and fish habitat protection measures that will be used;
10. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
11. Plans to comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough;
12. Local Economic Development Plan;
13. Waste Management Plan;
14. Emergency Medical Plan;
15. Safety and Security that will be used at the site; and
16. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained please provide the permit number and date of expiration. If permits are in the process of being issued please provide information on the date you applied for the permit and the expected date of issue.

What information must be included in the Reclamation Plan? The Reclamation Plan shall include a description of your reclamation plans including a timeline and plans to comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough.

How do I find a copy of the AEB's Coastal Zone Enforceable Policies? A copy can be found at <http://www.aleutianseast.org/> under the Permitting Page.

Who do I make the application fee check out to? The Aleutians East Borough.

Can I pay for the application fee using a credit card? No. The AEB does not accept credit card payment at this time.

Can I pay for the application fee using cash? No. You must pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, non-payment of taxes, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6. Sand, gravel and rock that is severed or harvested anywhere within the Aleutian East Borough is subject to a \$0.10 per cubic yard Severance Tax unless the annual gross production value of the operation does not equal or exceed \$5,000 annually. You must sign this section of the application certifying that you will comply with Aleutian East Borough's Municipal Code Chapter 60.40, Severance Tax payment requirements. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

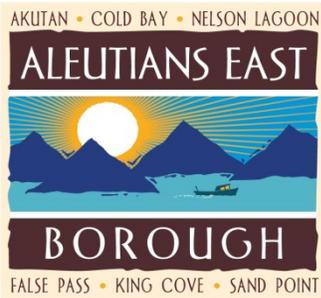
Please sign and date Section No. 7. Applications that are not signed will not be accepted.

Section No. 8 Instructions:

Section No. 8 is for AEB administrative use only. The AEB Administrator may elevate complex permits to the Planning Commission for a decision. In this case you will be notified by letter of the date of the Planning Commission meeting and will be expected to participate in the meeting, at a location designated by AEB, to discuss your application with the Commission. If you do not participate in the meeting, the Planning Commission will deny your permit. If your permit is denied by the AEB Administrator, you may submit an appeal to the Borough Board of Adjustment pursuant to Title 40 of the AEBMC.

Section No. 9 Instructions:

Section No. 9 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

MINERAL & COAL EXPLORATION & SMALL MINING OPERATIONS LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)
Resolution 2013 [REDACTED]
[REDACTED], 2013

Mineral & Coal Exploration & Small Mining Operations Land Use Permit Application Fees

- \$1,000 New Permit & Renewal Application**
Once approved, the permit is valid for a period required to complete the operation, up to a maximum of five (5) years. After (5) years, the permit must be renewed.
- \$500/each Amendment to Existing Approved Permit Application**
Once approved, the amendment is valid for original permit term.

Penalties for Mineral & Coal Exploration & Small Mining Operations Activities

- \$0 Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate miners of the new requirement and to provide the miners with the opportunity to come into compliance within 30 days.
- During the calendar year 2014, the Borough will be conducting outreach and education about the permit requirement and process. During this time, the Borough will issue letters to Operators that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- This interim compliance assistance process does not apply to payment of Severance Tax required by AEBMC, Chapter 60.40 for minerals and coal. The Severance Tax requirement has been in place since 2011, and Chapter 60.40 includes a process and penalties for noncompliance.
- \$1,000 Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$1,000 penalty. The Borough will issue a letter notifying the Operator that it has failed to submit a permit application, assessing the \$1,000 penalty, and providing the Operator with a permit application form. In addition to the \$1,000 penalty, the \$1,000 application fee must also be paid.
- The Borough will issue a letter to the Operators who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be

assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

\$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation.

The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$100 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$100 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500 Notice of Violation Issued by Borough

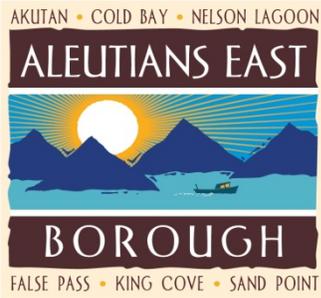
Violations reported to, and confirmed by the Borough, or found by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$50/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from date the Borough letter was issued, a daily penalty of \$50 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100/day Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

MINERAL & COAL EXPLORATION & SMALL MINING OPERATIONS LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
 Aleutians East Borough
 P.O. Box 349
 Sand Point, Alaska 99661
 907-383-2699

AEB Use Only	
Permit No.	MCESM: 20 __-__-__
Date Received:	___/___/___
Date Approved:	___/___/___

Section No. 1: Permit Applicant Information

Exploration Operations
 Coal
 Minerals (type): _____
 Small Mine (less than 5 acres)
 Coal
 Minerals (type): _____
 New Permit
 Permit Renewal
 Permit Amendment
 Reason: _____
 Name of Operator: _____
 Business Name: _____
 Address: (Street) _____ (City) _____ (State) _____ (Zip) _____
 Contact Person: (name) _____ (title) _____
 Office Phone: (____) - ____ - ____ Cell Phone: (____) - ____ - ____
 Satellite Phone: (____) - ____ - ____ Office Fax: (____) - ____ - ____
 Email Address: _____@_____._____ Webpage Address: www._____._____._____
 Number of Years in Business: _____
 State of Alaska Business License No.: _____ Issue Date: _____ Expiration Date: _____
 Federal Tax Identification EIN No. _____

Section No. 2: Mineral & Coal Exploration & Small Mining Description, Location and Timing

Township: _____, Range: _____ Section: _____, Meridian _____
 Property Address: _____
 Brief description of methods, plans and location: _____

 Estimated number surface area to be disturbed: _____ (acres) Depth of excavation _____ (feet)
 Hours of Operation: _____ Start Date: _____ End Date: _____ Reclamation Date: _____
 Days of Operation:
 Monday
 Tuesday
 Wednesday
 Thursday
 Friday
 Saturday
 Sunday
 Months of Operation:
 January
 February
 March
 April
 May
 June

 July
 August
 September
 October
 November
 December
 Map(s) of Location Attached to Application (required)
 Routes of Access Shown on Map(s) (required)

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land
 Private (Name): _____ Other (Name): _____
Contact Name: _____ Phone: _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Does the instrument used to obtain legal access allow for the type, location, amount and extent of exploration or mining described in this permit application? Yes No

If you answered "yes," are there any limitations placed on your operations? Yes No

If you answered "yes," please describe the limitations _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date _____

Section No. 4: Required Attachments to Permit Application

Location Map(s): Must clearly show land ownership, natural features, and township, range and section.

Routes of Access Marked on Map(s) showing ingress and egress routes.

Plan of Operations

Reclamation Plan

Design Plans (If new facilities will be constructed)

A copy of State of Alaska Business License.

Fee Payment

(Check for \$1,000 permit application or renewal fee, or \$500 for each permit amendment made payable to AEB)

Section No. 5: Prior Operating Experience in Aleutians East Borough

I have conducted explored/mined in AEB boundaries in prior years. Yes No Number of Years: _____

I have all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

Business has operated in compliance with all local, state & federal requirements since inception. Yes No

I have paid severance tax to AEB as required since 2011. Yes No No mining since 2011

Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 6: Agreement to Comply with Severance Tax Payment

Mining, extracting, harvesting, removing or producing for sale, profit or commercial use, any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound, or combination of mineral products or mining, quarrying, or producing for sale, profit, or commercial use any coal anywhere within the Aleutian East Borough is subject to a Severance Tax of 1.5% times the gross production value per ton unless the annual gross production value of the operation does not equal or exceed \$5,000 annually.

I agree to comply with Aleutian East Borough's Municipal Code Chapter 60.40, Severance Tax payment requirements.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 8: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No. _____ Amount: _____

Approved: Approval Date: _____ Expiration Date: _____

Elevated: Reason: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No.9 Permit Stipulations): Yes No

AEB Administrator or Designee Name (printed): _____

AEB Administrator or Designee Signature: _____

Section No. 9: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed five years. Permittee shall have an approved permit prior to conducting any mineral or coal exploration or small mining operations. An approved permit must be maintained by the operator until the mineral and coal exploration or small mining operations Reclamation Plan is completed. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **No Mineral or Coal Mining Operations Allowed Beyond Limited Exploration without an Additional AEB Permit:** Permits issued for mineral and coal exploration are limited to the scope of mineral and coal exploration described in the application. Miners that plan to mine minerals and coal, after identifying a commercial amount of material via exploration must submit an application to AEB for a mineral and coal mining operations permit. If small mining operations (less than 5 acres at any one time are planned), then a small mining permit application must be submitted and approved by AEB prior to commencing those operations. A different permit is required for large mining operations of 5 acres or more.
- ✦ **No Mineral or Coal Mining Operations Allowed for 5 acres or more without an Additional AEB Permit:** Permits issued for mineral and coal small mining operations are limited less than 5 acres at any one time. A different permit is required for large mining operations of 5 acres or more.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and the Plan of Operations submitted and approved as part of this permit. Permittee shall comply with its approved Plan of Operations, Reclamation Plan, and Design Plans. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from its use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License, and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Subsistence Protection:** Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat, except for those areas specifically authorized for mineral or coal exploration or mining. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats. Whenever possible, onshore exploration activities and small mines should be supported by air service, an existing road system or port facility, or by vehicles which do not cause significant damage to the ground surface or vegetation.
- ✦ **Fish Habitat Protection:** Permittee's activities shall not adversely affect spawning, rearing, migrating, or over wintering areas for anadromous fish. Mining shall not be conducted in locations which have been documented to provide spawning, rearing or over wintering habitat for anadromous fish. Permittee's activities shall avoid causing increases in sedimentation, siltation and the resulting turbidity that could have a significant adverse impact to aquatic productivity and habitats, marine fish, shellfish, or anadromous fish populations in marine, estuarine, and freshwater environments. In streams and their

floodplains which provide habitat for anadromous fish, exploration and mining activities shall minimize clearing of riparian vegetation and disturbance of natural banks and shall be shaped to blend with physical features and surroundings to provide for diverse riparian and aquatic habitats.

- ✦ **Explosives:** To protect fish, explosives shall not be detonated within, beneath, or adjacent to marine, estuarine, or fresh waters that support fish unless 1) the detonation of the explosives produces an instantaneous pressure change in the water body of no more than 2.7 pounds per square inch, and a vibration of no more than 0.5 inches per second or 2) the water body, including its substrate, is frozen, or 3) fish and marine mammals are not present.
- ✦ **In-stream Mining:** Activities in stream floodplains shall be located and designed to avoid adverse changes to channel hydraulics and the potential for channel diversion through the mining site. A stable bank and bed profile shall be maintained during exploration and mining activities. A stable bank and bed profile is one that will not alter river currents or change erosion and deposition patterns downstream.
- ✦ **Stream Alteration:** Activities shall not adversely affect natural stream hydraulics by channelization, diversion, spur dike construction, or other activities.
- ✦ **Water Appropriation:** Activities shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas.
- ✦ **Water Quality:** Activities shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies.
- ✦ **Overburden Disposal:** No overburden shall be disposed of in lakes, within the mean annual floodplain of streams or rivers, or below the limit of mean high water in intertidal areas and estuaries. Overburden in upland areas shall be saved and replaced on the cleared area to conform to the natural topography as part of the reclamation procedure.
- ✦ **Transportation:** Transportation routes and methods used to bring equipment and supplies to the exploration or mining site shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable sanitation systems shall be provided at the mining operation for workers use. All grey water and human waste shall be collected and disposed of at an ADEC approved disposal site.
- ✦ **Fuel Storage:** All fuel storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.

- ✦ **Reclamation:** Lands shall be restored to meet the Reclamation Plan submitted and approved as part of this permit.
- ✦ **Permit Evidence and Inspection:** Permittee, and Permittee’s employees shall carry a copy of this permit at all times or a copy shall be posted at the exploration or mining site in a location visible to all employee and the public. Authorized representatives of the AEB have the right to enter and inspect the exploration or mining activities approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the exploration or mining project permitted under this authorization is purchased by another owner or transferred to another operator, this permit is no longer valid. A new permit application shall be submitted by the new owner or operator, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the exploration or mining activities described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the site has been remediated to the AEB’s satisfaction and the permit has been discontinued.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Annual Report:** On or before February 1st of each year, and within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.
- ✦ **Survey or Another Approved Measurement Method:** On or before February 1st of each year, and within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, providing survey data that verifies the amount of materials that were extracted from the mining operation. If a survey is not otherwise required by the land or mineral owner, or is cost prohibitive the Permittee may propose and obtain AEB approval of an alternative, equivalent measuring method. This information may be submitted as part of the Annual Report for efficiency.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Mineral and Coal Exploration Activities and Small Mining Operations to obtain a land use permit within the Aleutians East Borough boundaries, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.090). A separate permit application must be submitted for each exploration project area and for each small mining area. Mineral and Coal Exploration and Small Mining Operations may only occur, if permitted by AEB within the Aleutians East Borough Resource Development District.
 - ✦ “Mineral and Coal Exploration” means exploration for minerals and coal, including two dimensional or three dimensional seismic surveys run in search of minerals and coal, but and does not include Mineral Mining or Coal Mining operations.
 - ✦ “Coal Mining” means mining, extraction, harvesting removing or producing for sale, profit or commercial use any coal and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources.
 - ✦ “Mineral Mining” means mining, extraction, harvesting, removing or producing for sale, profit or commercial use any

copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound or combination of mineral products and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources.

- ✦ “Small Mining Operations” means Coal Mining or Mineral Mining operations that are limited to less than five (5) acres at any one time. This definition does not include Recreational Mining.
- ✦ “Large Mining Operations” means Coal Mining or Mineral Mining operations of five (5) acres or more at any one time.
- ✦ “Recreational Mining” means recreational gold panning; hard-rock mineral prospecting or mining using light portable field equipment, such as a hand-operated pick, shovel, pan, earth auger, or a backpack power drill or auger; or suction dredging using a suction dredge with a nozzle intake of six inches or less, powered by an engine of 18 horsepower or less, and pumping no more than 30,000 gallons of water per day.
- ✦ **Do I need a permit if I plan to explore for or mine minerals and/or coal within an AEB Municipality that has delegated land use planning authority under AEBMC 40.01.020?** You may be required to obtain a local business license, register your business and/or obtain a municipal land use permit. Please contact the AEB Municipality for more information on their requirements.
- ✦ **Do I need a permit if I plan to conduct Recreational Mining?** You do not need an AEB Land Use Permit for Recreational Mining that meets AEB’s definition for Recreational Mining (see above). However, please contact the State of Alaska and Federal Government for more information on their requirements, because suction dredging, hard rock and other types of recreational mining may require state and federal permits.
- ✦ **Do I need more than one permit for my exploration project?** Please consult with the AEB staff about your project to obtain specific instructions; however, generally you will be required to submit one permit application for each exploration project area. For example, you could file one permit application to conduct several exploration drills and geologic investigation all contained within a few mile exploration area. However, you may be required to file separate permits, if the exploration activities are not being conducted in a similar area, and are distinct and separate projects.
- ✦ **Is this a new requirement?** No. In 2006, AEB’s Assembly revised the AEBMC to require mining operations to obtain a land use permit within the AEB boundaries. In 2013, AEB updated its land use permitting requirements for mining operations, to clarify the permit application process and develop this specific permit application. In 2013, the AEB simplified and streamlined the requirements for mineral and coal exploration and small mining operations less than 5 acres.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.alutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** No. This application must be typed.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the fees and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$1,000 for new permits and \$1,000 for renewal. Amendments to existing approved permit applications cost \$500 each.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 60 days prior to the time you need an approved permit. Most permit approvals should be issued within 30 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, including fee payment will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 60 days before your permit expires and costs \$1,000.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. A reduced permit application fee of \$500 is charged for each amendment.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✚ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✚ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Please provide a brief description of your operations and location. You are also required to provide a Plan of Operations with your permit application where you can provide more detail.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✚ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4.

