

HB

201

<TARGET><BILL>HB 201</BILL><SUBJECT>HB
201</SUBJECT><COMM>HCRA30</COMM></TARGET>

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

SPONSOR STATEMENT

HB 201 – Municipal regulation of trapping

The purpose of House Bill 201 is to explicitly authorize home rule and general law municipalities to regulate trapping for the limited purpose of preventing injury to persons or property, including domestic animals. In the process of committee deliberations on House Bill 40, which proposed a state-wide ban on trapping within two-hundred feet of certain public areas, public testimony indicated that municipalities may be better able to tailor specific regulations to promote safe trapping given the vast lands and diversity of uses in Alaska; however, it was also argued that municipalities do not have authorization under state law or the state Constitution to regulate trapping.

The Attorney General in a 1982 opinion derived from certain provisions of the Alaska Constitution and the Alaska Statutes, Title 29, the principle that municipalities cannot *directly* regulate game but may enact ordinances with an 'incidental effect' on game. In correspondence this year regarding HB 40, the administration used similar language and provided case law supporting at least the principle of state plenary control over game management.

In effect, approximately fifteen cities or boroughs within Alaska regulate trapping in some way already. The scope of these regulations span from prohibitions on trapping of domestic animals, which is arguably already illegal under the state's cruelty to animals statute, to prohibitions on trapping within the entire jurisdiction, which arguably is direct regulation of game.

Thus, the purpose of House Bill 201 is to remove legal uncertainty over whether existing or future municipal safe trapping ordinances are direct regulations or merely have incidental effect. It does so by: (1) stipulating the statutory authorization of state game management in Title 16; and (2) specifically authorizing municipalities to limit trapping in certain ways (for example, trap tags and signage) for a specific purpose (preventing injury to people and domestic animals) in particular areas (where injury is likely to occur) and allows for exemptions (for example, to prevent the spread of disease), in Title 29.

I urge you to support this legislation and please feel free to contact my staff Megan Rowe at 465-4939 with questions.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 201
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB201-DFG-DWC-04-07-17
Title: MUNICIPAL REGULATION OF TRAPPING
Sponsor: JOSEPHSON
Requester: House Community and Regional Affairs

Department: Department of Fish and Game
Appropriation: Wildlife Conservation
Allocation: Wildlife Conservation
OMB Component Number: 473

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/18

Why this fiscal note differs from previous version:

Initial version.

Prepared By: <u>Bruce Dale, Director</u>	Phone: <u>(907)861-2101</u>
Division: <u>Wildlife Conservation</u>	Date: <u>04/07/2017 05:00 PM</u>
Approved By: <u>Carol Petraborg, Director</u>	Date: <u>04/07/17</u>
Agency: <u>Division of Administrative Services</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB 201

Analysis

This bill allows home rule and general law municipalities the ability to regulate trapping within their boundaries. The trapping activities regulated may only be done to protect life and property and the municipality may exempt trappers from the municipal regulations for good cause.

The department will continue to monitor trapping in accordance with regulations in place. The division does not anticipate any additional activities as part of the legislation; therefore, there will be no additional costs.

The department will identify any regulations that are inconsistent with the statute, and the Board of Game will adopt, amend, and repeal existing regulations to reflect the statutory changes.

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MEMORANDUM

March 1, 2017

SUBJECT: Municipal authority to regulate trapping
(Work Order No. 30-LS0587)

TO: Representative Andy Josephson

FROM: Susie Shutts *Susie Shutts*
Legislative Counsel

You requested an opinion regarding whether municipalities may regulate trapping. Specifically, may a municipality prohibit trapping that is otherwise permissible under Board of Game regulations?

In order to regulate trapping, a municipality would need to first have the authority to regulate trapping.¹ Provided that a municipality had the authority to regulate trapping, a municipal ordinance would then only be upheld if it were not preempted by state law.

Municipal authority to regulate trapping

The power to regulate trapping has not specifically been granted to general law municipalities as a general power, although that power could be acquired if not prohibited by law. Determination of whether a home rule municipality could adopt an ordinance regarding trapping would require consideration of whether exercise of that power has been restricted in that municipality's charter. In addition, a municipality could enact an ordinance related to trapping in exercise of its police powers to protect public health and safety. In response to the question "Do local governments, i.e. cities and boroughs, have an obligation or authority on behalf of public safety or local zoning that preempts state authority to manage wildlife?" the attorney general issued an opinion that stated:

¹ The legislature classifies boroughs and cities and prescribes their powers and functions. Art. X, secs. 3 and 7, Constitution of the State of Alaska. Under art. X, sec. 11, Constitution of the State of Alaska, home rule municipalities may exercise all powers not prohibited to them by law or charter, whereas general law municipalities may only exercise powers specified in law and powers properly acquired and not prohibited by law. AS 29.35.010 sets out general powers for all municipalities. In addition, the legislature confers certain additional powers to boroughs and cities. *See, e.g.*, AS 29.35.200 (first class boroughs); AS 29.35.210 (second class boroughs); AS 29.35.250 (cities inside boroughs); and AS 29.35.260 (cities outside boroughs).

Representative Andy Josephson

March 1, 2017

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No, local governments cannot preempt state authority. However, local governments, in the exercise of valid police powers, may restrict the discharge of firearms or enact similar kinds of ordinances that may have an incidental effect on hunting and trapping. However, [. . .] where the local government ordinance goes beyond legitimate local concerns or where it frustrates a statewide program for game management, the local regulation must yield. [. . .] A borough ordinance that did not directly address legitimate local concerns and which frustrated overall game management would probably be held invalid as preempted by the statewide interest in uniform game management. For example, if a borough, through a firearms or similar ordinance, were effectively to close down huge areas of the state to hunting or trapping, for reasons not reasonably related to protection of life and property, the local ordinance would probably be held invalid as a frustration of the statewide management of game. The reason for this result is that effective statewide game management, including regulation of species that transverse local political boundaries, requires uniform management decisions, leaving no room for independent game management jurisdiction by local governments. Localized game control would "substantially interfere" with the purposes of conservation and development of the resources and the functions of the Board of Game [. . .] under no circumstances does a local governmental ordinance "preempt" state authority. Local governments may, however, enact ordinances within their general police powers that are on the same subject as state statutes, so long as they do not conflict with the state statute or frustrate the exercise of statewide laws. Local governments do not have authority to directly regulate the management of fish and wildlife, but may enact legitimate police power regulations such as restrictions on the use of firearms where they are reasonably necessary to protect life or property.^[2]

Whether a municipality has the authority to enact a regulation that affects trapping would also depend on which land the municipal ordinance concerns. Specifically, the ownership and acquisition history of the land at issue and, for example, any public access easements. You asked about whether municipalities "can regulate wildlife management on 'their' lands" and clarified that you are referring to "local governments' abilities to regulate wild animals on their own land." By this, I was not sure whether you meant you are only concerned with municipal regulation on land owned by the municipality or on land within the boundaries of a municipality (whether privately or publicly owned).

² 1982 Inf. Op. Att'y Gen. (Nov. 19; 166-486-82).

Where the *municipality* is the landowner, the municipality would enjoy rights akin to that of a private landowner regarding use of that property by others.³ For example, permission from the municipality could be required for trapping on that land.

Preemption by state law

Provided that a municipality had the authority to enact a specific ordinance related to trapping, the ordinance would only be upheld if it were not preempted by state law. A municipal ordinance is preempted by state law if the ordinance (1) is expressly preempted by the legislature, (2) directly conflicts with a statute,⁴ or (3) substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose.⁵ The Alaska legislature can pass a law clearly prohibiting a municipality from regulating an issue or area, and has done so.⁶ However, in the case of trapping, all municipal regulation is not expressly preempted by the legislature. In the absence of such express legislative direction, the question would therefore be whether state regulation of trapping is substantially irreconcilable with a borough ordinance such that "one cannot be given its substantive effect if the other is to be accorded the weight of law"⁷ or whether the municipal ordinance impedes or frustrates a specific statewide policy expressed by state law.⁸

³ Note that Alaska's criminal trespass statutes do not distinguish between private and public property. *See Turney v. State*, 936 P.2d 533 (Alaska 1997).