- ✚ **What information must be included in a Plan of Operations?** The Plan of Operations shall include a description of the:
 1. Proposed activities, location and timing;
 2. Landownership and legal agreements that allow mineral and coal exploration and small mining operations on the property and any past exploration or mining at this site;
 3. Equipment, facilities, infrastructure and personnel used to explore for minerals and/or coal or to conduct small mining operations;
 4. Methods used including overburden removal and storage and the amounts of material to be handled, or removed, and whether blasting, drilling, or other techniques will be performed;
 5. Area and depth of the exploration or mining activities, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
 6. Transportation Plan, including existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the site (including a map of these routes);
 7. Amount and type of fuel that will be used and stored at the site and oil spill prevention measures that will be used;
 8. Environmentally or culturally sensitive areas at or near the site (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
 9. Water and fish habitat protection measures that will be used;
 10. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
 11. Plans to comply with AEB's Coastal Zone Enforceable Policies if exploration is planned in the coastal lands and waters of the Borough;
 12. Local Economic Development Plan;
 13. Waste Management Plan;
 14. Emergency Medical Plan;
 15. Safety and Security that will be used at the site; and,
 16. A summary of all required local, state and federal permits and the status of those permits. If the permits have been

obtained please provide the permit number and date of expiration. If permits are in the process of being issued please provide information on the date you applied for the permit and the expected date of issue.

✚ **What information must be included in the Reclamation Plan?** The Reclamation Plan shall include a description of your reclamation plans including a timeline and plans to comply with AEB's Coastal Zone Enforceable Policies if exploration or mining is planned in the coastal lands and waters of the Borough.

✚ **How do I find a copy of the AEB's Coastal Zone Enforceable Policies?** A copy can be found at <http://www.aleutianseast.org/> under the Permitting Page.

✚ **Who do I make the application fee check out to?** The Aleutians East Borough.

✚ **Can I pay for the application fee using a credit card?** No. The AEB does not accept credit card payment at this time.

✚ **Can I pay for the application fee using cash?** No. You must pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, non-payment of taxes, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

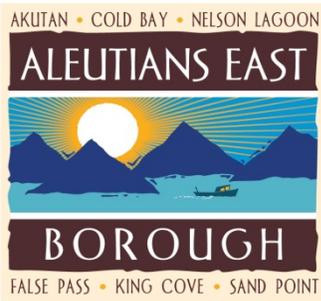
Please sign and date Section No. 7. Applications that are not signed will not be accepted.

Section No. 8 Instructions:

Section No. 8 is for AEB administrative use only. The AEB Administrator may elevate complex permits to the Planning Commission for a decision. In this case you will be notified by letter of the date of the Planning Commission meeting and will be expected to participate in the meeting, at a location designated by AEB, to discuss your application with the Commission. If you do not participate in the meeting, the Planning Commission will deny your permit. If your permit is denied by the AEB Administrator, you may submit an appeal to the Board of Adjustment pursuant to Title 40 of the AEBMC.

Section No. 9 Instructions:

Section No. 9 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

OFFSHORE & DIRECT MARKETING SEAFOOD PROCESSING LAND USE PERMIT

Authority: Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], [REDACTED], 2013

Offshore & Direct Marketing Seafood Processing Land Use Application Fees

- \$200** **New Permit & Renewal Application**
Once approved, the permit is valid for a one year period (January 1st through December 31st).
The permit must be renewed annually to continue operation.
- \$50/each** **Amendment to Existing Approved Permit Application**
Once approved, the amendment is valid for original permit term.

Offshore & Direct Marketing Seafood Processing Penalties

- \$0** **Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year. This time is allowed for the Borough to educate Operators of the new requirement and to provide the Operators with the opportunity to come into compliance within 30 days.
- During the calendar year 2014, the Borough will be conducting outreach and education about the permit requirement and process. During this time, the Borough will issue letters to Operators that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- This interim compliance assistance process does not apply to payment of the Fish Tax required by AEBMC, Chapter 60.20. Chapter 60.40 includes a process and penalties for noncompliance.
- \$1,000** **Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$1,000 penalty. The Borough will issue a letter notifying the Operator that it has failed to submit a permit application, assessing the \$1,000 penalty, and providing the Operator with a permit application form. In addition to the \$1,000 penalty, the \$1,000 application fee must also be paid.
- The Borough will issue a letter to the Operators who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is

received.

\$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation.

The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$500 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$100 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500 Notice of Violation Issued by Borough

Violations reported to, and confirmed by the Borough, or found by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$50/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from the date the Borough letter was issued, a daily penalty of \$250 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100/day Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.

Section No. 3: Operations Information

Describe Operations and Location(s) : _____

Hours of Operation: _____ Start Date: _____ End Date: _____

Months of Operation: January February March April May June
 July August September October November December

Section No. 4: Required Attachments to Permit Application

- Location Map(s): Show location of vessels routes and planned anchor locations.
 - A copy of the most recent complete (all five pages) applicant's ADEC Seafood Processors Application
 - A copy of the most recent complete (all three pages) applicant's Application for Federal Processor Permit
 - A copy of all State of Alaska Permits, Fisheries Business License, and APDES/NPDES (Notice of Intent Form)
 - A copy of all federal permits including EPA Seafood Processing Waste Permit
 - Fee Payment to the Aleutians East Borough for the Application Fee
- (\$200 for new permit applications and renewal applications. \$50 for each permit amendment.)

Section No. 5: Prior Operating Experience in Aleutians East Borough

Business has previously processed seafood within the AEB boundaries. Yes No

Business has operated this business in AEB boundaries in prior years. Yes No Number of Years: _____

Business has all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

Business has operated in compliance with all local, state & federal requirements since inception. Yes No

Business paid sales tax to AEB as required. Yes No

Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 6: Agreement to Comply with Sales Tax Payment

The Aleutians East Borough collects a two percent sales tax of raw fish product within its boundaries. The tax applies to the sale of raw fish whether delivered directly or indirectly to the buyer in the Borough. The tax levied by the Borough is an obligation of the seller. The buyer shall collect the tax at the time of sale by withholding from payment to the seller the amount of the tax. If payment is not made at the time of sale or delivery, the buyer shall segregate from funds of the buyer an amount equal to the tax due on the sale. I agree to comply with Aleutian East Borough’s Municipal Code Chapter 60.20, Sales Tax payment requirements.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian’s East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 8: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No. _____ Amount: _____

Approved: Approval Date: _____ Expiration Date: _____

Elevated: Reason: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No.9 Permit Stipulations) Yes No

AEB Administrator or Designee Name (printed): _____

AEB Administrator or Designee Signature: _____

Section No. 9: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for one year. Permittee shall have an approved permit prior to conducting any processing operations. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and supporting documents submitted and approved as part of this permit. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance to fish and wildlife populations and habitats.
- ✦ **Human Health and Socioeconomics:** Operations must be sited, designed, and operated in a manner that protects human health from adverse impacts. Operations must improve the quality of life for local residents and must not have adverse socioeconomic affects.
- ✦ **Water Appropriation:** Operations shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas
- ✦ **Water Quality:** Operations shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies. Zero water pollution discharge should be achieved whenever technically feasible.
- ✦ **Air Quality:** Operations shall not adversely impact air quality or human health.
 - ✦ Best Available Air Emission Control Technology: shall be installed for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds) and hazardous air pollutants.
 - ✦ Fuel/Power Selection: The lowest air pollution impact fuel sources shall be used. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used.
 - ✦ Vapor Controls: All equipment and facilities must install vapor recovery systems to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited.
- ✦ **Transportation:** Transportation routes and methods used to bring equipment and supplies to the vessel and to transport product from the vessel shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated processor's use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.

- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable or permanently installed sanitation systems shall be provided for workers use. All grey water and human waste shall be collected and disposed of as approved in ADEC Seafood Processors Permit.
- ✦ **Fuel and Chemical Storage:** All fuel and chemical storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Permit Evidence and Inspection:** Permittee and Permittee's employees shall carry a copy of this permit at all times or a copy should be posted at the processing plant in a location visible to all employees and the public. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the processing business permitted under this authorization is purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the processing operations described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejection, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the permit has been discontinued.
- ✦ **Annual Report:** By January 15th of each calendar year, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that it is complying with all AEB approved plans, permit stipulations and requirements.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.

Section No. 9. General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires all Offshore Seafood Processors and Direct Marketing Seafood Processors to obtain a land use permit within the Aleutians East Borough, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.020).
 - ✦ “Offshore Seafood Processor” means a for-profit company that buys, processes, and/or exports a fishery resource using facilities located offshore. This definition includes floating processors that are anchored or docked at the shoreline. This definition excludes Onshore Seafood Processors and Direct Marketing Seafood Processors.
 - ✦ “Direct Marketing Seafood Processor” means a for-profit or non-profit cooperative, partnership or individual fisherman who processes or exports only their own catch or has their own catch custom processed for sale.
- ✦ **Do I need a permit if I plan to process seafood within an AEB Municipality (Incorporated City) that has land use planning authority under AEBMC 40.01.020?** You do not need an AEB land use permit. You may be required to obtain a city business license, register your business and/or obtain a city land use permit. Please contact the city office for more information on their requirements.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** No. This application must be typed.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the Resource Development Fee Fund and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$200 per year, and \$50 for each amendment to an existing permit.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 30 days prior to the time you need an approved permit. Most permit approvals should be issued within 10 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for a one year period from January 1 to December 31 of a calendar year. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, including fee payment will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Permits are issued each year for a one year period from January 1 to December 31 of a calendar year. A new application must be submitted each year.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant shall explain the reason for the permit amendment. A reduced permit application fee of \$50 is charged for each amendment.

Section No. 1 Instructions:

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✦ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✦ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Sections No. 2 & 3 Instructions:

Please fill out all the required information in Section No. 2 and 3. Check all boxes that apply.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4. Check all boxes that apply. Attach all requested forms.

- Is there a specific format that must be used for maps?** Maps should be submitted electronically, in Adobe acrobat pdf, and at least two hard copies.
- Who do I make the application fee check out to?** The Aleutians East Borough.
- Can I pay for the application fee using a credit card?** No. The AEB does not accept credit card payment at this time.
- Can I pay for the application fee using cash?** No. You shall pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, non-payment of taxes, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

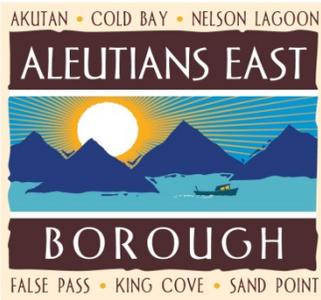
Please sign and date Section No. 7. Applications that are not signed will not be accepted.

Section No. 8 Instructions:

Section No. 8 is for AEB administrative use only. This section of the permit allows AEB to track the permit approval process.

Section No. 9 Instructions:

Section No. 9 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

ONSHORE SEAFOOD PROCESSING LAND USE PERMIT

Authority: Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], [REDACTED], 2013

Onshore Seafood Processing Land Use Application Fees

- \$1,000** **New Permit & Renewal Application**
Once approved, the permit is valid for a period up to a maximum of five (5) years.
After (5) years, the permit must be renewed.
- \$50/each** **Amendment to Existing Approved Permit Application**
Once approved, the amendment is valid for original permit term.

Onshore Seafood Processing Penalties

- \$0** **Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during year 2014. This time is allowed for the Borough to educate Operators of the new requirement and to provide the Operators with the opportunity to come into compliance within 30 days.

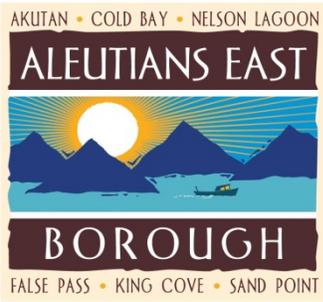
During the calendar year 2014, the Borough will be conducting outreach and education about the permit requirement and process. During this time, the Borough will issue letters to Operators that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

This interim compliance assistance process does not apply to payment of the Fish Tax required by AEBMC, Chapter 60.20. Chapter 60.40 includes a process and penalties for noncompliance.

- \$1,000** **Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a \$1,000 penalty. The Borough will issue a letter notifying the Operator that it has failed to submit a permit application, assessing the \$1,000 penalty, and providing the Operator with a permit application form. In addition to the \$1,000 penalty, the \$1,000 application fee must also be paid.

The Borough will issue a letter to the Operators who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from date the Borough letter was issued will result in a daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

- \$100 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation. (excluding violations that occurred due to intentional acts or omissions or gross negligence).**
 The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee’s letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.
- If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$100. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$500 penalty within 30 days, and verify agreement with the Operator’s plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough’s letter will also explain that failure to pay the \$100 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$500 Notice of Violation Issued by Borough (excluding violations that occurred due to intentional acts or omissions or gross negligence).**
 Violations reported to, and confirmed by the Borough, or found by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough’s Notice of Violation will explain the violation, request payment of the \$500 penalty within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough’s letter will also explain that failure to pay the \$500 penalty by day 30 will result in an additional daily penalty of \$50 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$100,000 (maximum) Violations that Occurred due to Intentional Acts or Omissions or Gross Negligence**
 Violations that occurred due to intentional acts or omissions or gross negligence, reported to and confirmed by the Borough, or found by the Borough and confirmed by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough’s Notice of Violation will explain the violation and request a penalty payment. The penalty will be set by the Borough based on the circumstances of the violation of up to \$1,000 per day for a maximum of \$100,000.
- The penalty payment must be paid within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough’s letter will also explain that failure to pay the penalty by day 30 will result in an additional daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$50/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification**
 If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from the date the Borough letter was issued, a daily penalty of \$250 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.
- \$100/day Failure to Remedy Violation, As Agreed with Borough**
 Failure to remedy a violation as agreed with the Borough will result in a \$100/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$100/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

ONSHORE SEAFOOD PROCESSING LAND USE PERMIT

Authority: Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
Aleutians East Borough
P.O. Box 349
Sand Point, Alaska 99661
907-383-2699

AEB Use Only	
Permit No.	OSP: ____-____-__
Date Received:	____/____/____
Date Approved:	____/____/____

Section No. 1: Permit Applicant Information

Type of Seafood Fish Shellfish Other _____

New Permit Permit Renewal

Minor Permit Amendment (administrative change) Major Permit Amendment (any increase in impact)

Name of Individual or Corporation: _____

Business Name: _____

Mailing Address: _____ (City) _____ (State) _____ (Zip) _____

Contact Person: (name) _____ (title) _____

Physical Address: (Street) _____ (City) _____ (State) _____ (Zip) _____

Office Phone: (____) - ____ - ____ Cell Phone: (____) - ____ - ____

Satellite Phone: (____) - ____ - ____ Office Fax: (____) - ____ - ____

Email Address: _____@_____._____ Webpage Address: www. _____.

Number of Years in Business: _____

Alaska Business License No.: _____ Issue Date: _____ Expiration Date: _____

ADEC Permit No.: _____ Issue Date: _____ Expiration Date: _____

Federal Tax Identification EIN No. _____

Section No. 2: Facility Information

Township: _____, Range: _____ Section: _____, Meridian: _____

Name of Facility: _____

Property Address : _____

Describe Operations and Location: _____

Hours of Operation: _____ Start Date: _____ End Date: _____

Months of Operation: January February March April May June
 July August September October November December

Map(s) of Location Attached to Application (required) Routes of Access Shown on Map(s) (required)

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land

Private (Name): _____ Other (Name): _____

Contact Name: _____ Phone: _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date: _____

Does the instrument used to obtain legal access allow for the type, location, amount, and extent of operations described in this permit application? Yes No

If you answered "yes," are there any limitations placed on your operations? Yes No

If you answered "yes," please describe the limitations _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Other: _____

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Other: _____

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date: _____

Section No. 4: Required Attachments to Permit Application

- Location Map(s): Must clearly show land ownership, all buildings, and township, range and section.
- Transportation Map(s) including routes of access, showing ingress and egress routes
- Plot plan showing the location, name, and brief description of all buildings in the seafood processing facility including housing and employee services. Attach a drawing with buildings labeled by name and use.

All maps & drawings must be submitted electronically for incorporation into the Borough's electronic system.

- Plan of Operations
- Design Plans (for any new facilities)
- Reclamation Plan
- Emergency & Medical Plan
- Transportation Plan
- A copy of the most recent complete (all five pages) applicant's ADEC Seafood Processors Application
- A copy of the most recent complete (all three pages) applicant's Application for Federal Processor Permit
- A copy of all State of Alaska Permits, Fisheries Business License, and APDES/NPDES (Notice of Intent Form)
- A copy of all federal permits including EPA Seafood Processing Waste Permit
- Fee Payment to the Aleutians East Borough for the Application Fee
- Local Economic Development Plan
- Historical and Cultural Resources Protection Plan
- Pollution Prevention Plan
- Hazardous Materials and Hazards Assessment Plan
- Good Neighbor Plan

(\$1,000 for new permit applications and renewal applications. \$50 for each permit amendment.)

Section No. 5: Prior Operating Experience in Aleutians East Borough

- Business has previously processed seafood within the AEB boundaries. Yes No
- Business has operated this business in AEB boundaries in prior years. Yes No Number of Years: _____
- Business has all required private, local, state, and federal permits, licenses, and/or authorizations. Yes No
- Business has operated in compliance with all local, state & federal requirements since inception. Yes No
- Business paid sales tax to AEB as required. Yes No
- Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No
- Reason for enforcement action : _____
- Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No
- Reason for revocation: _____

Section No. 6: Agreement to Comply with Sales Tax Payment

The Aleutians East Borough collects a two percent sales tax of raw fish product within its boundaries. The tax applies to the sale of raw fish whether delivered directly or indirectly to the buyer in the Borough. The tax levied by the Borough is an obligation of the seller. The buyer shall collect the tax at the time of sale by withholding from payment to the seller the amount of the tax. If payment is not made at the time of sale or delivery, the buyer shall segregate from funds of the buyer an amount equal to the tax due on the sale. I agree to comply with Aleutian East Borough's Municipal Code Chapter 60.20, Sales Tax payment requirements.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 8: Permit Decision [AEB Use Only]

Fee Paid: Yes No Check No.: _____ Amount: _____

Pre-Application Meeting Held Date: _____

Application Meeting Held Date: _____

Final Complete Application Submitted Date: _____

90 Day Application Review Period Start Date: _____ End Date: _____

Note: 90 day review period includes 30 day written public review that must be completed within that 90 day period.

30 Day Public Review Period Start Date: _____ End Date: _____

90 Day Application Review Period Extended No Yes New End Date: _____

Administrator Recommendation to PC Date: _____

60 Day PC Application Review Period Start Date: _____ End Date: _____

Note: 60 day review period includes one meeting of Planning Commission (PC) with opportunity for public comment

60 Day Application Review Period Extended No Yes New End Date: _____

PC Recommendation to Assembly Date: _____

30 Day Assembly Decision Period Start Date: _____ End Date: _____

Note: 30 day review period includes one meeting of Assembly with opportunity for public comment

30 Day Assembly Decision Period Extended No Yes New End Date: _____

Assembly Decision

Approved: Approval Date: _____ Expiration Date: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No. 9 Permit Stipulations) Yes No

Mayor or Designee Name (printed): _____

Mayor or Designee Signature: _____

Section No. 9: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed five years. Permittee shall have an approved permit prior to conducting any processing operations. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and supporting documents submitted and approved as part of this permit. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients, and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Compliance with Approved Plans:** Permittee must adhere to its approved maps, drawings, Plan of Operations, Local Economic Development Plan, Design Plans, Historical and Cultural Resources Protection Plan, Reclamation Plan, Water, Waste Water and Solid Waste Management Plan, Emergency & Medical Plan, and Hazardous Materials and Hazards Assessment Plan.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat, except for those areas specifically authorized for seafood processing. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Fish Habitat Protection:** Permittee's operations shall not adversely affect spawning, rearing, migrating, or over wintering areas for anadromous fish. Permittee's operations shall avoid causing increases in sedimentation, siltation and the resulting turbidity that could have a significant adverse impact to aquatic productivity and habitats, marine fish, shellfish, or anadromous fish populations in marine, estuarine, and freshwater environments. In streams and their floodplains which provide habitat for anadromous fish, operations shall minimize clearing of riparian vegetation and disturbance of natural banks.
- ✦ **Water Appropriation:** Operations shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas
 - ✦ **Water Quality:** Operations shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies. Zero water pollution discharge should be achieved unless the Applicant proves to the Borough that it is not technically feasible.
 - ✦ **Human Health and Socioeconomics:** Facilities must be sited, designed and operated in a manner that protects human health from adverse impacts. Facilities must improve the quality of life for local residents and must not have adverse socioeconomic affects.

- ✦ **Air Quality:** Operations shall not adversely impact air quality or human health.
- ✦ **Best Available Air Emission Control Technology:** shall be installed for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds) and hazardous air pollutants.
- ✦ **Fuel/Power Selection:** The lowest air pollution impact fuel sources shall be used. Solar, wind and other alternative power sources must be considered unless the Applicant proves to the Borough that it is not technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used.
- ✦ **Vapor Controls:** All equipment and facilities must install vapor recovery systems to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited.
- ✦ **Transportation:** Transportation routes and methods used to bring equipment and supplies to the processing plant and to transport product from the plant shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Docks, Ports and Loading Facilities:** Docks, ports and loading facilities must be sited to limit impact on fish, shellfish, wildlife and their habitat. Fisherman and local vessels must be allowed safe harbor. Dredging must not adversely impact fish or shellfish resources.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires and comply with Alaska Fire Marshal regulations. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated processor's use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable or permanently installed sanitation systems shall be provided for workers use. All grey water and human waste shall be collected and disposed of at an ADEC approved disposal site.
- ✦ **Fuel and Chemical Storage:** All fuel and chemical storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Permit Evidence and Inspection:** Permittee and Permittee's employees shall carry a copy of this permit at all times or a copy should be posted at the processing plant in a location visible to all employees and the public. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the processing business permitted under this authorization is purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the processing operations described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those

activities.

- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the permit has been discontinued.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Annual Report:** By January 15th of each calendar year, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that it is complying with all AEB approved plans, permit stipulations and requirements.
- ✦ **Final Report:** Within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Onshore Seafood Processors to obtain a land use permit within the Aleutians East Borough, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.090).
 - ✦ “Onshore Seafood Processor” means a for-profit company that buys, processes, and/or exports a fishery resource using facilities located onshore. This definition excludes Offshore Seafood Processors and Direct Marketing Seafood Processors.
- ✦ **Do I need a permit if I plan to process seafood within an AEB Municipality (Incorporated City) that has land use planning authority under AEBMC 40.01.020?** You do not need an AEB land use permit. You may be required to obtain a city business license, register your business, and/or obtain a city land use permit. Please contact the city office for more information on their requirements.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** No. This application must be typed.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the application fee, and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** The application fee is \$1,000 for the initial permit application and each renewal application. Permits are valid for up to 5 years maximum. Each amendment to an existing permit costs \$50.
- ✦ **How long will it take to obtain a permit?** Permit approval timelines will vary based on permit application complexity, completeness and degree of public interest; however, you should plan for at least a period of one year. Your first step should be to meet with the AEB for a Pre-Application Meeting to discuss your permit application and goals, this meeting will give the AEB a better understanding of your project proposal and will provide AEB with the opportunity to identify and fund resources to assist on the project.
- ✦ **Is a Pre-Application Meeting required?** Yes. You must meet with the AEB for a pre-application meeting at least 180 days period to submitting the application for approval.

- ✦ **When is my permit application due?** Your permit application should be submitted at least 180 days prior to the time you need an approved permit. Most permit approvals should be issued within 180 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, (including permit fee payment) will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations) and have paid all required taxes on time, may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the Administrator without public review.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments may be approved by the Administrator within 30 days without public review. Major amendments require Assembly approval and can take 3-6 months, and require public review.
- ✦ **What is the difference between a major and minor amendment?** A minor amendment includes administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✦ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✦ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Please provide a brief description of your operations and location. You are also required to provide a Plan of Operations with your permit application where you can provide more detail.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✦ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state, or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4.

- ✦ **Is there a specific format that must be used for maps?** Yes, please consult with the AEB at your pre-application meeting. Maps are requested electronically, in Adobe acrobat pdf, and at least two hard copies.
- ✦ **What information must be contained in the Plan of Operations?** Please describe your project scope, schedule, and plans for operating the facility.
- ✦ **What information must be contained in the Local Economic Development Plan?** Please explain your plans to: (1) train

local residents to become qualified for jobs; (2) plan for recruiting and hiring local residents, including a mechanism for announcing jobs and recruiting locally qualified applicants in the lease area; (3) plan for using local contractors and local businesses, including mandatory notification to qualified local contractors and businesses announcing contract opportunities; and, (4) reporting process documenting the success of the Economic Opportunity Plan in providing local hire and contracting opportunities to AEB residents.

- ✚ **What information must be contained in Design Plan?** Design Plans should be submitted if any new facilities are planned. The plans should show the location, size and type of new facilities planned.
- ✚ **What information must be contained in the Historical and Cultural Resource Protection Plan?** This plan should demonstrate that the proposed site of the facilities has been cleared by an expert, and that construction on this site will not adversely impact historical and cultural resources.
- ✚ **What information must be included in the Transportation Plan and Maps?** The map shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must describe existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the facilities (including a map of these routes). An outline and estimated schedule of planned annual crew changes should be included.
- ✚ **What information must be included in the Pollution Prevention Plan?** The Pollution Prevention Plan must include best management practices for protecting drinking water, air, and local food sources from pollution, including a recycling program. Water requirements, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and solid waste estimates handling methods should all be included.
- ✚ **What information must be included in the Good Neighbor Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060. It must include a plan to ensure surrounding residential properties are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter or interference with media reception and should include charitable or in-kind contributions to support local education, art, and charities, and provide employment training programs to maximize local hire.
- ✚ **What information must be included in the Emergency & Medical Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must provide for adequate medical, rescue, fire, and other emergency services. The plan should preferably include proposals to fund expansion of existing emergency services to support increased demands created by the new Resource Development project.
- ✚ **What information must be included in the Hazardous Materials & Hazards Assessment Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must include an evaluation of all potential hazardous material discharges, and hazards to the facility including, but not limited to, geophysical hazards, fire, flood, erosion, earthquake, coastal storms, and ice.
- ✚ **How do I find a copy of the AEB's Coastal Zone Enforceable Policies?** A copy can be found at <http://www.aleutianseast.org/> under the Permitting Page.
- ✚ **Who do I make the permit fee check out to?** The Aleutians East Borough.
- ✚ **Can I pay for the permit fee using a credit card?** No. The AEB does not accept credit card payment at this time.
- ✚ **Can I pay for the permit fee using cash?** No. You must pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, non-payment of taxes, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

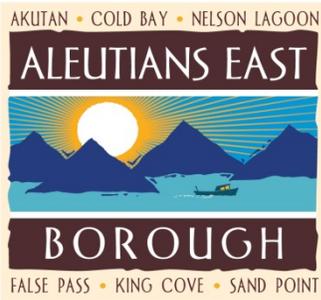
Please sign and date Section No. 7. Applications that are not signed will not be accepted.

Section No. 8 Instructions:

Section No. 8 is for AEB administrative use only. This section of the permit allows AEB to track the permit approval process.

Section No. 9 Instructions:

Section No. 9 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

LARGE MINING OPERATIONS LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)
Resolution 2013 [REDACTED]
[REDACTED], 2013

Large Mining Operations Land Use Permit Fees

- \$25,000 Large Mining Operations Permit Fee Fund**
Aleutians East Borough Municipal Code (AEBMC) Chapter 40.20.050
Initial deposit shall be made at submittal of initial application.
The balance shall be returned to the Permittee at the completion of the project and the site has been reclaimed to the AEB's satisfaction or if the application is withdrawn from consideration.
- \$10,000 Large Mining Operations Permit Fee Fund Minimum Balance**
AEBMC Chapter 40.20.050.