⁴ *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974). ("The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded the weight of law.").

⁵ *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1121 - 22 (Alaska 1978) (upholding borough taxation of fish sales, an activity which the state manages "to a very detailed extent," because the borough tax did not "substantially interfere" with the state scheme).

⁶ *See, e.g.*, AS 28.01.010 (specifies that municipalities may not enact traffic ordinances that are inconsistent with state law); AS 29.35.145(a) (reserves regulation of firearms to the state except as specifically provided by statute); AS 29.35.147 (reserves authority to license massage therapists to the state except as specifically provided by statute); AS 43.55.017(a) (state oil and gas production tax is "in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax on" producing oil or gas leases, oil or gas produced or extracted in the state, or the value of intangible drilling and development costs).

⁷ *Jefferson*, 527 P.2d at 43.

⁸ *Simpson v. Municipality of Anchorage*, 635 P.2d 1197, 1204 (Alaska 1981).

Representative Andy Josephson

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For example, under AS 16.05.330(a), "without having the appropriate license or tag in actual possession, a person may not engage in [. . .] trapping." A municipal ordinance that purported to allow a person to engage in trapping in the municipality without the appropriate license or tag would be preempted by this provision. But whether a court would uphold a municipal ordinance that fell short of such blatant preemption would depend on the specific ordinance.

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MEMORANDUM

April 3, 2017

SUBJECT: Borough and city ordinances (Work Order No. 30-LS0790)

TO: Representative Andy Josephson
Attn: Megan Rowe

FROM: Susie Shutts *Susie Shutts*
Legislative Counsel

You asked when a borough ordinance preempts an ordinance by a city within the borough.

The legislature classifies boroughs and cities and prescribes their powers and functions.¹ General law municipalities may exercise powers specified in law² and may exercise powers not otherwise prohibited by law if the power has been properly acquired.³ Home rule municipalities in Alaska may exercise all powers not prohibited to them by law or charter.⁴

Generally, assuming that a borough has the authority to enact a particular ordinance, the borough ordinance would "preempt" a city ordinance if the borough enacted an areawide⁵

¹ Art. X, sec. 3, Constitution of the State of Alaska; art. X, sec. 7, Constitution of the State of Alaska.

² AS 29.04.020 ("A general law municipality . . . has legislative powers conferred by law.").

³ AS 29.35.300 - 29.35.350.

⁴ Art. X, sec. 11, Constitution of the State of Alaska. For limitation of home rule powers under AS 29, see AS 29.10.200.

⁵ "Areawide" means "throughout a borough, both inside and outside all cities in the borough." AS 29.71.800(1). A power that is exercised by a borough on an areawide basis is exercised throughout the entire borough, including within cities that are within the borough. In contrast, "nonareawide" means "throughout the area of a borough outside all cities in the borough." AS 29.71.800(14). A power that is exercised by a borough on a nonareawide basis is exercised throughout the borough, except for within cities that are within the borough.

ordinance and did not provide for the city's concurrent exercise of the power. This is because, under AS 29.35.250(b), if a borough ordinance provides for the areawide exercise of a power, "no city may exercise the power unless the borough ordinance provides otherwise or the borough by ordinance ceases to exercise the power."

Planning is an example of a field where the Alaska statutes specify that regulation must be on an areawide basis. AS 29.40.010 provides that "[a] first or second class borough shall provide for planning, platting, and land use regulation on an areawide basis." But, under AS 29.40.010(b):

(b) If a city in a borough consents by ordinance, the assembly may by ordinance delegate any of its powers and duties under this chapter to the city. The assembly may by ordinance, without first obtaining the consent of the city, revoke any power or duty delegated under this section.

The Matanuska-Susitna Borough, which is a second-class borough, has apparently delegated planning authority to the City of Wasilla, which is a first class city.⁶ But, as provided under AS 29.40.010(b), the borough could revoke that delegation.

Generally, as a first class city inside a borough, under AS 29.35.250, Wasilla "may exercise any power not otherwise prohibited by law." However, as explained above, Wasilla may have its powers limited if the borough adopts an ordinance for the areawide exercise of a power and does not permit the city to exercise that same power.

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⁶ See Matanuska-Susitna Borough Code at MSB 17.45.030.

1982 WL 43763 (Alaska A.G.)

Office of the Attorney General

State of Alaska
File No. 166-486-82
November 19, 1982

Authority of Board of Game to Adopt Regulations for Public Safety Purposes

*1 Milstead C. Zahn
Executive Director
Boards of Fisheries and Game
Department of Fish and Game

Your October 6, 1982 memorandum requested advice from this office regarding the scope of authority of the Board of Game to adopt hunting regulations that serve a purpose other than wildlife management. In addition, you asked seven specific questions about game board prohibitions and restrictions relating to shooting.

By way of summary response, the Board of Game may not adopt regulations that exceed the authority delegated to that board by the legislature. Although the Board of Game's authority will be broadly construed, the purpose of the regulations must relate to the conservation and development of the game resources of the state, including resource utilization and allocation. Regulations based upon a purely public safety purpose are not within the scope of the board's authority. These conclusions are analyzed in more detail below.

Any determination of the extent of the Board of Game's authority to adopt regulations requires an examination of the statutes which created the board and established its powers. Kenai Peninsula Fisherman's Cooperative Association v. State, 628 P.2d 897, 901 (Alaska 1981). The legislature created the Alaska Board of Game as a separate P.2d 897, 901 (Alaska 1981). conservation and development of the game resources of the state' AS 16.05.221(b).¹ The legislature gave the Board of Game specific regulation-making powers, but excluded administrative, budgeting, and fiscal powers from the board's functions. AS 16.05.241. The primary regulatory powers of the board are set out at AS 16.05.255, as discussed below.² In addition, the Board of Game has authority to adopt emergency regulations under AS 44.62.250, where 'necessary for the immediate preservation of the public peace, health, safety, or general welfare.' However, this does not confer upon the Board of Game broad powers to enact regulations outside the scope of conservation and development purposes. The emergency regulation statutes 'do not . . . augment the authority of a state agency to adopt, administer, or enforce a regulation', and the regulation must still be within the 'scope of authority' conferred upon the board. AS 44.62.020.

AS 16.05.255 provides that the Board of Game 'may make regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62)' for specific enumerated game management purposes.³ Game board regulations must to within the scope of these statutory authorities, and 'must be premised on the need to effectuate conservation and development purposes. Kenai Peninsula Fisherman's Cooperative Association v. State, Id. at 903.

As a general rule, conservation laws such as fish and game statutes are liberally construed to achieve their intended purpose. Id. Conservation and development purposes include the concept of utilization of the resource. Id. 'Conservation' has been defined as 'planned management of a resource to prevent exploitation, destruction, or neglect', and 'development' has been defined as 'to make available or usable'. See Webster's New Collegiate Dictionary (1973), quoted in Kenai Peninsula Fisherman's Cooperative Association v. State, 628 P.2d at 903.

*2 Thus, the Board of Game is not vested with any inherent or common law power to enact regulations for the general welfare or public safety. It must act within the scope of authority delegated by the legislature. Id. The board's regulations must be consistent with the statute that grants regulatory authority and be reasonably necessary to carry out the statute's purposes. AS 44.62.030. In other words, the regulations of a state agency must be within the framework of the statutory grant of authority: 'the agency may make rules and regulations supplementing the legislation for its complete operation and enforcement, so long as such rules and regulations are within the standards set forth in the act of the legislative body.' Adams v. Industrial Commission, 547 P.2d 1089, 1090 (Ariz. App. 1976), citing, inter alia, Ruiz v. Morton, 462 F.2d 818 (9th Cir. 1972), affirmed 415 U.S. 199 (1974) .