Penalties for Large Mining Operations

- \$0 Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate miners of the new requirement and to provide the miners with the opportunity to come into compliance within 30 days.
- During the calendar year 2014, the Borough will be conducting outreach and education about the new Large Mining Operations Permit requirement and process. During this time, the Borough will issue letters to miners that have failed to submit a permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$250 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- This interim compliance assistance process does not apply to payment of Severance Tax required by AEBMC, Chapter 60.40 for mineral and coal mining. The Severance Tax requirement has been in place since 2011, and Chapter 60.40 includes a process and penalties for noncompliance.
- \$10,000 (maximum) Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a penalty of \$1,000 per day for each day the application was not submitted up to a maximum penalty of \$10,000. The Borough will issue a letter notifying the miner that it has failed to submit a permit application, assessing the penalty, and providing the miner with a permit application form. In addition to this penalty, the \$25,000 Large Mining Operations Permit Fee Fund must also be paid.
- The Borough will issue a letter to the miners who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from the date the Borough letter was issued

will result in a daily penalty of \$250 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.

\$500 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation. (excluding violations that occurred due to intentional acts or omissions or gross negligence).

The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$500. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$500 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$500 penalty by day 30 will result in an additional daily penalty of \$250 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$10,000 (maximum) Notice of Violation Issued by Borough (excluding violations that occurred due to intentional acts or omissions or gross negligence).

Violations reported to and confirmed by the Borough, or found by the Borough will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request a penalty payment of \$1,000 per day for each day the violation occurred up to a maximum penalty of \$10,000.

The penalty payment must be paid within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the penalty by day 30 will result in an additional daily penalty of \$250 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100,000 (maximum) Violations that Occurred due to Intentional Acts or Omissions or Gross Negligence

Violations that occurred due to intentional acts or omissions or gross negligence, reported to and confirmed by the Borough, or found by the Borough and confirmed by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation and request a penalty payment. The penalty will be set by the Borough based on the circumstances of the violation of up to \$1,000 per day for a maximum of \$100,000.

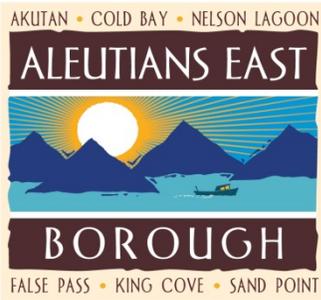
The penalty payment must be paid within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the penalty by day 30 will result in an additional daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$250/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and the Permittee does not submit payment within 30 days from the date the Borough letter was issued, a daily penalty of \$250 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500/day Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$500/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$500/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

LARGE MINING OPERATIONS LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
 Aleutians East Borough
 P.O. Box 349
 Sand Point, Alaska 99661
 907-383-2699

AEB Use Only	
Permit No.	MCMO: 20 ___-___-___
Date Received:	___/___/___
Date Approved:	___/___/___

Section No. 1: Permit Applicant Information	
Type of Mining <input type="checkbox"/> Coal <input type="checkbox"/> Mineral (name type (s)) _____ <input type="checkbox"/> New Permit <input type="checkbox"/> Permit Renewal <input type="checkbox"/> Permit Amendment will not increase impact (minor) <input type="checkbox"/> Permit Amendment will increase impact (major)	
Name of Operator: _____	
Business Name: _____	
Address: (Street) _____ (City) _____ (State) _____ (Zip) _____	
Contact Person: (name) _____ (title) _____	
Office Phone: (____) - ____ - ____	Cell Phone: (____) - ____ - ____
Satellite Phone: (____) - ____ - ____	Office Fax: (____) - ____ - ____
Email Address: _____@_____ Webpage Address: www. _____.	
Number of Years in Business: _____	
State of Alaska Business License No.: _____ Issue Date: _____ Expiration Date: _____	
Federal Tax Identification EIN No. _____	

Section No. 2: Mining Description, Location and Timing	
Township: _____, Range: _____ Section: _____, Meridian: _____	
Property Address : _____	
Estimated number of tons mined per year: Coal _____ Mineral(s) _____	
Estimated surface area to be disturbed: _____ (acres) Depth of excavation _____ (feet)	
Describe Operations and Location: _____ _____ _____	
Hours of Operation: _____ Start Date: _____ End Date: _____ Reclamation Date: _____	
Days of Operation: <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday <input type="checkbox"/> Sunday	
Months of Operation: <input type="checkbox"/> January <input type="checkbox"/> February <input type="checkbox"/> March <input type="checkbox"/> April <input type="checkbox"/> May <input type="checkbox"/> June <input type="checkbox"/> July <input type="checkbox"/> August <input type="checkbox"/> September <input type="checkbox"/> October <input type="checkbox"/> November <input type="checkbox"/> December	
<input type="checkbox"/> Map(s) of Location Attached to Application (required) <input type="checkbox"/> Routes of Access Shown on Map(s) (required)	

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land
 Private (Name): _____ Other (Name): _____
Contact Name: _____ Phone: _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other
Name of legal document: _____
Date of Agreement/Issue: _____ Expiration Date: _____

Does the instrument used to obtain legal access allow for the type, location, amount and extent of coal or mineral excavation operations described in this permit application? Yes No

If you answered "yes," are there any limitations placed on your operations? Yes No

If you answered "yes," please describe the limitations _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No
Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock
 Other: _____
 Other: _____
 Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No
Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock
 Other: _____
 Other: _____
 Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

For facilities not owned by the Applicant, describe legal access to use or operate the facilities.

Lease Contract Permit License Other
Name of legal document: _____
Date of Agreement/Issue: _____ Expiration Date: _____

Section No. 4: Required Attachments to Permit Application

- Location Map(s): Must clearly show land ownership, natural features, and township, range and section. Maps must be submitted electronically for incorporation into the Borough’s electronic information system.
- Transportation Plan including routes of access marked on map(s) showing ingress and egress routes.
- Project Scope and Schedule
- Study & Project Monitoring Plan
- Field Office Plan
- Good Neighbor Plan
- Pollution Prevention Plan
- Reclamation Plan
- A copy of State of Alaska Business License
- A copy of final Federal Environmental Impact Statement (EIS) or Environmental Assessment (EA), if required.
- A copy of all state and federal permit decisions.
- Large Mining Operations Permit Fee Fund Payment (Confirmation that \$25,000 was deposited at the pre-application meeting.)
- Large Mining Operations Permit Fee Fund Balance of at least \$10,000 (renewals and amendments)
- Conflict Avoidance Plan (Fisheries and Subsistence Use)
- Local Economic Development Plan
- Infrastructure Support Plan
- Historical and Cultural Resources Protection Plan
- Hazards Assessment Plan
- Surety
- Emergency Plan

Section No. 5: Prior Operating Experience in Aleutians East Borough

I have previously explored for minerals or coal at this location under an AEB permit. Yes No

I have operated this business in AEB boundaries in prior years. Yes No Number of Years: _____

I have all required private, local, state, and federal permits, licenses and/or authorizations. Yes No

Business has operated in compliance with all local, state & federal requirements since inception. Yes No

I have paid severance tax to AEB as required since 2011. Yes No No mining since 2011

Permits, licenses and/or authorizations for this business are subject to current enforcement action. Yes No

Reason for enforcement action : _____

Permits, licenses and/or authorizations for this business have been revoked in the past. Yes No

Reason for revocation: _____

Section No. 6: Agreement to Comply with Severance Tax Payment

Mining, extracting, harvesting, removing or producing for sale, profit or commercial use, any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound, or combination of mineral products or mining, quarrying, or producing for sale, profit, or commercial use any coal anywhere within the Aleutian East Borough is subject to a Severance Tax of 1.5% times the gross production value per ton unless the annual gross production value of the operation does not equal or exceed \$5,000 annually. I agree to comply with Aleutian East Borough’s Municipal Code Chapter 60.40, Severance Tax payment requirements.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 8: Permit Decision [AEB Use Only]

\$25,000 Initial Fee Paid: Yes No Check No.: _____ Amount: _____

Pre-Application Meeting Held Date: _____

Application Meeting Held Date: _____

Verification of minimum \$10,000 Fee balance (amendments or renewals) Date: _____

Final Complete Application Submitted Date: _____

90 Day Application Review Period Start Date: _____ End Date: _____

Note: 90 day review period includes 30 day written public review that must be completed within that 90 day period.

30 Day Public Review Period Start Date: _____ End Date: _____

90 Day Application Review Period Extended No Yes New End Date: _____

Administrator Recommendation to PC Date: _____

60 Day PC Application Review Period Start Date: _____ End Date: _____

Note: 60 day review period includes one meeting of Planning Commission (PC) with opportunity for public comment

60 Day Application Review Period Extended No Yes New End Date: _____

PC Recommendation to Assembly Date: _____

30 Day Assembly Decision Period Start Date: _____ End Date: _____

Note: 30 day review period includes one meeting of Assembly with opportunity for public comment

30 Day Assembly Decision Period Extended No Yes New End Date: _____

Assembly Decision

Approved: Approval Date: _____ Expiration Date: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No. 9 Permit Stipulations) Yes No

Mayor or Designee Name (printed): _____

Mayor or Designee Signature: _____

Section No. 9: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed five years. Permittee shall have an approved permit prior to conducting any mineral or coal mining operations. An approved permit must be maintained by the mineral or coal mining Operator until the mining operations and Reclamation Plan are completed. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and supporting documents submitted and approved as part of this permit. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Conflict Avoidance Plan (Fisheries and Subsistence Use):** Permittee must adhere to its approved Conflict Avoidance Plan. The plan requires that Commercial Fishing, Subsistence Use, and Sport Harvest Conflicts will be avoided. Commercial fishing, subsistence use, and sport harvest have priority. Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Compliance with Approved Plans:** Permittee must adhere to its approved Project Scope and Schedule, Study & Project Monitoring Plan, Local Economic Development Plan, Field Office Plan, Infrastructure Support Plan, Transportation Plan, Historical and Cultural Resources Protection Plan, Good Neighbor Plan, Pollution Prevention Plan, Hazards Assessment Plan, Reclamation Plan, and Emergency Plan.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat, except for those areas specifically authorized for mining of minerals and coal. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Fish Habitat Protection:** Permittee's mining operations shall not adversely affect spawning, rearing, migrating, or over wintering areas for anadromous fish. Mining shall not be conducted in locations which have been documented to provide spawning, rearing or over wintering habitat for anadromous fish. Permittee's mining operations shall avoid causing increases in sedimentation, siltation and the resulting turbidity that could have a significant adverse impact to aquatic productivity and habitats, marine fish, shellfish, or anadromous fish populations in marine, estuarine, and freshwater environments. In streams and their floodplains which provide habitat for anadromous fish, mining operations shall minimize clearing of riparian vegetation and disturbance of natural banks and mining site configurations shall be shaped to blend with physical features and surroundings to provide for diverse riparian and aquatic habitats.

- ✦ **Explosives:** To protect fish, explosives shall not be detonated within, beneath, or adjacent to marine, estuarine, or fresh waters that support fish unless 1) the detonation of the explosives produces an instantaneous pressure change in the water body of no more than 2.7 pounds per square inch, and a vibration of no more than 0.5 inches per second or 2) the water body, including its substrate, is frozen, or 3) fish and marine mammals are not present.
- ✦ **In-stream Mining:** Mining operations in stream floodplains shall be located and designed to avoid adverse changes to channel hydraulics and the potential for channel diversion through the mining site. A stable bank and bed profile shall be maintained during mining. A stable bank and bed profile is one that will not alter river currents or change erosion and deposition patterns downstream.
- ✦ **Stream Alteration:** Mining operations shall not adversely affect natural stream hydraulics by channelization, diversion, spur dike construction, or other activities.
- ✦ **Water Appropriation:** Mining operations shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas.
- ✦ **Water Quality:** Mining operations shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies. Zero water pollution discharge should be achieved unless the Applicant proves to the Borough that it is not technically feasible.
- ✦ **Air Quality:** Operations shall not adversely impact air quality or human health.
 - ✦ Best Available Air Emission Control Technology: shall be installed for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds) and hazardous air pollutants.
 - ✦ Fuel/Power Selection: The lowest air pollution impact fuel sources shall be used. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used.
 - ✦ Vapor Controls: All equipment and facilities must install vapor recovery systems to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited.
- ✦ **Overburden Disposal:** No overburden shall be disposed of in lakes, within the mean annual floodplain of streams or rivers, or below the limit of mean high water in intertidal areas and estuaries. Overburden in upland areas shall be saved and replaced on the cleared area to conform to the natural topography as part of the reclamation procedure.
- ✦ **Human Health and Socioeconomics:** Mines must be sited, designed and operated in a manner that protects human health from adverse impacts. Mines must improve the quality of life for local residents and must not have adverse socioeconomic affects.
- ✦ **Transportation:** Transportation routes and methods used to bring equipment and supplies to the mine site and to transport recovered minerals or coal from the mine site shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Docks, Ports and Loading Facilities:** Docks, ports and loading facilities must be sited to limit impact on fish, shellfish, wildlife and their habitat. Docks and ports must be added to accommodate mine needs. Fisherman and local vessels must be allowed safe harbor. Dredging must not adversely impact fish or shellfish resources.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable or permanently installed sanitation systems shall be provided at the mining operation for workers use. All grey water and human waste shall be collected and disposed of at an ADEC approved disposal site.

- ✦ **Fuel and Chemical Storage:** All fuel and chemical storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Reclamation:** Lands shall be restored to meet the Reclamation Plan submitted and approved as part of this permit.
- ✦ **Surety Bond.** A surety bond in the amount required by AEB must be provided to AEB prior to conducting any operations under this permit, and must be maintained until AEB has determined in writing that all requirements under this permit have been met, including site reclamation to AEB's satisfaction.
- ✦ **Permit Evidence and Inspection:** Permittee, and Permittee's employees shall carry a copy of this permit at all times or a copy should be posted at the mine site in a location visible to all employees and the public. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the mining business permitted under this authorization is purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the mining operations described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.
- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the site has been remediated to the AEB's satisfaction and the permit has been discontinued.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Quarterly Report:** By January 15th, April 15th, July 15th and October 15th of each calendar year, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that it is complying with all AEB approved plans, permit stipulations and requirements.