None of the functions of the Board of Game set out at AS 16.05.255 or elsewhere, grant the Board of Game any independent authority to adopt regulations for public safety purposes.⁴ However, the board may adopt regulations that serve a conservation and development purpose, but which incidently have a public safety effect. See e.g., Kenai Peninsula Fisherman's Cooperative Association, Id. at 908.

With the above general principles in mind, the following responses address the seven specific questions set out in your memorandum of October 6, 1982.

1. 'May the board open and close areas to game harvest for purposes other than resource management necessity?'

Answer: No, the board may only open and close areas to game harvest for purposes of conservation and development of the game resources of the state. The board may, under AS 16.05.255(b) and AS 16.05.257, restrict defined geographic areas to subsistence uses only, but the subsistence harvest must be within conservation limits . By analogy, our state supreme court has held that the Commissioner of the Department of Fish and Game's broad authority to adopt emergency field orders under AS 16.05.060 to open and and close seasons 'where circumstances require', must relate to a resource conservation and development purpose. Kenai Peninsula Fisherman's Cooperative Association v. State, 628 P.2d 897 (Alaska 1981). Similarly the Board of Game's implementation of its statutory authority must relate to resource conservation and development needs .⁵

2. 'May the board prohibit shooting in defined areas for the purpose of public safety, or the protection of property?'

Answer: No, the board may only enact game management regulations, but these may include regulation of the 'methods and means' used to take game (AS 16.05.255(a)(3)), and allocations among users, such as bow hunters, rifle hunters, and photographers. If there is coincidentally an effect on public safety, this does not invalidate the regulation.

3. 'In view of the history of shooting prohibitions on highways in Alaska and in other states, and restrictions on shooting over navigable waters, is there any common law precedence for the boards to regulate shooting, per se, when not in a resource management context?'

*3 Answer: No. As discussed above, the Board of Game has no common law powers independent of those powers specifically delegated by the legislature. Clearly, the Board of Game could restrict hunting with guns in the vicinity of highways as a means of making hunting less efficient, to effectuate a conservation purpose. However, merely prohibiting discharge of firearms along roadways for public safety purposes is not within the parameters of the board's authority delegated by the legislature.

4. 'Does the state and federal subsistence priority restrict board authority to make shooting or harvest closures that are not management necessities?'

Answer: Because the Board does not have authority to make shooting or harvest closures that are not related to conservation and development, the subsistence law cannot 'restrict' any such 'authority'. The subsistence law, set out at [AS 16.05.255\(b\)](#) authorizes adoption of regulations to protect customary and traditional subsistence uses by providing allocations of available harvest. The determination of when that harvest is available must be based on a conservation or development purpose. Once that determination has been made, the subsistence law allows the Board of Game to divide up the available take among subsistence and non-subsistence uses and users giving subsistence uses a priority.

5. 'What authorities other than AS 16 regulate firearm use and hunting closures, such as on highways and state parks? Do these authorities offer any management convenience or restriction in the situation under discussion?'

Answer: Several Alaska statutes relate directly to the use of firearms and other weapons for general public safety purposes, and other statutes grant authority to agencies such as the Department of Natural Resources and local governments to adopt regulations controlling firearms discharge for public safety purposes.⁶ Although these statutes do not restrict the authority of the Board of Game to enact regulations for the conservation and development of the wildlife resources of the state, they may effectively result in closures, for public safety purposes of areas that the Board of Game would otherwise wish to have open to hunting.

AS 41.20.020(4) authorizes the Department of Natural Resources to 'control, develop and maintain state parks and recreational areas', and AS 41.20.020(6) authorizes that department to 'establish in accordance with the Administrative Procedures Act [AS 44.62] rules and regulations governing the use and designating incompatible uses within the boundaries of state parks and recreational areas to protect property and preserve the peace.' Based upon this broad authority, the Division of Parks, Department of Natural Resources, can regulate discharge of firearms within areas under its jurisdiction. See 1982 Informal Op. Att'y Gen'l (Alaska, November 19, 1982).

In addition, several statutes establishing specific parks incorporate language relating to discharge of firearms within the park, generally allowing the discharge of firearms 'if authorized by a regulation of the Department of Natural Resources.' See AS 41.20.230(c); AS 41.20.260(e); and AS 41.20.280. Although state park regulations may limit the discharge of firearms, [AS 41.99.010](#) clearly specifies that 'nothing in this title denies the Alaska Department of Fish and Game or the Boards of Fisheries and Game their management and enforcement responsibilities relating to fish and game within the state.' Thus, regulation of firearms discharge by the Division of Parks must relate to the purposes and policies for which park and recreation areas were created, and may not be based on a game management objective. See [AS 44.62.020](#).

*4 The very fact that the legislature has dealt separately with public safety considerations regarding the discharge of firearms on a statewide basis (in the criminal code and within parks and recreational areas) lends support to the argument that the authority of the Board of Game to adopt regulations for the 'conservation and development' of the wildlife resources does not include the broad authority to enact regulations solely for public safety purposes.⁷

6. 'Where statutory firearm restrictions exist, as in [AS 11.61.210\(a\)\(2\)](#), is the board obligated to promulgate its regulations in a manner consistent with such statutes?'

Answer: No, the Board of Game is not required to adopt 'consistent' regulations that in effect duplicate existing statutes. By the same token, the board should not adopt regulations that conflict with statutes, since state statutes have precedence over board regulations. The example you gave, [AS 11.61.210\(a\)\(2\)](#), is a state statute regarding misconduct involving weapons, which precludes discharging a firearm from, on, or across a highway. As indicated in the above discussions, the Board of Game does not have authority to enact regulations for strictly public safety purposes, and therefore could not adopt a regulation directly prohibiting discharge of firearms. The board could, however, as discussed above, enact a regulation restricting hunting near a road system where there is a valid management objective. For example, the board might find that the access to game animals provided by hunting from a road system might result in an overharvest; the board could then enact a regulation precluding hunting within a certain distance from that road system.

Where another statute or regulation (for example, a park statute or regulation that closes a park to the discharge of firearms), already essentially closes an area to hunting, the Board of Game is not under a duty to enact a parallel regulation closing that area to hunting, although it could if the closure was deemed necessary for game management.⁸ Clearly the board must take into account the effect that the other statute or regulation will have on overall game management in that area. Since the board cannot open the area to the discharge of firearms, it should anticipate reduced harvest. In the park regulation example, hunting could, however, continue by means other than firearms, if this were consistent with the game management objectives in the area.

Hunting regulations are an important part of the complex fabric of resource and land use laws in the state. Regardless of which agency (Game Board or Department of Natural Resources) enacts regulations restricting hunting or the methods used for hunting, the state is under a duty to inform the public of the closure. The state could provide this notice either in a separate pamphlet distributed by the Department of Natural Resources (for a park regulation) or, more simply, by supplementing the game hunting regulation booklet with notice of the areas closed by park regulation. See Wacek v. State, 530 P.2d 751 (Alaska 1975).

7. 'Do local governments, *i.e.* cities and boroughs, have an obligation of authority on behalf of public safety or local zoning that preempts state authority to manage wildlife?'

*5 Answer: No, local governments cannot preempt state authority. However, local governments, in the exercise of valid police powers, may restrict the discharge of firearms or enact similar kinds of ordinances that may have an incidental effect on hunting and trapping. However, as discussed further below, where the local government ordinance goes beyond legitimate local concerns or where it frustrates a statewide program for game management, the local regulation must yield. Macauley v. Hildebrand, 491 P.2d 120 (Alaska 1971).

Under the Alaska constitution, Article 10, Section 1, local government powers are to be given a liberal construction. Home rule boroughs or cities may exercise all legislative powers not prohibited by law or by charter. Alaska Constitution Article 10, Section 11. As the court stated in Jefferson v. State, 527 P.2d 37, 43 (Alaska 1974) 'however, to say that home rule powers are intended to be broadly applied in Alaska is not say that they are intended to be pre-eminent. The constitution's authors did not intend to create city states with mini legislature.'

In determining when a municipal ordinance is invalid as being preempted by a state statute, the court looks at whether the exercise of the authority by the local government has been prohibited by law. City of Kodiak v. Jackson, 584 P.2d 1130 (Alaska 1978). The prohibition must be either by express terms or by implication, such as where the statute and ordinance are 'so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded the weight of law.' City of Kodiak v. Jackson, 584 P.2d 1130, 1132 (Alaska 1978) (holding unenforceable a city ordinance requiring mandatory minimum sentences for assault against a police officer where state statute was to the contrary).

Stated otherwise, preemption by state statutes exists either by express legislative direction, or where there is a direct conflict with a statute, or where the ordinance 'substantially interferes with the effective functioning of a state statute or regulation or its underlying purpose'. Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978). Merely because the state has enacted legislation concerning a particular subject does not necessarily mean that all municipal power to enact on the same subject is lost. Id. at 1121. In the absence of express preemption, one must inquire whether the local government ordinance serves a legitimate local concern, and the extent to which it interferes with state statutes.

As the court held in Bennion v. City and County of Denver, 504 P.2d 350 (Colo. 1972), it is often difficult to determine what is a legitimate local, as opposed to a statewide, concern. In that case, the court held that a local government's interest in outlawing resistance to unlawful arrest was not exclusively a matter of local concern, and the local ordinance was deemed invalid in light of a state law authorizing resistance to unlawful arrest.

*6 In Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978), the court upheld a borough tax on raw fish, even though some of the incidents of the sale of raw fish were regulated under state law, and even though the state does manage the harvesting of fish 'to a very detailed extent.' Id. at 1121. The court held the tax to be a legitimate exercise of local taxing power.

A borough ordinance that did not directly address legitimate local concerns and which frustrated overall game management would probably be held invalid as preempted by the statewide interest in uniform game management. For example, if a borough, through a firearms or similar ordinance, were effectively to close down huge areas of the state to hunting or trapping, for reasons not reasonably related to protection of life and property, the local ordinance would probably be held invalid as a frustration of the statewide management of game. The reason for this result is that effective statewide game management, including regulation of species that transverse local political boundaries, requires uniform management decisions, leaving no room for independent game management jurisdiction by local governments. Localized game control would 'substantially interfere' with the purposes of conservation and development of the resources and the functions of the Board of Game, under the test articulated in Liberati.

In summary, under no circumstances does a local governmental ordinance 'preempt' state authority. Local governments may, however, enact ordinances within their general police powers that are on the same subject as state statutes, so long as they do not conflict with the state statute or frustrate the exercise of statewide laws. Local governments do not have authority to directly regulate the management of fish and wildlife, but may enact legitimate police power regulations such as restrictions on the use of firearms where they are reasonably necessary to protect life or property.

I hope these responses have answered all your questions. If you have further inquiries, please direct them to this office.

Wilson L. Condon
Attorney General
Sarah Elizabeth McCracken
Assistant Attorney General
AGO Anchorage

Footnotes

- 1 Before 1975, fish and game management authority was vested in a single board, the Alaska Board of Fish and Game.
- 2 Other statutes authorize adoption of regulations for specific purposes: AS 16.05.260 (advisory committees); AS 16.05.780 (antlerless moose seasons); AS 16.20.034 (Mendenhall Wetlands State Game Refuge); AS 16.20.040 (State Game Refuges); AS 16.20.160 (McNeil State Game Sanctuary); AS 16.20.240 (critical habitat areas). With the exception of the statutes discussed in footnote 4, all the regulation-making authorities in these statutes are premised on 'conservation and development' or 'conservation and protection' purposes. See discussion of 'protection' in footnote 4.
- 3 AS 16.05.255 provides in full: (a) the Board of Game may make regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for
 - (1) setting apart game reserve areas, refuges and sanctuaries in the waters and the lands of the state over which it has jurisdiction, subject to the approval of legislature;
 - (2) establishment of open and closed seasons and areas for the taking of game;
 - (3) establishment of the means and methods employed in the pursuit, capture and transport of game;
 - (4) setting quotas and bag limits for the taking of game;
 - (5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;
 - (6) investigating and determining the extent and effect of predation and competition among game in the state, exercising control measures considered necessary to the resources of the state and designating game management units or parts of game management units in which bounties for predatory animals shall be paid;

(7) engaging in biological research, watershed and habitat improvement, and game management, protection, propagation, and stocking;

(8) entering into cooperative agreements with educational institutions and state, federal or other agencies to promote game research, management, education, and information and to train men for game management;

(9) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(10) establishing the times and dates during which the issuance of game licenses, permits and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed.

(b) the Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria: (1) customary and direct dependence upon the resource as the mainstay as one's livelihood; (2) local residency; and (3) availability of alternative resources.

4 Some game board statutes pertaining to certain limited subjects do authorize adoption of regulations for arguably non-conservation or development purposes. AS 16.05.255(b) and AS 16.05.257 provide for adoption of regulations allocating the available game harvest for subsistence uses. However, the statutes require that subsistence regulations be within the general 'conservation' bounds of maintaining game populations based on the sustained yield, and only authorize priority allocations based on socio-economic considerations within that general framework.

AS 16.20.034, establishing the Mendenhall Wetlands State Game Refuge, authorizes the Board of Game to establish regulations for hunting and recreational activities (AS 16.20.034(e) and (f)), but specifies that no use or activity in the Refuge 'may occur in a manner that creates a hazard to aircraft.' AS 16.20.034(h). Under this direct authority, the board could tailor hunting regulations to take into account safety to aircraft. In contrast, AS 16.30.040, relating to refuges in general, authorizes the Board of Game to establish regulations it considers 'advisable for conservation and protection purposes' in state game refuges. We believe the term 'protection' as used in this statute refers to protection of the game and its habitat, not protection of the public in general. This conclusion is based on the overall legislative purpose in establishing refuges, including the 'value to the state and the nation of areas of unspoiled habitat and the game characteristic to it' (AS 16.20.010(3)), and the purpose of the refuges to 'protect and preserve the natural habitat and game population in certain designated areas of the state.' (AS 16.20.020)

5 In the one area of commercial harvest regulated by the board, trapping, the board may have more flexibility to regulate for non-biological purposes in order to promote development of the industry. For example, the board might determine that allowing trapping in a specific area was inconsistent with an overall plan to foster trapping because of the quality of pelts in that area, or where traps would be wasted by being sprung by domestic dogs. Also, within the board's broad authority to regulate uses of game, it may make allocations for such activities as viewing.

6 AS 11.61.200 specifies those activities that constitute misconduct involving weapons in the first degree. AS 11.61.210 relates to misconduct involving weapons in the second degree, and AS 11.61.220 specifies misconduct involving weapons in the third degree. AS 11.61.210, for example, includes the language that a person who 'discharges a firearm from, on, or across a highway or discharges a firearm with reckless disregard for a risk of damage to property or a risk or physical injury to a person' is guilty of misconduct involving a weapon in the second degree.

In addition, other statutes including AS 11.46.482, AS 11.46.484 and AS 11.46.486, relating to criminal mischief, implicitly restrict the use of potentially dangerous items, such as firearms that can create a risk of damage to property.

7 The Department of Fish and Game (as opposed to the Board of Game) does have authority to develop a hunter safety program and develop shooting facilities for the people of the state. AS 16.55.010-AS 16.05.040.