- ✦ **Survey or Another Approved Measurement Method:** On or before February 1st of each year, and within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, providing survey data that verifies the amount of materials that were extracted from the mining operation. If a survey is not otherwise required by the land or mineral owner, or is cost prohibitive the Permittee may propose and obtain AEB approval of an alternative, equivalent measuring method.
- ✦ **Final Report:** Within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Large Mining Operations to obtain a land use permit within the Aleutians East Borough Resource Development District, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.020). Large Mining Operations may only occur, if permitted by AEB within the Aleutians East Borough Resource Development District.
 - ✦ “Coal Mining” means mining, extraction, harvesting removing or producing for sale, profit or commercial use any coal and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources.
 - ✦ “Mineral Mining” means mining, extraction, harvesting, removing or producing for sale, profit or commercial use any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound or combination of mineral products and all associated processing, refining, and transportation and distribution infrastructure required to commercially develop these resources.
 - ✦ “Large Mining Operations” means Coal Mining or Mineral Mining operations of five (5) acres or more at any one time.
- ✦ **Do I need a permit if I plan to mine within an AEB Municipality that has delegated land use planning authority under AEBMC 40.01.020?** You may be required to obtain a local business license, register your business and/or obtain a municipal land use permit. Please contact the AEB Municipality for more information on their requirements.
- ✦ **Is this a new requirement?** No. In 2006, AEB’s Assembly revised the AEBMC to require mining operations to obtain a land use permit within the AEB boundaries. In 2013, AEB updated its land use permitting requirements for mining operations, to streamline and clarify the permit application process and develop this specific permit application. The main elements of the 2006 requirements and permit approval criteria were retained.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** No. This application must be typed.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the Resource Development Fee Fund and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** Large Mining Operations Permit Applicants must submit an initial Large Mining Operations Permit Fee Fund payment of \$25,000 which AEB will use to pay for the cost of reviewing and approving the proposed application (See AEBMC Chapter 40.20.050). If the permit is approved the fund will also be used by the AEB to monitor mine operations for compliance with permit requirements. The Large Mining Operations Permit Fee Fund payment must be provided to the AEB at the pre-application meeting. A minimum balance of \$10,000 must be maintained in this fund at all times. Depending on the complexity of the permit application, need for experts, and the cost of inspection and oversight once the project is in operation, the AEB may not require this entire fund, or may require additional funds. Unused funds will be returned to the Applicant at the completion of the project, or if an application is withdrawn from consideration.
- ✦ **How long will it take to obtain a permit?** Permit approval timelines will vary based on permit application complexity, completeness and degree of public interest; however, you should plan for at least a period of one year. Your first step should be to meet with the AEB for a Pre-Application Meeting to discuss your permit application and goals, this meeting will give the AEB a better understanding of your project proposal and will provide AEB with the opportunity to identify and fund resources to assist on the project.
- ✦ **Is a Pre-Application Meeting required?** Yes. You must meet with the AEB for a pre-application meeting at least 180 days period to submitting the application for approval.

- ✦ **When is my permit application due?** Your permit application should be submitted at least 180 days prior to the time you need an approved permit. Most permit approvals should be issued within 180 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, (including permit fee payment) will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations) and have paid all required taxes on time, may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the Administrator without public review.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments may be approved by the Administrator within 30 days without public review. Major amendments require Assembly approval and can take 3-6 months, and require public review.
- ✦ **What is the difference between a major and minor amendment?** A minor amendment includes administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✦ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✦ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Please provide a brief description of your operations and location. You are also required to provide a Project Scope and Schedule with your permit application where you can provide more detail.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✦ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4.

- ✦ **Is there a specific format that must be used for maps?** Yes, please consult with the AEB at your pre-application meeting. Maps must be submitted electronically for incorporation into the AEB's Geographic Information System, in Adobe acrobat pdf, and at least two hard copies.
- ✦ **What information must be included the Project Scope and Schedule?** The Project Scope and Schedule shall include, at a

minimum, a description of the information required by AEBMC Chapter 40.20.050:

1. Information on proposed Applicant (Operator) and any partners in the planned mine;
2. Proposed mining operations, location and timing;
3. Size and purpose of the operation;
4. Landownership and legal agreements that allow mining on the property and any past mining operations at this site;
5. A list and description of the required equipment, facilities, infrastructure and personnel;
6. Mining methods including overburden removal and storage and the amounts of material to be handled, processed or removed, and whether blasting, drilling, crushing, or screening will be performed;
7. Area and depth of the mining operation, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
8. Amount and type of fuel that will be used and stored at the mine site and oil spill prevention measures that will be used;
9. Amounts of material to be handled, processed or removed; how the material will be processed; and how the tailings will be disposed of;
10. The actions that will be taken to minimize detrimental effects to fish and wildlife;
11. Environmentally or culturally sensitive areas at or near the mine site (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
12. Water and fish habitat protection measures that will be used;
13. Water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and instream requirements);
14. Type and quantity of any elements or chemicals to be used in mining or mineral recovery and storage plans;
15. Location and size of camp facilities and overland transportation;
16. Anticipated restriction on other surface uses of the lease area, including public access;
17. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
18. Plans to comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough;
19. Safety and Security that will be used at the site; and,
20. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained please provide the permit number and date of expiration. If permits are in the process of being issued, please provide information on the date you applied for the permit and the expected date of issue.

✚ **What information must be included in the Conflict Avoidance Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must demonstrate that Commercial Fishing, Subsistence Use and Sport Harvest Conflicts will be avoided. Commercial fishing, subsistence use and sport harvest have priority. You may propose alternative site locations, transportation routes, and other mitigation measures to avoid conflict.

✚ **What information must be included in the Study and Project Monitoring Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050. The plan must be comprehensive and collect sufficient baseline and periodic monitoring data to ensure protection of human health and the environment is being achieved. The plan must be reviewed and approved by the Borough Scientific Advisory Council or an expert designated by the Borough.

✚ **What information must be included in the Local Economic Development Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must include a local hire manpower plan, local business contracting plan, training program, and mentoring program for both construction and operation phases of the resource extraction project.

✚ **What information must be included in the Field Office Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must explain how a field office will be set up and manned at the mine site to provide project oversight, monitoring, address local concerns, and ensure compliance.

✚ **What information must be included in the Infrastructure Support Plan?** The plan shall include, at a minimum, a

description of the information required by AEBMC Chapter 40.20.050 and must include a joint tribal, local community and Applicant agreement approved by all parties, and submitted to the AEB Borough that agrees on whether it will be beneficial to expand community infrastructure to include resource extraction needs, or whether it would be more appropriate to institute enclave development requirements.

- ✚ **What information must be included in the Transportation Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must describe existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the mine site (including a map of these routes).
- ✚ **What information must be included in the Historical and Cultural Resources Protection Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must demonstrate that traditional, historical, and cultural sites will not be disturbed or adversely impacted during the construction or operation of the mine.
- ✚ **What information must be included in the Good Neighbor Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050. It must include a plan to ensure surrounding residential properties are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter or interference with media reception and should include charitable or in-kind contributions to support local education, art, and charities, and provide employment training programs to maximize local hire. This program should provide a fund for impact assistance if adverse impacts are realized by the community or individual residents.
- ✚ **What information must be included in the Pollution Prevention Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must include best management practices for protecting drinking water, air, and local food sources from pollution, including a recycling program.
- ✚ **What information must be included in the Hazards Assessment Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must include an evaluation of all potential hazards to the mine including, but not limited to, geophysical hazards, fire, flood, landslides, erosion, earthquake, coastal storms, and ice.
- ✚ **What information must be included in the Reclamation Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050. The Reclamation Plan shall include a description of your reclamation plans including a timeline and plans to comply with AEB's Coastal Zone Enforceable Policies if mining is planned in the coastal lands and waters of the Borough.
- ✚ **What information must be included in the Emergency Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.050 and must provide for adequate medical, rescue, fire, and other emergency services. The plan should preferably include proposals to fund expansion of existing Borough emergency services to support increased demands created by the new Resource Development project.
- ✚ **How do I determine the amount of Surety Bond required?** You must meet with the AEB and discuss the amount of Surety Bond required for your mine. AEBMC Chapter 40.20.050 requires that the surety bond be sufficient to fund: (1) Environmental clean-up and restoration requirements; (2) Compensate residents for any adverse human health impacts; (3) Compensate commercial fisherman and subsistence users for adverse impacts; and (4) Dismantle, remove, and restore the Resource Development site to its original condition prior to development.
- ✚ **What if my EIS or EA is not complete?** You should discuss the status of any federally required EIS or EA for your project with AEB at your pre-application meeting. Preferably, your permit application should be submitted after the EIS or EA is complete. If your application is submitted while the EIS or EA decision is pending, the AEB will hold your permit application decision in abeyance until the EIS and EA decision is complete, unless this requirement is waived by the AEB.
- ✚ **What if state and federal permit applications have been submitted, but decisions are pending?** You should discuss the status of any state or federal permits for your project with AEB at your pre-application meeting. Preferably, your permit application should be submitted after the state and federal permits are complete. If your application is submitted while the permit decisions are pending, the AEB will hold your permit application decision in abeyance until permits are approved, unless this requirement is waived by the AEB.
- ✚ **How do I find a copy of the AEB's Coastal Zone Enforceable Policies?** A copy can be found at <http://www.aleutianseast.org/> under the Permitting Page.
- ✚ **Who do I make the permit fee check out to?** The Aleutians East Borough.

 **Can I pay for the permit fee using a credit card?** No. The AEB does not accept credit card payment at this time.

 **Can I pay for the permit fee using cash?** No. You must pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, non-payment of taxes, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6.

Mining, extracting, harvesting, removing or producing for sale, profit or commercial use, any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound, or combination of mineral products or mining, quarrying, or producing for sale, profit, or commercial use any coal anywhere within the Aleutian East Borough is subject to a Severance Tax of 1.5% times the gross production value per ton unless the annual gross production value of the operation does not equal or exceed \$5,000 annually. You must sign this section of the application certifying that you will comply with Aleutian East Borough's Municipal Code Chapter 60.40, Severance Tax payment requirements. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

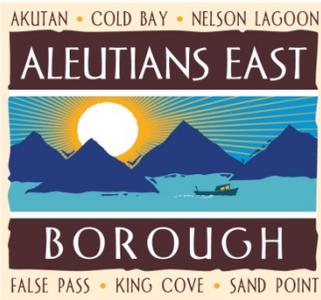
Please sign and date Section No. 7. Applications that are not signed will not be accepted.

Section No. 8 Instructions:

Section No. 8 is for AEB administrative use only. This section of the permit allows AEB to track the permit approval process.

Section No. 9 Instructions:

Section No. 9 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing additional permit stipulations that you must comply with for your operation.



ALEUTIANS EAST BOROUGH

OIL and GAS

LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

PERMIT FEE & PENALTY SCHEDULE

Approved by AEB Assembly
(Pursuant to AEBMC 40.01.060)

Resolution 2013 [REDACTED]
[REDACTED], [REDACTED], 2013

Oil and Gas Land Use Permit Fees

- \$50,000 Oil and Gas Permit Fee Fund**
Aleutians East Borough Municipal Code (AEBMC) Chapter 40.20.060
Initial deposit shall be made at submittal of initial application.
The balance shall be returned to the Permittee at the completion of the project and the site has been reclaimed to the AEB's satisfaction or if the application is withdrawn from consideration.
- \$25,000 Oil and Gas Permit Fee Fund Minimum Balance**
AEBMC Chapter 40.20.060.

Penalties for Oil and Gas Operations

- \$0 Failure to Submit a Land Use Permit Application, Initial Notification (Year 2014)**
No penalty will be assessed for failure to submit a land use permit application during the year 2014. This time is allowed for the Borough to educate Operators of the new requirement and to provide the Operators with the opportunity to come into compliance within 30 days.
- During the calendar year 2014, the Borough will be conducting outreach and education about the new Oil and Gas Land Use Permit requirement and process. During this time, the Borough will issue letters to Operators that have failed to submit a permit application. The letter will state that a land use permit is required, provide a copy of the permit application, and notify the Operator that failure to submit a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is received.
- \$20,000 (maximum) Failure to Submit a Land Use Permit Application, Initial Notification (Starting January 1, 2015)**
Failure to submit a permit application prior to conducting land use activities on or after January 1, 2015 will be assessed a penalty of \$1,000 per day for each day the application was not submitted up to a maximum penalty of \$20,000. The Borough will issue a letter notifying the Operator that it has failed to submit a permit application, assessing the penalty, and providing the Operator with a permit application form. In addition to this penalty, the \$50,000 Oil and Gas Permit Fee Fund must also be paid.
- The Borough will issue a letter to the Operators who have failed to submit a land use permit application. The letter will state that a permit is required, provide a copy of the permit application, and notify the Operator that failure to apply for a permit within 30 days from the date the Borough letter was issued will result in a daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until a permit application is

received.

\$1,000 Self-Reported Violation Reported within Seven (7) Calendar Days and Operator Agrees to Remedy Violation (excluding violations that occurred due to intentional acts or omissions or gross negligence).

The Borough encourages Permittees to immediately report any violation of a permit term or condition to the Borough. The self-reported violation may be initially reported by a telephone call to the AEB Administrator, followed by a written letter that must be received by the Borough within seven (7) calendar days. The Permittee's letter must summarize the violation and explain steps the Permittee plans to take to remedy the violation and mitigate future problems. The Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB.

If the Permittee provides a self-reported violation of a permit term or condition, within seven (7) calendar days of the violation, and the Permittee agrees to remedy the violation, the Borough will assess the Permittee a penalty of only \$1,000. The Borough will issue the Permittee a letter acknowledging receipt of the self-reported violation, request payment of the \$1,000 penalty within 30 days, and verify agreement with the Operator's plan to remedy the violation or establish different requirements for violation remedy than proposed by the Operator. The Borough's letter will also explain that failure to pay the \$1,000 penalty by day 30 will result in an additional daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$20,000 (maximum) Notice of Violation Issued by Borough (excluding violations that occurred due to intentional acts or omissions or gross negligence).

Violations reported to and confirmed by the Borough, or found by the Borough, and confirmed by the Borough will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation, request a penalty payment of \$1,000 per day for each day the violation occurred up to a maximum penalty of \$20,000.

The penalty payment must be paid within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the penalty by day 30 will result in an additional daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$100,000 (maximum) Violations that Occurred due to Intentional Acts or Omissions or Gross Negligence

Violations that occurred due to intentional acts or omissions or gross negligence, reported to and confirmed by the Borough, or found by the Borough and confirmed by the Borough, will result in a Notice of Violation being issued by the Borough to the Permittee. The Borough's Notice of Violation will explain the violation and request a penalty payment. The penalty will be set by the Borough based on the circumstances of the violation of up to \$1,000 per day for a maximum of \$100,000.