8 AS 41.20.220, relating specifically to Chugach State Park, mandates that the Department of Fish and Game 'cooperate' with the Department of Natural Resources to provide for the purpose for which the Park was created and which are relevant to the duties of the Department of Fish and Game. It could be argued that this requires the Board of Game to adopt regulations that dovetail with Chugach Park regulations (See 1980 Informal Op. Att'y Gen'l (Alaska, May 25, 1980)).

1982 WL 43763 (Alaska A.G.)

 KeyCite Yellow Flag - Negative Treatment
Distinguished by *State, Dept. of Natural Resources v. Universal Ed. Soc., Inc.*, Alaska, August 25, 1978

568 P.2d 996
Supreme Court of Alaska.

Richard J. **HERSCHER**, Appellant,
v.
STATE of Alaska, DEPARTMENT OF
COMMERCE, Appellee.
STATE of Alaska, DEPARTMENT OF
COMMERCE, Cross-Appellant,
v.
Richard J. **HERSCHER**, Cross-Appellee.

Nos. 2927, 2967.
|
Sept. 9, 1977.

The Superior Court, Third Judicial District, Anchorage, Eben H. Lewis, J., affirmed decision of Board of Fish and Game revoking hunter's license as a guide for violation of fish and game regulations. The Supreme Court, Dimond, J. pro tem., held that: (1) authority was vested in Board to revoke hunter's guide license for violations of regulations relating to transferring a bear from an unregistered camp and transporting a bear hide without a skull; (2) proprietary interest of hunter in his guide license was of sufficient importance to warrant protection under constitutional requirements relating to due process; (3) prohibited conduct was sufficiently set forth and determined according to objective standards where it was clearly alleged in accusation that hunter had violated specific regulations in a particular way; (4) regulation as to transporting bear by aircraft was a reasonable one and not an arbitrary requirement and, hence, was not violative of equal protection as it rested upon a ground of difference between two classes of hunters having a fair and substantial relation to object of regulation to protect game resources of State from becoming depleted or even extinct; (5) requiring Board to reconsider case against hunter without regard to his assertion of his Fifth Amendment rights was correct in that Board could not be allowed to draw an inference of guilt from that assertion, but where decision of Board to revoke hunter's license for a period of three years was based, not only upon two violations of fish and game regulations, but also upon finding that hunter's escape in his airplane from a state trooper constituted unsafe and unethical activity, and it could not be certain from record that decision of Board to revoke hunter's license would have been the same had

there been no finding as to unsafe and unethical activity, case was subject to being remanded for purpose of making that determination.

Remanded.

West Headnotes (23)

[1] **Game**
🔑 Game wardens and other officers

Intent of Board of Fish and Game in enacting regulation prohibiting any person from possessing a skin or skull of a bear unless it has been sealed by an authorized representative of Department of Commerce is to have both skull and skin examined and sealed by a representative of Department before they may be transported for private purposes of hunter. AS 16.05.900.

Cases that cite this headnote

[2] **Game**
🔑 Game wardens and other officers

Purpose of regulation prohibiting a person from possessing a skin or skull of a bear unless it has been sealed by an authorized representative of Department of Commerce cannot be achieved when only skin is transported and skull is not made available. AS 16.05.900.

Cases that cite this headnote

[3] **Game**
🔑 Licenses

Actions of hunter in transporting, for his own purposes, a bearskin without a skull constituted a violation of regulations of Board of Fish and Game and, hence, were properly made the

subject of hearing to revoke or suspend hunter's license. AS 16.05.900.

Cases that cite this headnote

^[4] **Statutes**
↳ Retroactivity

Statutes generally operate prospectively and not retrospectively. AS 01.10.090.

Cases that cite this headnote

^[5] **Statutes**
↳ Amendatory statutes

Exception to general rule that statutes operate prospectively and not retrospectively is applicable when provisions of original act or section which are repeated in body of amendment, either in same or equivalent words, are considered a continuation of original law. AS 01.10.100.

1 Cases that cite this headnote

^[6] **Game**
↳ Licenses

Statute authorizing Board of Fish and Game to revoke, suspend, or deny renewal of a license for violations of a fish, game or guide statute or regulation revises, clarifies and expands its predecessor statute in some respects, but since it authorizes discipline in way of a revocation to be based on conduct which is unethical or unsafe or on violation of a fish, game or guide statute or regulation, it permits Board to revoke a license for transporting part of a bear from an unregistered camp. AS 08.54.200, 16.50.205.

Cases that cite this headnote

^[7] **Constitutional Law**
↳ Duration and timing of deprivation; pre- or post-deprivation remedies

Due process of law requires that before property rights can be taken directly or infringed upon by government action, there must be notice and opportunity to be heard. Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

3 Cases that cite this headnote

^[8] **Constitutional Law**
↳ Protections Provided and Deprivations Prohibited in General
Constitutional Law
↳ Rights, Interests, Benefits, or Privileges Involved in General

Once due process claim is raised, it must be determined whether there is deprivation of an individual interest of sufficient importance to warrant constitutional protection. Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

5 Cases that cite this headnote

^[9] **Constitutional Law**
↳ Game and hunting

Proprietary interest of hunter in his guide license was of sufficient importance to warrant protection under constitutional requirements relating to due process of law. AS 08.54.200, 16.50.205; Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

11 Cases that cite this headnote

^[10] **Constitutional Law**

🔑 **Game and hunting**

When State decides to permit harvesting of its fish and game, and in doing so permits issuance of hunting guide licenses, problems of due process arise when individual, rather than group as a whole, is affected. AS 08.54.200, 16.50.205; Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

3 Cases that cite this headnote

[11] **Constitutional Law**
🔑 **Game and hunting**

A hunting guide license is a sufficient property interest to qualify for protection of due process. AS 08.54.200, 16.50.205; Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

7 Cases that cite this headnote

[12] **Constitutional Law**
🔑 **Game and hunting**

Failure to place time limitations on forbidden conduct did not constitute a violation of due process in respect to revocation of hunter's guide license for transporting part of a bear from an unregistered camp where hunter failed to make any showing as to how he was prejudiced by lack of time limitations. AS 08.54.200(b); Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

Cases that cite this headnote

[13] **Game**
🔑 **Game wardens and other officers**

Statute requiring Board of Fish and Game to adopt regulations reasonably necessary for administration of its duties is violated if Board fails to act when regulations are reasonably

necessary. AS 08.54.010 et seq., 08.54.050.

Cases that cite this headnote

[14] **Game**
🔑 **Licenses**

Prohibited conduct was sufficiently set forth and determined according to objective standards and, hence, further regulations by Board of Fish and Game were not required where it was clearly alleged in accusations that hunter, whose license was revoked, violated specific regulations of Board in a particular way and hunter was notified with particularity as to what prohibited conduct he was charged with. AS 08.54.010 et seq., 08.54.050.

Cases that cite this headnote

[15] **Constitutional Law**
🔑 **Game and hunting**

Failure of Board of Fish and Game to adopt regulations relating to hunting guides did not constitute a denial of due process with respect to revocation of hunter's license for transporting part of a bear from an unregistered camp where it was clearly alleged in accusation that hunter had violated specific regulations of Board of Fish and Game in a particular way and hunter was notified with particularity as to what prohibited conduct he was charged with. AS 08.54.010 et seq., 08.54.050; Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

Cases that cite this headnote

[16] **Game**
🔑 **Licenses**

Finding of Board of Fish and Game that hunter committed two violations of regulations relating to transferring a bear from an unregistered camp

and transporting a bear hide without a skull was supported by adequate evidence at administrative hearing and constituted grounds for license revocation. AS 08.54.200(b).

Cases that cite this headnote

[17]

Game

🔑Licenses

A valid basis existed for revocation of hunter's guide license, entirely apart from question of whether hunter had engaged in an unethical or unsafe activity, on finding that hunter had violated regulations of Board of Fish and Game by transferring a bear from an unregistered camp and by transporting a bear hide without a skull. AS 08.54.200(b).

Cases that cite this headnote

[18]

Game

🔑Licenses

Where decision of Board of Fish and Game to revoke hunter's guide license for a period of three years was based, not only upon two violations of fish and game regulations, but also upon finding that hunter's escape in his airplane from a state trooper constituted unsafe and unethical activity, and it could not be certain that decision of Board to revoke hunter's license for three years would have been the same had there been no finding as to unsafe and unethical activity, case was subject to being remanded for purpose of determining whether license should be so revoked. AS 08.54.110, 08.54.200(b)(2), 16.50.205(1).

Cases that cite this headnote

[19]

Constitutional Law

🔑Game and hunting

There is no requirement under due process that there must exist a rational connection between all of the several qualifications or standards one must meet to become a hunting guide and the various laws and regulations that must be obeyed if one is to retain his hunting guide license. AS 08.54.110(6); Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

Cases that cite this headnote

[20]

Game

🔑Licenses

There is a rational connection between one's competence to continue as a hunting guide in a violation of fish and game regulations and statutes designed to conserve the resources of State. AS 08.54.110(6).

3 Cases that cite this headnote

[21]

Constitutional Law

🔑Game and hunting

A violation of fish and game regulations relating to obtaining a sealing certificate for a bear hide and neglecting to register a camp is rationally related under due process to one's competence to obtain a hunting guide license and, hence, involves "moral turpitude" that may subject hunter to revocation of his license. AS 08.54.110(6); Const. art. 1, § 7; U.S.C.A.Const. Amend. 14, § 1.

4 Cases that cite this headnote

[22]

Constitutional Law

🔑Game regulations and hunting

Game

🔑Constitutional and statutory provisions

Regulation as to transporting bear by aircraft is a reasonable and not an arbitrary requirement and,

hence, is not violative of equal protection as it rests upon a ground of difference between two classes of hunters having a fair and substantial relation to object of regulation to protect game resources of State from becoming depleted or even extinct. Const. art. 1, § 1.

Cases that cite this headnote

[23]

Game

🔑 Licenses

Requiring Board of Fish and Game to reconsider case against hunter without regard to his assertion of his Fifth Amendment rights was correct since hunter, whose license was revoked, would otherwise have been penalized if Board was allowed to draw an inference of guilt from hunter's assertion of his right not to incriminate himself. AS 08.54.200(b); Const. art. 1, § 7; U.S.C.A.Const. Amends. 5, 14, § 1.

Cases that cite this headnote

Attorneys and Law Firms

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Thomas E. Meacham, Asst. Atty. Gen., Anchorage, Avrum M. Gross, Atty. Gen., Juneau, for appellee/cross-appellant.

Before BOOCHEVER, C. J., and RABINOWITZ, CONNOR and BURKE, JJ., and DIMOND, J. Pro Tem.

OPINION

DIMOND, Justice Pro Tem.

Richard **Herscher** was a licensed hunting guide. He was convicted in court of having violated two regulations of the Board of Fish and Game.¹ One violation involved

transporting a bear hide without the skull, in violation of a regulation designated in the Alaska Administrative Code as 5 AAC 81.180(d).² The other violation involved an attempt to transfer part of a brown bear by aircraft from a location in game management unit # 9, which was neither an airport nor a registered hunting camp. This act was in violation of 5 AAC 81.070(b).³

*1000 The State of Alaska, through its attorney general, filed with the Guide Licensing and Control Board (hereafter referred to as the board) an accusation against **Herscher**, based on the above mentioned violations of the fish and game regulations. In addition, the accusation charged **Herscher** with having violated a statute which authorized the board to discipline a licensed guide for having engaged in "unethical or unsafe activity".⁴ This accusation was related to an incident that arose after State Trooper Rotermund had arrested **Herscher** for transporting part of a bear from an unregistered camp.⁵

An administrative hearing, adversary in nature, was held on these matters in accordance with the requirements of the Administrative Procedure Act.⁶ **Herscher** was present in person and was represented by counsel. Witnesses were examined and cross-examined. At the conclusion of the hearing, it was found that the allegations made in the accusation were true, and that **Herscher's** activities, as recited in the accusation, were grounds for revocation of his license as a guide. Consequently, the board revoked his license for a period of three years. **Herscher** appealed to the superior court which affirmed the board's decision. He now appeals to this court.

Herscher claims that the accusation or charge that he unlawfully transported a brown bear hide without the skull accompanying the hide does not state an offense. He maintains that there is an offense only when one transports a skull without the skin, and that it is no offense to transport a skin without a skull.

The pertinent regulation on this point is 5 AAC 81.180 which reads in relevant part:
SEALING OF BEAR SKINS AND SKULLS.

(a) No person may possess in the state, transport or export from the state the skin or skull of a bear, whether taken inside or outside of the state, unless it has been sealed by an authorized representative of the department.

(b) Notwithstanding the provisions of (a) of this section, a person taking a bear may possess the unsealed skin or skull of the bear taken for a period not to exceed 30 days from the time of taking for the purpose of transporting the skin and skull to an authorized representative of the department for sealing. The skin and skull of a bear shall be sealed within 30 days from the time of taking or shall

be tendered immediately for sealing upon the request of an authorized representative of the department. . . .

(d) Until a bear skull has been examined, sealed, and had a rudimentary lower premolar tooth removed by the department it shall be accompanied by the skin of the bear from which the skull was taken.

[1] [2] [3] It is apparent upon consideration of the portions of the regulation, quoted above, and not simply subdivision (d) alone, that it was the intent of the Board of Fish and Game to have both the skull and skin *1001 examined and sealed by a representative of the Department of Fish and Game before they could be transported for private purposes of the hunter. The purpose of the regulation cannot be achieved when only the skin is transported and the skull is not made available. Although the meaning of

1. Date of incidents that form basis

of accusations 5/10/72

2. Date first accusation was filed 12/19/73

3. Date amended accusation was

filed 11/15/74

4. Date hearing was held 11/18/74

5. Date AS 16.50.205 was repealed 3/14/73

6. Date AS 08.54.200 became

effective 3/14/73

subdivision (d) may not be clear when read alone, regulations, like statutes,⁷ should be read as a whole. When read as a whole, **Herscher's** actions in transporting, for his own purposes, the bear skin without the skull, were in violation of the regulation.

After the hearing, the board issued its order. The board concluded it had authority under AS 08.54.200 and AS 16.50.205 to revoke **Herscher's** guide license. **Herscher** contends that neither of these statutes may be properly employed by the board in this case. This argument centers on the following pertinent dates:

Herscher argues the board was powerless to act on the accusation against him under AS 16.50.205 because it was repealed before the amended accusation was filed, and similarly, that it was powerless to act under AS 08.54.200 because this statute was enacted after the date of the violations and has only a prospective effect.

An examination of these two statutes shows that they are virtually identical to the extent they form the basis for the charges against **Herscher**.⁸

^[4] **Herscher** is correct in stating the general rule to be that statutes operate prospectively and not retrospectively. This concept is embodied in statutory form in this state. AS 01.10.090 states that “no statute is retrospective unless expressly declared therein.”

^[5] But there are exceptions to this rule. As Professor Sutherland points out:

Provisions of the original act or section which are repeated in the body of the amendment, either in the same or equivalent words, are considered a continuation of the original law. This rule of interpretation is applicable even though the original act or section is expressly declared to be repealed. In some states this rule of interpretation has been enacted into law. The provisions of the original act or section re-enacted by the amendment are held to have been the law since they were first enacted, and the provisions introduced by the amendment are considered to have been enacted at the same time the amendment took effect. Thus, rights and liabilities accrued under the provisions of the original act which are re-enacted are not affected by the amendment.⁹

*1002 This exception to the general rule, which embodies a sensible approach to statutory construction and is a recognized method of effectuating statutory continuity,¹⁰ is embodied in a statute of this state. AS 01.10.100 provides:

- (a) The repeal or amendment of any law does not release or extinguish any

penalty, forfeiture, or liability incurred or right accruing or accrued under such law, unless the repealing or amending act so provides expressly. The law shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture, or liability.