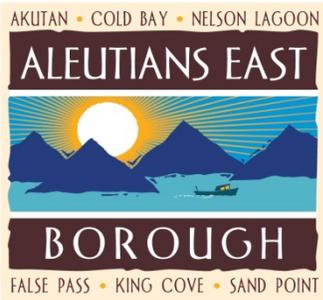
The penalty payment must be paid within 30 days, explain the steps the Permittee must take, and establish a timeframe for remedying the violation. Permittee is financially responsible for remedying the violation, and must complete the remedy on a schedule approved by AEB. The Borough's letter will also explain that failure to pay the penalty by day 30 will result in an additional daily penalty of \$500 per day assessed on day 31. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$500/day Failure to Pay Notice of Violation Penalty, 31 days after Initial Notification

If the Borough has issued a letter notifying the Permittee of the requirement to pay a penalty, and that Permittee does not submit payment within 30 days from the date the Borough letter was issued, a daily penalty of \$500 per day will be assessed. The daily penalty will be assessed starting on day 31 and will continue to be assessed each day until payment is received.

\$1,000/day Failure to Remedy Violation, As Agreed with Borough

Failure to remedy a violation as agreed with the Borough will result in a \$1,000/day penalty. Upon determination that a Permittee has failed to remedy a violation, the Borough will issue a letter stating that the Permittee must immediately remedy the violation and that a \$1,000/day penalty will be assessed from the day that the remedy was originally required, as agreed to by the Permittee and the Borough.



ALEUTIANS EAST BOROUGH

OIL & GAS LAND USE PERMIT

Authority Aleutians East Borough Municipal Code Title 40

Mail Permit Application to:
Aleutians East Borough
P.O. Box 349
Sand Point, Alaska 99661
907-383-2699

AEB Use Only	
Permit No.	OGP: 20 __ - __ - __
Date Received:	___/___/___
Date Approved:	___/___/___

Section No. 1: Permit Applicant Information

Type of Application (check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Onshore | <input type="checkbox"/> Offshore | <input type="checkbox"/> Seismic Exploration |
| <input type="checkbox"/> Oil Exploration Drilling | <input type="checkbox"/> Gas Exploration Drilling | <input type="checkbox"/> Oil Pipelines |
| <input type="checkbox"/> Oil Production Drilling | <input type="checkbox"/> Gas Production Drilling | <input type="checkbox"/> Gas Pipelines |
| <input type="checkbox"/> Oil Production Facilities | <input type="checkbox"/> Gas Production Facilities | <input type="checkbox"/> Loading Terminal |
| <input type="checkbox"/> Oil Transportation | <input type="checkbox"/> Gas Transportation | <input type="checkbox"/> LNG Facility |
| <input type="checkbox"/> Oil Distribution | <input type="checkbox"/> Gas Distribution | <input type="checkbox"/> Refinery |
| <input type="checkbox"/> Support Facilities (list) _____ | | |
| <input type="checkbox"/> Other (list) _____ | | |
| <input type="checkbox"/> Other (list) _____ | | |
| <input type="checkbox"/> Other (list) _____ | | |

- New Permit Permit Renewal Permit Amendment Reason: _____
- Permit Amendment will not increase impact (minor) Permit Amendment will increase impact (major)

Name of Operator: _____

Business Name: _____

Address: (Street) _____ (City) _____ (State) _____ (Zip) _____

Contact Person: (name) _____ (title) _____

Office Phone: (____) - ____ - ____ Cell Phone: (____) - ____ - ____

Satellite Phone: (____) - ____ - ____ Office Fax: (____) - ____ - ____

Email Address: _____@_____._____ Webpage Address: www. _____.

Number of Years in Business: _____

State of Alaska Business License No.: _____ Issue Date: _____ Expiration Date: _____

Federal Tax Identification EIN No. _____

Section No. 2: Oil and Gas Operations Description, Location and Timing

Township: _____, Range: _____ Section: _____, Meridian: _____

Property Address : _____

Brief description of planned oil and/or gas operations and location: _____

Hours of Operation: _____ Start Date: _____ End Date: _____ Reclamation Date: _____

Days of Operation: Monday Tuesday Wednesday Thursday Friday Saturday Sunday

Months of Operation: January February March April May June

July August September October November December

Map(s) of Location Attached to Application (required) Routes of Access Shown on Map(s) (required)

Section No. 3: Property Ownership and Access

Land Owned by Applicant AEB Land State Land Federal Land

Private (Name): _____ Other (Name): _____

Contact Name: _____ Phone: _____

For properties not owned by the Applicant, describe the instrument used to obtain legal access to land.

Lease Contract Permit License Other

Name of legal document: _____

Date of Agreement/Issue: _____ Expiration Date: _____

Does the instrument used to obtain legal access allow for the type, location, amount and extent of oil and gas operations described in this permit application? Yes No

If you answered "yes," are there any limitations placed on your operations? Yes No

If you answered "yes," please describe the limitations _____

Existing Facilities: Legal Access Granted to Use/Operate Existing Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

New Facilities: Legal Access Granted to Construct/Operate New Facilities on Property: Yes No

Access Granted to These Existing Facilities: Building/Structure Runway Road Port/Dock

Other: _____

Construction/Installation Date: _____ All Required Permits Obtained? Yes No

Section No. 6: Certification of Accuracy and Agreement to Comply, Indemnify and Hold Harmless

I certify that the information given by me in this land use permit application is true, complete, and correct. I agree to comply with local, state and federal laws, regulations and requirements pertaining to my business operations and land use. I agree to comply with all permit stipulations placed on this permit. I have reviewed the AEB penalty schedule and agree to immediately notify AEB of any potential violations, remedy any violations on the schedule required by AEB and pay penalties within 30 days. I hereby defend, indemnify, and hold the Aleutians East Borough harmless from any and all claims, damages, law suits, losses, liabilities and expenses related to the death or injury of persons and for the damage to or loss of property arising out of or in connection with the entry on and use of the property within the Aleutian's East Borough boundaries by me, the company I represent, and all contractors, subcontractors, guests, clients and their employees.

Applicant Name (printed): _____ Title: _____

Applicant Signature: _____ Date: _____

Section No. 7: Permit Decision [AEB Use Only]

\$50,000 Initial Fee Paid: Yes No Check No.: _____ Amount: _____

Pre-Application Meeting Held Date: _____

Application Meeting Held Date: _____

Verification of minimum \$25,000 Fee balance (amendments or renewals) Date: _____

Final Complete Application Submitted Date: _____

90 Day Application Review Period Start Date: _____ End Date: _____

Note: 90 day review period includes 30 day written public review that must be completed within that 90 day period.

30 Day Public Review Period Start Date: _____ End Date: _____

90 Day Application Review Period Extended No Yes New End Date: _____

Administrator Recommendation to PC Date: _____

60 Day PC Application Review Period Start Date: _____ End Date: _____

Note: 60 day review period includes one meeting of Planning Commission (PC) with opportunity for public comment

60 Day Application Review Period Extended No Yes New End Date: _____

PC Recommendation to Assembly Date: _____

30 Day Assembly Decision Period Start Date: _____ End Date: _____

Note: 30 day review period includes one meeting of Assembly with opportunity for public comment

30 Day Assembly Decision Period Extended No Yes New End Date: _____

Assembly Decision

Approved: Approval Date: _____ Expiration Date: _____

Denied: Reason: _____

Additional Permit Stipulations Attached (in addition to Section No. 8 Permit Stipulations) Yes No

Mayor or Designee Name (printed): _____

Mayor or Designee Signature: _____

Section No. 8: Land Use Permit Stipulations

- ✦ **Permit Term:** This land use permit is issued for the period specified in the permit; a period not to exceed five years. Permittee shall have an approved permit prior to conducting any oil and/or gas operations. An approved permit must be maintained by the oil and/or gas Operator until the operations and Reclamation Plan are completed. The permit is not a property right; it is revocable at the discretion of the Aleutians East Borough (AEB), at any time upon notice.
- ✦ **Compliance with Requirements:** Permittee shall not conduct any operations that are not specifically described in the permit application and supporting documents submitted and approved as part of this permit. Permittee shall comply with all local, state, and federal laws, regulations, rules and orders, and requirements and stipulations included in this authorization. Permittee shall inform and ensure compliance with these stipulations by his agents, employees, clients and guests. This authorization is revocable immediately upon violation of any of its terms, conditions, and stipulations or upon failure to comply with any applicable laws, statutes, or regulations.
- ✦ **Land Owner Authorization:** Permitted activities on private, local, state, or federal land may not commence without land owner approval (this includes travel across lands and use of lands). The AEB reserves the right to request a copy and verify all land owner authorizations related to this permit. Land owner approval to access lands described in this permit shall be maintained during the permit term or this permit is null and void. No permanent facilities may be constructed or placed on AEB lands without obtaining a lease or contract with the AEB. This permit does not authorize permanent facilities on AEB lands.
- ✦ **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of the Permittee, its employees, agents, clients guests, contractors, subcontractors or licensees directly or indirectly conducted in conjunction with this permit, including environmental and hazardous substance risks and liabilities, whether occurring during or after the term of this permit. Permittee shall defend, indemnify and hold harmless the AEB, its employees and agents from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind of nature including all attorney fees and litigation costs, arising out of, in connection with or incident to any act or omission by the Permittee, its employees, agents, clients, guests, contractors, subcontractors or licensees. This indemnification shall survive the expiration or termination of this permit.
- ✦ **Damages and Claims:** Permittee shall pay the AEB for any damage to Borough property resulting from use. This permit is subject to valid adverse claims heretofore or hereafter acquired.
- ✦ **Reservation of Rights:** The AEB reserves the right to grant additional authorizations for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of lands within the AEB; their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of each user.
- ✦ **Licenses, Permits and Authorizations:** Permittee shall maintain its State of Alaska Business License, City Business License (or business registration as required), and any other private, local, state or federal license, permit or authorization required during the entire permit term or this permit will be null and void. The AEB reserves the right to request a copy of all licenses, permits, or authorizations.
- ✦ **Conflict Avoidance Plan (Fisheries and Subsistence Use):** Permittee must adhere to its approved Conflict Avoidance Plan. The plan requires that Commercial Fishing, Subsistence Use, and Sport Harvest Conflicts will be avoided. Commercial fishing, subsistence use, and sport harvest have priority. Permittee's uses of land and wildlife habitat shall minimize adverse impacts on subsistence activities and resources. Noise shall be mitigated to avoid disruption to subsistence activities and nearby communities.
- ✦ **Compliance with Approved Plans:** Permittee must adhere to its approved Project Scope and Schedule, Study & Project Monitoring Plan, Local Economic Development Plan, Field Office Plan, Infrastructure Support Plan, Transportation Plan, Historical and Cultural Resources Protection Plan, Good Neighbor Plan, Pollution Prevention Plan, Hazards Assessment Plan, Reclamation Plan, and Emergency Plan.
- ✦ **Site Disturbance:** All activities shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems to protect local habitat, except for those areas specifically authorized for oil and gas operations. Particular attention shall be paid to prevent pollution and siltation of streams, lakes, ponds, seeps and marshes, and to prevent disturbances to fish and wildlife populations and habitats.
- ✦ **Fish Habitat Protection:** Permittee's operations shall not adversely affect spawning, rearing, migrating, or over wintering areas for anadromous fish. Oil and gas operations shall not be conducted in locations which have been documented to provide spawning, rearing or over wintering habitat for anadromous fish. Permittee's operations shall avoid causing increases in sedimentation, siltation and the resulting turbidity that could have a significant adverse impact to aquatic productivity and habitats, marine fish, shellfish, or anadromous fish populations in marine, estuarine, and freshwater environments. In streams and their floodplains which provide habitat for anadromous fish, operations shall minimize clearing of riparian vegetation and disturbance of natural banks and areas required for permitted operations shall be shaped to blend with physical features and surroundings to provide for diverse riparian and aquatic habitats.

- ✦ **Explosives:** To protect fish, explosives shall not be detonated within, beneath, or adjacent to marine, estuarine, or fresh waters that support fish unless 1) the detonation of the explosives produces an instantaneous pressure change in the water body of no more than 2.7 pounds per square inch, and a vibration of no more than 0.5 inches per second or 2) the water body, including its substrate, is frozen, or 3) fish and marine mammals are not present.
- ✦ **Stream Alteration:** Operations shall not adversely affect natural stream hydraulics by channelization, diversion, spur dike construction, or other activities. Operations in stream floodplains shall be located and designed to avoid adverse changes to channel hydraulics and the potential for channel diversion. A stable bank and bed profile shall be maintained and is one that will not alter river currents or change erosion and deposition patterns downstream.
- ✦ **Water Appropriation:** Operations shall not withdraw surface waters at a withdrawal rate or timing which adversely affects anadromous fish habitat, particularly spawning or overwintering areas.
- ✦ **Water Quality:** Operations shall not adversely impact water quality and natural productivity of streams, rivers, and lakes within the Borough and shall significantly increase water turbidity or rate of sediment deposition above natural levels. Toxic/harmful effluents shall not be discharged into the Borough watersheds or water bodies.
- ✦ **Zero Water Pollution Discharge:** should be achieved whenever technically feasible achieved unless the Applicant proves to the Borough that it is not technically feasible.
 - ✦ Drilling Fluids, Drilling Cuttings, and Cement shall not be discharged to onshore or offshore waters, during exploration or production operations. Drilling waste must be collected and disposed of by injecting the waste into a wellbore annulus or disposal well. Top-hole muds and cuttings may be discharged, if the operator demonstrates to the Borough that it is not technically feasible to collect this waste.
 - ✦ Produced Water shall not be discharged into onshore or offshore waters and must be collected and disposed of by subsurface injection.
 - ✦ Sanitary and Domestic Wastes shall not be discharged from onshore or nearshore terminals or pipeline facilities into onshore or offshore waters. Sanitary and domestic waste from onshore or nearshore facilities shall receive tertiary treatment prior to discharge, or be collected and injected into a disposal well. Offshore sanitary or domestic waste shall receive the highest level of treatment technically feasible (no less than primary treatment) and if a disposal well is available, this waste shall be collected and injected along with the other platform waste.
 - ✦ Non-Contact Cooling Water shall only be discharged into fresh or marine waters if there is technical and scientific proof provided to the Borough that the thermal impact will not harm the ecosystem.
 - ✦ Well Test and Well Work-Over Fluids including (produced oil, produced water, acids, frac sands, proppant material and other well stimulant materials) shall not be discharged into onshore or offshore waters.
 - ✦ Un-segregated Ballast Water shall not be discharged into onshore or offshore waters during exploration or production operations. Waste must be collected and disposed of by subsurface injection.
 - ✦ Disposal Wells shall be designed to ensure protection of drinking water sources, by injecting waste several thousand feet below any known drinking water sources.
 - ✦ All other wastes shall be treated to remove oil and grease prior to discharge. No waste shall be discharged containing toxic compounds.
 - ✦ Ballast Water Exchange shall be conducted no less than 200 nautical miles from any Aleutian Island coastline. Sufficient volumes of water shall be used to purge ballast water tanks to ensure non-indigenous species removal. Ballast water exchange must be conducted by all foreign and domestic vessels prior to discharge at a terminal facility or platform. If ballast water exchange is not possible due to foul weather, or other reasons, ballast water treatment must be conducted prior to discharge. If ballast water exchange is not possible, ballast water must be treated to remove non-indigenous species prior to discharge into the Aleutian Island coastline and treatment methods must ensure non-indigenous species.
- ✦ **Air Quality:** Operations shall not adversely impact air quality or human health.
 - ✦ Best Available Air Emission Control Technology: shall be installed for criteria air pollutants (including oxides of nitrogen and sulfur, carbon monoxide, particulate matter, volatile organic compounds) and hazardous air pollutants.
 - ✦ Fuel/Power Selection: The lowest air pollution impact fuel sources shall be used. Solar, wind and other alternative power sources must be considered when technically feasible. Where alternative energy options are not technically feasible, natural gas fired combustion systems shall be used whenever possible. Ultra-low sulfur diesel fuels shall be used.
 - ✦ Vapor Controls: All equipment and facilities must install vapor recovery systems to reduce volatile organic compounds (VOCs) and Hazardous Air Pollutants (HAP) by at least 98%. Direct venting of VOCs and HAPs to the atmosphere is prohibited.
 - ✦ Flaring: All flaring shall be limited to safety and emergency use only.