^[6] In some respects AS 08.54.200 revises, clarifies and expands its predecessor statute, AS 16.50.205. But, in both statutes, discipline in the way of revocation of a guide’s license may be based on (1) conduct which is unethical or unsafe, and (2) violation of a state sport fish, game or guide statute or regulation. We apply the rule of continuity to these statutes, and conclude that the board had the authority to revoke **Herscher’s** license for violations of the pertinent provisions of AS 08.54.200.

Herscher contends that the effect of the revocation of his license was to deprive him of property without due process of law, contrary to the federal and state constitutions.¹¹ The state counters with the assertion that a guide license does not qualify as a property interest which would be protected by the requirements of due process.

^[7] ^[8] Due process of law requires that before property rights can be taken directly or infringed upon by governmental action, there must be notice and opportunity to be heard. *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970). And once a due process claim is raised, it must be determined whether there is a “deprivation of an individual interest of sufficient importance to warrant constitutional protection.” *Nichols v. Eckert*, 504 P.2d 1359, 1362 (Alaska 1963) (footnote omitted).

^[9] We find that **Herscher’s** proprietary interest in the hunting guide license is of sufficient importance to warrant protection under constitutional requirements relating to due process of law. In *Frontier Saloon, Inc. v. Alcoholic Beverage Control Board*, 524 P.2d 657, 659-660 (Alaska 1974), we held:

It has long been recognized that an interest in a lawful business is a species of property entitled to the protection of due process. . . . This

interest may not be viewed as merely a privilege subject to withdrawal or denial at the whim of the state Neither may this interest be dismissed as de minimis. A license to engage in a business enterprise is of considerable value to one who holds it. (footnote and citations omitted)

In addition, in *Alaska Board of Fish and Game v. Loesche*, 537 P.2d 1122 (Alaska 1975), we considered a due process claim by Loesche relating to the suspension of his guide license. While we found it unnecessary to adjudicate the full scope of protections required by due process of law, by implication we found the requirements of adequate notice and opportunity for a hearing were required. 537 P.2d at 1125.

The state's argument against the application of due process is based on the assertion that it has complete control over the management of its natural resources, of which wild game is included. Accordingly, the state contends that because it could deny the right of **Herscher** to use these natural resources, due process of law need not be *1003 complied with in taking away his right to these resources under a license granted by the state.

It is true that the state has the right to direct the use of its natural resources, including fish and game.¹² We recognize that there is a difference between the state's plenary control over the natural resources and the taking away of a formally granted state license. The state's power over natural resources is such that it could entirely eliminate the role of hunting guides, and no problem of due process would arise.

^[10] However, when the state decides to permit the harvesting of its fish and game, and in doing so permits the issuance of hunting guide licenses, then problems of due process do arise when the individual, rather than the group as a whole, is affected. At that point the consideration is whether the state's procedures in taking the property right in the individual's guide license comported with due process requirements.

^[11] In such a situation the state, as trustee of the natural resources for the benefit of its citizens, must obey the Fourteenth Amendment to the Federal Constitution, and Article I, s 7 of the State Constitution, where the obligations to afford due process are found. See *Hicklin v. Orbeck*, 565 P.2d 159 at 165 (n. 10) (Alaska 1977). In addition, art. I, s 1 of the Alaska Constitution provides that:

. . . all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry, . . .

It would be inconsistent with the spirit of this constitutional provision to take away **Herscher's** right to follow his chosen pursuit as a hunting guide without affording him due process of law. We conclude that a guide license is a sufficient property interest to qualify for the protection of due process.

^[12] **Herscher** argues that the procedures and standards used by the board were not specific enough to satisfy the requirement of due process. A guide license is subject to revocation under AS 08.54.200(b) if:

(b) After a hearing . . . the board finds that the licensee

(1) engaged in unethical activity, unsafe activity, or activity which adversely affects the natural resources of the state when such activity is unrelated to the legal and legitimate purposes of the contract hunt; or

(2) violated a provision of a federal or state sport fish, game, or guide statute or regulation.

It is **Herscher's** contention that since no time limitations are placed on the forbidden conduct, the board has the power to revoke a license for a "petty paper infraction" several years after its occurrence. But **Herscher** fails to make any showing as to how he was prejudiced by the lack of time limitations, and therefore, does not make out a case for denial of any constitutional right.

Herscher asserts lack of due process in that the board failed to adopt regulations under AS 08.54.050 which provides:

The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter or reasonably necessary for its administration.

Herscher claims that by reason of the failure of the board to adopt regulations, he was subject to having his license revoked without adequate notice of the precise conduct which would call for such a penalty and was, therefore, subject to license revocation under a subjective standard which failed to give him the adequate type of notice of

forbidden conduct which due process requires.

[13] [14] [15] AS 08.54.050 requires the adoption of regulations when “reasonably necessary for . . . (the) administration” *1004 of Chapter 54 which deals with guides. This legislative requirement would be violated if the board failed to act when regulations were “reasonably necessary.” We have examined the statute, the accusations against **Herscher**, and the board’s findings, and find that the prohibited conduct was sufficiently set forth and determined according to objective standards and, therefore, further regulations by the board were not required. It was clearly alleged in the accusation that **Herscher** had violated specific regulations of the Board of Fish and Game in a particular way. **Herscher** was thus notified with particularity what prohibited conduct he was charged with, which would constitute the basis for revocation of his license if the facts in the accusation were found to be true, as they were. There was no denial of due process because of the failure of the board to adopt regulations relating to guides.

Herscher argues that charging him with “unethical or unsafe” activity failed to give him adequate notice of prohibited conduct, because these words are unconstitutionally vague, and therefore, that the board’s finding that he had engaged in “unethical and unsafe” activities was repugnant to the requirements of due process of law.

[16] [17] We need not, however, reach this question. The board found that **Herscher** had committed two violations of the Fish and Game Board regulations, relating to transferring a bear from an unregistered camp, and transporting a bear hide without the skull. These findings were supported by adequate evidence at the administrative hearing, and constituted grounds for license revocation under AS 08.54.200(b)(2). Therefore, a valid basis existed for revocation of **Herscher’s** license, entirely apart from the question of whether he had engaged in an “unethical” or “unsafe” activity. *Alaska Board of Fish and Game v. Loesche*, 537 P.2d 1122, 1126-1127 (Alaska 1975).

[18] However, the Board’s decision to revoke **Herscher’s** license for a period of three years was based, not only upon the two violations of fish and game regulations, but also upon the Board’s finding that **Herscher’s** escape in his airplane from Trooper Rotermund constituted unsafe and unethical activity under AS 16.50.205(1). As we have stated, we do not pass upon the question raised by **Herscher** as to this matter. This means that we cannot be certain that the Board’s decision to revoke **Herscher’s** license for three years would have been the same had there been no finding as to unsafe and unethical activity. This case must be remanded to the Guide Licensing and

Control Board for a determination of this question.