- ✦ **Human Health and Socioeconomics:** Oil and Gas projects must be sited, designed and operated in a manner that protects human health from adverse impacts. Oil and gas projects must improve the quality of life for local residents and must not have adverse socioeconomic affects.
- ✦ **Transportation routes and methods:** used to bring equipment and supplies to the site and to transport recovered oil and/or gas from site shall not adversely impact biological resources or community lifestyle. Any damage to road systems, docks or other public transportation infrastructure shall be repaired by the Permittee at its cost.
- ✦ **Transportation, Utility Corridors and Infrastructure Siting:** Transportation routes, utility corridors and infrastructure shall be carefully sited and constructed to allow for the free passage and movement of fish and wildlife, to avoid construction during critical migration periods for fish and wildlife. Pipelines shall be buried wherever possible. The siting of facilities, other than docks, roads, utility or pipeline corridors, or terminal facilities, is prohibited within one-half mile of the coast, barrier islands, reefs and lagoons, fish bearing waterbodies and 1,500 feet from all surface water drinking sources.
 - ✦ **Offshore Loading Facilities:** No offshore LNG or oil loading facilities will be permitted. Loading facilities must be located onshore.
 - ✦ **Bering Sea Transportation:** All oil and gas produced in the Bering Sea must be transported by subsea pipeline across the Aleutian Peninsula to an onshore loading facility on the Pacific Ocean side. No oil or LNG tankers shall be allowed to operate in the Bering Sea.
 - ✦ **Tankers:** No single hull tankers will be allowed to transport oil or LNG. Double hull tankers with redundant navigation and safety systems are required.
 - ✦ **Vessel Traffic and Communication System:** must be developed. Designated shipping lanes must be established for LNG and oil tanker traffic on the Pacific Ocean side, to reduce tanker collision risk, and eliminate interference with the fishing industry. Designated traffic routes must be established for vessel traffic related to platform operations (construction, operation, crew changes, resupply, etc.) to eliminate interference with the fishing industry. Vessel traffic for seismic surveys or other studies must select a route and season that will not interfere with fishing activities. A radio communication notification and reporting system must be established to enhance communication between fishing vessels and oil and gas vessel traffic and enhance safety for both industries. The communication system must monitor traffic in the Bering Sea and Pacific Ocean.
 - ✦ **Onshore Facilities:** Onshore facilities must be sited to limit impact on fish, shellfish, wildlife and their habitat. LNG Facilities must be designed to in a way that does not impact fish and shell fish and its habitat, including cooling water facilities.
 - ✦ **Docks, Ports and Loading Facilities:** Docks, ports and loading facilities must be sited to limit impact on fish, shellfish, wildlife and their habitat. Docks and ports must be added to accommodate oil and gas facility needs. Fisherman and local vessels must be allowed safe harbor. Dredging must not adversely impact fish or shellfish resources.
 - ✦ **Hydrographic Surveys:** shall be completed to accurately survey and select the safest designated tanker shipping lanes and designated traffic routes to platform operations, as well as selecting the least damaging pipeline route through fisheries habitat.
 - ✦ **Seismic Design:** The North Aleutian Basin is ranked the highest seismic risk category (Zone IV). All onshore and offshore facilities must be designed to the Seismic Zone IV, Uniform Building Code design standard for the Aleutian Chain to mitigate the risk to human health and the environment.
 - ✦ **Offshore Pipelines:** Offshore pipeline construction and operation must not adversely impact fish, shellfish, wildlife and their habitat, especially during migration and spawning to minimize impacts to survival and reproduction.
 - ✦ **Offshore oil and gas facilities, transportation and utility corridors:** must be consolidated, sited and constructed to allow for the free passage and movement of fish and wildlife. Construction must not occur during critical migration periods for fish and wildlife.
 - ✦ **Offshore Pipelines** must be buried under the seabed floor at a depth sufficient to protect the pipeline from damage from ice or other hazards. The offshore to onshore pipeline transition must be designed to take into account coastal erosion. Pipelines must be designed and constructed to:
 - ✦ Assure integrity against climatic conditions (including high winds), coastal erosion and geophysical hazards.
 - ✦ Corrosion prevention systems must be installed and corrosion monitoring systems must be operated. Pipeline inspection pigs and maintenance pigging systems must be installed and used routinely. Pipelines must be inspected at least annually.
 - ✦ Pipeline leak detection systems must be installed and operated. Pipeline valves must be installed to shut down the pipeline, isolate hydrocarbon flow and limit the amount of hydrocarbon discharge. Tanks must be placed on and offshore to evacuate the pipeline system in case of pipeline damage.

- ✦ **Onshore Pipelines & Facilities:** Onshore facilities must be sited to meet the following requirements:
 - ✦ Wildlife and their habitat shall not be impacted particularly during migration. Calving and over-wintering areas shall be protected to minimize impact to the survival or reproduction of caribou, moose and bear.
 - ✦ Fish, shellfish and their habitat shall not be impacted particularly during migration and spawning to minimize impacts to survival and reproduction.
 - ✦ Onshore oil and gas facilities, transportation and utility corridors shall be consolidated, sited and constructed to allow for the free passage and movement of fish and wildlife.
 - ✦ Construction shall not occur during critical migration periods for fish and wildlife.
 - ✦ Onshore oil and gas facilities (other than docks, roads, utility or pipeline corridors, or terminal facilities) shall be sited at least one-half mile away from the coast, barrier islands, reefs and lagoons and all fish bearing water bodies and at least 1,500 feet away from all current surface drinking water sources. Additionally, siting of such facilities is prohibited within one-half mile of the banks of the Igushik, Naknek, Egegik, King Salmon (tributary to Egegik), David, Milky, Ugashik, King Salmon (tributary to Ugashik), Cinder, Meshik, Ilnik, Muddy, Sandy, Bear, Nelson, Caribou, Sapsuk and Dog Salmon Rivers, Black Hills, Steelhead, Painter and Pumice Creeks, Becharof and Ugashik Lakes and Franks Lagoon.
 - ✦ Road, utility, and pipeline crossings shall be consolidated and aligned perpendicular to water courses.
 - ✦ Pipelines shall utilize existing transportation corridors and be buried.
 - ✦ Pipeline gravel pads shall be designed to facilitate the containment and cleanup of spilled fluids. Pipelines shall be designed and constructed to assure integrity against climatic conditions and geophysical hazards.
 - ✦ Pipelines and facilities shall be designed and constructed to:
 - ✦ Assure integrity against climatic conditions (including high winds), coastal erosion and geophysical hazards.
 - ✦ Corrosion prevention systems must be installed and corrosion monitoring systems must be operated.
 - ✦ Pipeline inspection pigs and maintenance pigging systems must be installed and used routinely. Pipelines must be inspected at least annually.
 - ✦ Pipeline leak detection systems must be installed and operated. Pipeline valves must be installed to shut down the pipeline, isolate hydrocarbon flow and limit the amount of hydrocarbon discharge.
 - ✦ Tanks must be placed onshore to evacuate the pipeline system in case of pipeline damage.
- ✦ **Timber Use:** Permittee shall not cut any timber on lands or remove other resources from the land without prior written permission of the land owner.
- ✦ **Fires:** Permittee shall take all reasonable and prudent precautions to prevent and suppress forest, brush, and grass fires. Open burning of hazardous or contaminated material is strictly prohibited. Black smoke is prohibited.
- ✦ **Solid Waste:** Prior to removal, all garbage and debris that are subject to decomposition shall be stored in bear-proof containment. All solid waste, debris and hazardous substances generated from short-term (portable) camp use or other activities conducted in accordance with this authorization shall be removed to a facility approved by the Alaska Department of Environmental Conservation (ADEC). Permittee shall keep the operating areas and facilities used in a neat, orderly, and sanitary condition.
- ✦ **Watershed Protection:** Watershed areas shall be protected. All operations shall be conducted to minimize or eliminate siltation, road and surface runoff and pollution of the water supply. No stationary or mobile equipment may be transported over, refueled on, or operated on a public drinking water supply.
- ✦ **Grey Water and Human Waste Disposal:** Portable or permanently installed sanitation systems shall be provided at the operation for workers use. All grey water and human waste shall be collected and disposed of at an ADEC approved disposal site.
- ✦ **Fuel and Chemical Storage:** All fuel and chemical storage containers shall be clearly marked with the contents and the Permittee's name. The Permittee is responsible for preventing spillage and contamination of contiguous land and water as well as cleaning up any oil or other pollutants that result from activities associated with this permit. Drip pans and absorbent pads shall be available to contain and clean up spills from any transfer or handling of fuel.
- ✦ **Oil, Chemical and Fuel Spill Prevention:**
 - ✦ **Tanks:** All hydrocarbons, hazardous materials and hazardous chemicals shall be stored in tanks located in secondary containment systems holding 110% of the tank capacity. Tanks must be equipped with cathodic protection, leak detection systems and overfill alarms.

- ✦ **Pipelines:** Pipelines shall be equipped with tank and pump systems capable of evacuating the pipeline, cathodic protection systems, and redundant leak detection systems.
- ✦ **Drilling Rigs:** Blowout prevention systems shall be installed prior to drilling into over-pressured or hydrocarbon bearing zones.
- ✦ **Tankers:** No single hull tankers shall be allowed to transport oil or LNG. Double hull tankers with redundant navigation and safety systems are required.
- ✦ **Supply/Fuel Vessels:** Double hull vessels are required in the presence of ice.
- ✦ **Oil Spill Response:** Operator must own, or have under contract, state-of-the-art oil-spill response equipment, sufficient to respond to the worst-case discharge as well as protect fisheries, subsistence use areas and other environmentally sensitive areas. The Operator must consult with the AEB to determine the optimal spill response equipment staging location. Equipment must be staged to rapidly respond to drilling platform and pipeline spills, to respond to onshore tank, pipeline, and processing and terminal facility spills, and to respond to tanker spills. The Operator must hold contracts with a sufficient number of fishing vessels to support a rapid oil spill response. Dispersant may not be used without AEB approval.
- ✦ **Geographic Response Strategies (GRS):** The Operator must ensure oil spill response equipment is pre-positioned for immediate deployment to protect fisheries, subsistence use areas and other environmentally sensitive areas in the event of a spill. The Operator must develop geographic response strategies (in consultation with AEB), field test them, train staff and pre-position the equipment to implement the GRS, prior to start of operations.
- ✦ **Well Control Equipment & Personnel:** The Operator must own, or have under contract well control equipment to control a well blowout, including well capping equipment and access to a relief well rig. The Operator must employ, or have under contract, a well control expert. Well blowout control, well capping equipment, and the well control expert must be located in the project area while wells are drilled.
- ✦ **Spills:** All spills of fuels or chemicals shall be reported to AEB (907) 383-2699 and ADEC (800) 478-9300 within 24 hours and be cleaned up immediately and thoroughly to the AEB's satisfaction.
- ✦ **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Recreation (907) 269-8721 and the appropriate coastal district shall be notified immediately.
- ✦ **Removal of Temporary Equipment and Facilities:** All temporary equipment and facilities, supplies, waste, and fuel shall be removed before the end of each authorized term of use, or on or before permit termination.
- ✦ **Permanent Facilities, Structures and Access Routes:** This permit does not grant the Permittee the right to construct any road, dock, port, or runway or erect, construct or place any building, structure, or other fixture on lands within the AEB boundaries. The Permittee shall obtain legal access and authorization from the land owner prior to these activities. A separate lease or contract is required to construct permanent facilities, structure and access routes on AEB lands.
- ✦ **Reclamation:** Lands shall be restored to meet the Reclamation Plan submitted and approved as part of this permit.
- ✦ **Surety Bond.** A surety bond in the amount required by AEB must be provided to AEB prior to conducting any operations under this permit, and must be maintained until AEB has determined in writing that all requirements under this permit have been met, including site reclamation to AEB's satisfaction.
- ✦ **Permit Evidence and Inspection:** Permittee, and Permittee's employees shall carry a copy of this permit at all times or a copy should be posted at each operational site in a location visible to all employees and the public. Authorized representatives of the AEB have the right to enter and inspect the operations approved under this permit at any time to ensure that the activity is being or has been accomplished in accordance with the terms and conditions of this permit.
- ✦ **Permit Assignment:** This permit is not transferable and cannot be assigned or subleased, in whole or in part, to another party. If the operations permitted under this authorization are purchased by another owner, this permit is no longer valid. A new permit application shall be submitted by the new owner, and approved by AEB.
- ✦ **Amendments:** Permittee shall immediately notify AEB of any change of information submitted in this application. Permittee is only authorized to conduct the operations described in this permit application and approval. Any change to the operation will require a permit amendment application to be submitted and approved prior to conducting those activities.
- ✦ **Violations and Enforcement:** Pursuant to AEB Municipal Code (AEBMC) Chapter 1.20.020 and 1.24.010, a person who violates a provision of this permit is subject to any action available to the AEB for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The AEB may seek damages available under a civil action.

- ✦ **Additional Stipulations:** AEB reserves the right to modify the stipulations attached and made a part of this permit or to attach additional stipulations when deemed necessary. If stipulations are added or modified by AEB, the permit will be reissued with the revised permit stipulations. The Permittee will have 60 days to come into compliance with the new requirements.
- ✦ **Communication with AEB about the Permit:** All communication regarding activities and reports required under this permit must be clearly marked with the AEB permit number on the front page of the document and submitted to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Recordkeeping:** Permittee shall keep and preserve all records of business activities conducted in AEB for at least 5 years after the site has been remediated to the AEB's satisfaction and the permit has been discontinued.
- ✦ **Complaints:** Permittee shall notify the AEB of any written or verbal complaint received within 48 hours by contacting the AEB at (907) 383-2699. The AEB will also notify the Permittee of any complaints received at the AEB Offices. Within seven (7) calendar days of receiving a complaint or being notified of a complaint by the AEB, the Permittee shall provide a written response to the AEB explaining the steps taken to resolve the complaint, or explain why it is not a valid complaint. This permit may be revoked if the AEB receives and validates a complaint regarding impact to subsistence use, trespass, human health, excessive noise, or safety.
- ✦ **Quarterly Report:** By January 15th, April 15th, July 15th and October 15th of each calendar year, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that it is complying with all AEB approved plans, permit stipulations and requirements.
- ✦ **Final Report:** Within 180 days after this permit expires, the Permittee shall submit a letter to the AEB at P.O. Box 349, Sand Point, Alaska 99661, confirming that all permit stipulations and requirements have been met and that the area used is clean and restored as required in the approved Reclamation Plan.

General Permit Instructions

- ✦ **Who needs a permit?** Title 40 of the Aleutians East Borough Municipal Code (AEBMC) requires Oil and Gas Mining Operators to obtain a land use permit within the Aleutians East Borough Resource Development District, excluding the municipal lands where AEB has delegated land use planning authority to an AEB municipality (see AEBMC 40.01.020). Oil and Gas Operations may only occur, if permitted by AEB within the Aleutians East Borough Resource Development District.
- ✦ **Do I need a permit if I plan to conduct Oil and Gas Operations within an AEB Municipality that has delegated land use planning authority under AEBMC 40.01.020?** You may be required to obtain a local business license, register your business and/or obtain a municipal land use permit. Please contact the AEB Municipality for more information on their requirements.
- ✦ **Is this a new requirement?** No. In 2006, AEB's Assembly revised the AEBMC to require Oil and Gas Operators to obtain a land use permit within the AEB boundaries. In 2013, AEB updated its land use permitting requirements for oil and gas operations, to streamline and clarify the permit application process and develop this specific permit application. The main elements of the 2006 requirements and permit approval criteria were retained.
- ✦ **How do I complete the Application? Is there an electronic version of this form?** An Adobe Acrobat, PDF fillable version of the application can be found at <http://www.aleutianseast.org/> under the Permitting Page. Please save a copy to your computer, rename the file, and fill it in electronically on the computer. Please note that you must print and sign a final hard copy of the application and mail the completed application, along with a check for the fees and all required information to AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Can I submit a handwritten application?** No. This application must be typed.
- ✦ **Where do I send my Permit Application?** Please mail a completed copy of the permit application, a check for the Resource Development Fee Fund and all required information to the AEB at P.O. Box 349, Sand Point, Alaska 99661.
- ✦ **Who do I call if I have a question?** Please contact the AEB Clerk/Planner at (907) 383-2699.
- ✦ **What is the permit fee?** Oil and Gas Permit Applicants must submit an initial Oil and Gas Permit Fee Fund payment of \$50,000 which AEB will use to pay for the cost of reviewing and approving the proposed application (See AEBMC Chapter 40.20.050). The Oil and Gas Permit Fee Fund payment must be provided to the AEB at the pre-application meeting. If the permit is approved the fund will also be used by the AEB to monitor mine operations for compliance with permit requirements. A minimum balance of \$25,000 must be maintained in this fund at all times. Depending on the complexity of the permit application, need for experts, and the cost of inspection and oversight once the project is in operation, the AEB may not require this entire fund, or may require additional funds. Unused funds will be returned to the Applicant at the completion of the project, or if an application is withdrawn from consideration.
- ✦ **How long will it take to obtain a permit?** Permit approval timelines will vary based on permit application complexity, completeness and degree of public interest; however, you should plan for at least a period of one year. Your first step should

be to meet with the AEB for a Pre-Application Meeting to discuss your permit application and goals, this meeting will give the AEB a better understanding of your project proposal and will provide AEB with the opportunity to identify and fund resources to assist on the project.

- ✦ **Is a Pre-Application Meeting required?** Yes. You must meet with the AEB for a pre-application meeting at least 180 days period to submitting the application for approval.
- ✦ **When is my permit application due?** Your permit application should be submitted at least 180 days prior to the time you need an approved permit. Most permit approvals should be issued within 180 business days; however, delays can occur during peak work periods or during holidays.
- ✦ **How long is the permit valid?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. The permit remains valid, provided applicant complies with permit terms and conditions. Once the permit is issued, the permit may be amended. An amended permit is only valid for the remaining term on the originally issued permit.
- ✦ **What happens if my application is incomplete?** Submittal of an application does not guarantee that it will be accepted. Only applications that are determined to be entirely complete, (including permit fee payment) will be accepted. Incomplete applications will be returned to the applicant for additional information and revision.
- ✦ **Who assigns new permit numbers?** The AEB will assign a permit number when your application is received. Please refer to this number in all future correspondence.
- ✦ **How do I renew an existing permit?** Approved permits are valid for the period specified in the permit; a period not to exceed five years. A renewal application must be submitted at least 180 days before your permit expires. Permittees that have operated in compliance for the prior permit term (with no violations), may be eligible for an expedited renewal process if the renewal application does not increase impact over the original permit approval. Renewal applications that meet these criteria will be processed in 30 days by the Administrator without public review.
- ✦ **How do I amend an existing permit?** A permit amendment may be submitted at any time during the period that the existing permit is valid. The permit applicant must explain the reason for the permit amendment. Minor amendments are approved by the Administrator within 30 days. Major amendments require Assembly approval and can take 3-6 months.
- ✦ **What is the difference between a major and minor amendment?** A minor amendment includes administrative, scope or timing changes that do not increase impact over the original permit approval. Major amendments increase impact over the original permit approval.

Section No. 1 Instructions

Please fill out all the required information in Section No. 1. Check all boxes that apply.

- ✦ **What if I don't have a State of Alaska Business License?** All businesses operating in the State of Alaska are required to have a business license. See http://www.commerce.state.ak.us/occ/home_bus_licensing.html. You must obtain a license before submitting your application.
- ✦ **What if I don't have a Federal Tax ID?** All businesses operating in the State of Alaska are required to have a Federal Tax ID. See [http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-\(EINs\)](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-(EINs)). You must obtain a federal Tax ID before submitting your application.

Section No. 2 Instructions:

Please fill out all the required information in Section No. 2. Check all boxes that apply. Please provide a brief description of your operations and location. You are also required to provide a Plan of Operations with your permit application where you can provide more detail.

Section No. 3 Instructions:

Please fill out all the required information in Section No. 3. Check all boxes that apply.

- ✦ **Why do I have to provide information on property ownership and access?** The AEB needs you to provide sufficient information to verify that you either own the property that you plan to conduct business on, or that you have obtained legal access to that land for the period that this permit will be valid, before issuing you a permit. The AEB will not issue permits to applicants that cannot demonstrate that they own or have secured legal access to use private, local, state or federal lands for commercial purposes. Please provide a contact name and phone number that can verify your legal agreement.

Section No. 4 Instructions:

Please provide all the required information in Section No. 4.

- ✦ **Is there a specific format that must be used for maps?** Yes, please consult with the AEB at your pre-application meeting. Maps must be submitted electronically for incorporation into the AEB's Geographic Information System, in Adobe Acrobat pdf, and at least two hard copies.
- ✦ **What information must be included in the Project Scope and Schedule?** The Project Scope and Schedule shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060:
 1. Information on proposed Applicant (Operator) and any partners in the planned Oil and Gas project;
 2. Proposed Oil and Gas operations, location and timing;
 3. Size and purpose of the operation;
 4. Landownership and legal agreements that allow Oil and Gas operations on the property and any past mining operations at this site;
 5. A list and description of the required equipment, facilities, infrastructure and personnel;
 6. Area of Oil and Gas operations, including a map showing the topography, vegetation, distance to waterbodies, wetlands, residential areas, and other private structures or operations;
 7. Amount and type of oil, fuel, and chemicals that will be used and stored at the project site and oil spill prevention measures that will be used;
 8. The actions to be taken to minimize detrimental effects to fish and wildlife;
 9. Environmentally or culturally sensitive areas at or near the project (e.g. fish spawning habitat, subsistence use area, nearby residential properties or schools);
 10. Water and fish habitat protection measures that will be used;
 11. Water requirements (i.e., intended use of appropriated waters, sources and methods of obtaining water, rate of acquisition, design of wastewater treatment systems, and in stream requirements);
 12. Location and size of camp facilities and overland transportation;
 13. Anticipated restrictions on other surface uses of the lease area, including public access;
 14. Noise, visual and dust suppression mitigation measures that will be implemented to lessen impacts on surrounding neighbors and properties;
 15. Plans to comply with AEB's Coastal Zone Enforceable Policies if Oil and Gas is planned in the coastal lands and waters of the Borough;
 16. Safety and security that will be used at the site; and,
 17. A summary of all required local, state and federal permits and the status of those permits. If the permits have been obtained please provide the permit number and date of expiration. If permits are in the process of being issued please provide information on the date you applied for the permit and the expected date of issue.
- ✦ **What information must be included in the Conflict Avoidance Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must demonstrate that Commercial Fishing, Subsistence Use and Sport Harvest Conflicts will be avoided. Commercial fishing, subsistence use and sport harvest have priority. You may propose alternative site locations, transportation routes, and other mitigation measures to avoid conflict.
- ✦ **What information must be included in the Study and Project Monitoring Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060. The plan must be comprehensive and collect sufficient baseline and periodic monitoring data to ensure protection of human health and the environment is being achieved. The plan must be reviewed and approved by the Borough Scientific Advisory Council or an expert designated by the Borough.
- ✦ **What information must be included in the Local Economic Development Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must include a local hire manpower plan, local business contracting plan, training program, and mentoring program for both construction and operation phases of the resource extraction project.

- ✦ **What information must be included in the Field Office Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must explain how a field office will be set up and manned at the project site to provide project oversight, monitoring, address local concerns, and ensure compliance.
- ✦ **What information must be included in the Infrastructure Support Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must include a joint tribal, local community and Applicant agreement approved by all parties, and submitted to the AEB Borough that agrees on whether it will be beneficial to expand community infrastructure to include resource extraction needs, or whether it would be more appropriate to institute enclave development requirements.
- ✦ **What information must be included in the Transportation Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must describe existing and new transportation infrastructure needed, anticipated haul routes, and points of ingress and egress to the project site (including a map of these routes).
- ✦ **What information must be included in the Historical and Cultural Resources Protection Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must demonstrate that traditional, historical, and cultural sites will not be disturbed or adversely impacted during construction or operation.
- ✦ **What information must be included in the Good Neighbor Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060. It must include a plan to ensure surrounding residential properties are not adversely impacted by excessive noise, fumes, odors, pollution, contamination, glare, smoke, light, vibration, dust, litter or interference with media reception and should include charitable or in-kind contributions to support local education, art, and charities, and provide employment training programs to maximize local hire. This program should provide a funds and systems for impact assistance if adverse impacts are realized by the community or individual residents.
- ✦ **What information must be included in the Pollution Prevention Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must include best management practices for protecting drinking water, air, and local food sources from pollution, including and a recycling program.
- ✦ **What information must be included in the Hazards Assessment Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must include an evaluation of all potential hazards to the project including, but not limited to, geophysical hazards, fire, flood, landslides, erosion, earthquake, coastal storms, and ice.
- ✦ **What information must be included in the Reclamation Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060. The Reclamation Plan shall include a description of your reclamation plans including a timeline and plans to comply with AEB's Coastal Zone Enforceable Policies if oil and gas operations are planned in the coastal lands and waters of the Borough.
- ✦ **What information must be included in the Emergency Plan?** The plan shall include, at a minimum, a description of the information required by AEBMC Chapter 40.20.060 and must provide for adequate medical, rescue, fire, spill response, and other emergency services. The plan should preferably include proposals to fund expansion of existing Borough emergency services to support increased demands created by the new Resource Development project.
- ✦ **How do I determine the amount of Surety Bond required?** You must meet with the AEB and discuss the amount of Surety Bond required for your project. AEBMC Chapter 40.20.060 requires that the surety bond be sufficient to fund: (1) Environmental clean-up and restoration requirements; (2) Compensate residents for any adverse human health impacts; (3) Compensate commercial fisherman and subsistence users for adverse impacts; and (4) Dismantle, remove, and restore the Resource Development site to its original condition prior to development.
- ✦ **What if my EIS or EA is not complete?** You should discuss the status of any federally required EIS or EA for your project with AEB at your pre-application meeting. Preferably, your permit application should be submitted after the EIS or EA is complete. If your application is submitted while the EIS or EA decision is pending, the AEB will hold your permit application decision in abeyance until the EIS and EA decision is complete, unless this requirement is waived by the AEB.
- ✦ **What if state and federal permit applications have been submitted, but decisions are pending?** You should discuss the status of any state or federal permits for your project with AEB at your pre-application meeting. Preferably, your permit application should be submitted after the state and federal permits are complete. If your application is submitted while the permit decisions are pending, the AEB will hold your permit application decision in abeyance until permits are approved, unless this requirement is waived by the AEB.
- ✦ **How do I find a copy of the AEB's Coastal Zone Enforceable Policies?** A copy can be found at <http://www.alutianseast.org/> under the Permitting Page.

- # **Who do I make the permit fee check out to?** The Aleutians East Borough.
- # **Can I pay for the permit fee using a credit card?** No. The AEB does not accept credit card payment at this time.
- # **Can I pay for the permit fee using cash?** No. You must pay by check.

Section No. 5 Instructions:

Please fill out all the required information in Section No. 5. Check all boxes that apply. The AEB will take into consideration any currently pending enforcement action, or prior revocations in making its decision on whether or not to approve the permit.

Section No. 6 Instructions:

Please sign and date Section No. 6. Applications that are not signed will not be accepted.

Section No. 7 Instructions:

Section No. 7 is for AEB administrative use only. This section of the permit allows AEB to track the permit approval process.

Section No. 8 Instructions:

Section No. 8 is a list of standard permit stipulations that will be applied to your permit approval. Additionally, AEB reserves the right to add additional site-specific, operator-specific stipulations to this list. Your final permit may include an additional addendum listing any additional permit stipulation that you must comply with for your operation.

Presentation by
Alaska Permanent Capital Management
Aleutians East Borough Investment Review

Presentation by
Newhouse & Vogler

Aleutians East Borough FY 2013 Audit Draft
Review