AS 08.54.110 sets out the qualifications for a registered guide, as follows:

Qualifications for registered guide license. A person is entitled to be licensed as a registered guide if he

- (1) is 21 years of age or more;
- (2) is a resident of the state and maintains a permanent place of abode in the state;
- (3) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of trophies, first aid and photography;
- (4) is familiar with the terrain and transportation problems in the district for which the license is requested;
- (5) has passed the qualification examination prepared and administered by the board;
- (6) has demonstrated to the board sufficient standards of competence and ethical conduct and has not been convicted of a crime involving moral turpitude;
- (7) has legally hunted in the state for all or part of each of five years in a manner directly contributing to his experience and competency as a guide;
- (8) has been licensed as and performed the services of an assistant guide in the state for a part of each of three years;
- (9) submits a written recommendation to the board from a registered guide for whom the applicant has worked;
- (10) is capable of performing the physical duties associated with guiding activities;
- *1005 (11) has been favorably recommended in writing by two hunters that he has guided or assisted in guiding during each year of his three years as an assistant guide, whose recommendations have been solicited by the board from a list provided by the applicant;
- (12) meets additional qualifications which the board may require.

Herscher points to subparagraph (6) of the above statute, which requires that an applicant for a guide license “has demonstrated to the board sufficient standards of competence and ethical conduct and has not been

convicted of a crime involving moral turpitude.” He then argues that AS 08.54.200(b), which permits revocation of a license for engaging in unethical or unsafe activity or for violating fish, game or guide statutes or regulations, has no rational connection to the guide’s competence as set forth in subparagraph (6) of AS 08.54.110 quoted above.

We believe that **Herscher** misconceives the “rational connection” requirement. He relies upon the case of *Schwartz v. Board of Bar Examiners of the State of New Mexico*, 353 U.S. 232, 77 S.Ct. 752, 1 L.Ed.2d 796 (1957). In that case the Supreme Court of the United States held that high standards for admission such as good moral character and proficiency in the law required by the state before admitting one to practice law, must have a rational connection with the appellant’s fitness to practice law.

We fail to understand how this can support **Herscher’s** thesis. The question presented here by him is not whether the qualifications for becoming a registered guide have a rational connection with the applicant’s fitness to engage in the occupation of guiding. Instead, he poses the question as to whether, once one has met all the qualifications to become a guide, and has been licensed, there then must be a rational connection between (a) the qualifications for becoming a guide, and (b) actions on the guide’s part which may result in revocation of his license. **Herscher** argues that “infractions” involving violation of fish and game regulations relating, e. g., to obtaining a sealing certificate for a bear hide and skull and neglecting to register a camp, do not involve “moral turpitude” as that term is used in AS 08.54.110(6) relating to qualifications to be licensed as a guide, and therefore, in some way there is a violation of due process.

^[19] There is no requirement under due process that there must exist a rational connection between all of the several qualifications or standards one must meet to become a guide, and the various laws and regulations that must be obeyed if one is to retain his guide license. The “rational connection” is between the violations and one’s competence, not to be licensed as a guide, but to continue in the occupation of guiding.

^[20] ^[21] The fish and game resources are permitted to be harvested, but at the same time must be conserved to avoid depletion and extinction. A guide, more than any other game hunter, should be expected to realize this concept, and direct his actions and the actions of the hunters he guides so as to accomplish the balance the Board of Fish and Game is attempting to reach in harmonizing reasonable harvesting of the game resources and their conservation. If the guide violates the statute and regulations of the Board of Fish and Game, he has

demonstrated his failure to accomplish these joint objectives, and, therefore, shows his incompetence to continue in the occupation of guiding hunters of Alaska’s game resources. Certainly, there is a rational connection between one’s competence to continue as a guide and a violation of fish and game regulations and statutes designed to conserve these resources of the state. **Herscher’s** argument on the “rational connection” requirement is without merit.

Herscher’s final argument is that regulation 5 AAC 81.070(b)(5) denies him the equal protection of the laws in contravention of the Fourteenth Amendment to the United States Constitution¹³ and *1006 art. I, s 1 of the Alaska Constitution.¹⁴ That regulation provides:

(5) in Game Management Units 9 and 10, brown or grizzly bear or parts of brown or grizzly bear taken on guided hunts may not be transported by aircraft except between registered camps or between a registered camp and an airport or between airports; . . .

Herscher argues that there is no valid basis for placing such a restriction on hunting with aircraft, and not also placing the same restriction on hunters on foot or with land vehicles.

The standard to be applied in determining the equal protection issue in this case is what is termed the “rational basis test.” The test is this:

Under the rational basis test, in order for a classification to survive judicial scrutiny, the classification ‘must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.’¹⁵

A hunter of bear using an airplane is in a different class from the hunter on foot or one using a land vehicle. The great mobility of aircraft allows the hunter to spot, track, kill and transport the bear with such great efficiency that game violations in this class are extremely difficult to apprehend. It was for the purpose of enforcing game regulations and preventing an outright depletion of the bear population that the regulation in question was adopted.

^[22] If a hunter by airplane is forbidden to transport his kill by aircraft except as between registered camps, or between a registered camp and an airport, or between airports, then the Department of Fish and Game law enforcement officials¹⁶ have a much better opportunity of apprehending violators than if this regulation did not exist. Since the same problem in enforcement with respect to hunters on foot or using land vehicles is not nearly so

great as with hunters using aircraft, the regulation as to transporting bear by aircraft is a reasonable and not an arbitrary requirement. It rests upon a ground of difference between the two classes of hunters having a fair and substantial relation to the object of the regulation which is to protect the state's game resources from becoming depleted or even extinct. There is no violation of constitutional equal protection requirements here.

At the hearing before the board, **Herscher** invoked his Fifth Amendment rights and refused to answer certain questions. The hearing officer found that this action on **Herscher's** part discredited the testimony he did give. On appeal, the superior court remanded the case to the board to determine whether there was sufficient evidence on which the board's action could be based without drawing any inferences on **Herscher's** assertion of his Fifth Amendment rights. The hearing officer then determined that there was such evidence, and that the testimony given at the board hearing, reconsidered without regard to **Herscher's** statements, was sufficient to sustain the board's findings that **Herscher** was in violation of the statutes and regulations we have discussed.

By way of cross-appeal, the state alleges as error the action of the superior court in ordering the board to reconsider the case against **Herscher** without regard to his assertion of his right to remain silent. The state concedes that **Herscher** could invoke his Fifth Amendment rights in a disciplinary proceeding. But it argues, nevertheless, that in such a proceeding an inference of guilt may be drawn from the refusal to answer questions.

*1007 We noted in *Loesche*, that "substantial interests other than criminality" are involved in hearings conducted by the board under circumstances such as the ones presented here. But this does not necessarily control as to whether the imposition of a sanction as a penalty for remaining silent is permissible. This question is controlled by *Spevack v. Klein*, 385 U.S. 511, 87 S.Ct. 625, 17 L.Ed.2d 574 (1967). In that case *Spevack*, in the course of a disbarment proceeding, asserted his right to remain silent. The New York courts found the privilege against self-incrimination not to be applicable. The United States

Supreme Court reversed, and stated:

We said in *Malloy v. Hogan*, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653:

"The Fourteenth Amendment secures against state invasion the same privilege that the Fifth Amendment guarantees against federal infringement the right of a person to remain silent unless he chooses to speak in the unfettered exercise of his own will, and to suffer no penalty . . . for such silence."

In this context "penalty" is not restricted to fine or imprisonment. It means . . . the imposition of any sanction which makes assertion of the Fifth Amendment privilege "costly."¹⁷

^[23] To allow the board to draw an inference of guilt from **Herscher's** assertion of his right not to incriminate himself would be to penalize him within the meaning of *Spevack*. Therefore, the superior court's order requiring the board to reconsider the case against **Herscher** without regard to his assertion of his Fifth Amendment rights was correct.

This case is remanded to the superior court for further remand to the Guide Licensing and Control Board. The Board shall make a determination of the question as to whether its decision to revoke **Herscher's** license for three years would have been the same had there been no finding that **Herscher's** activities regarding Trooper Rotermond constituted unethical and unsafe activity.

The Board shall certify its decision on this point to the superior court for further certification to this court. In the meantime, this court retains jurisdiction of this case.

All Citations

568 P.2d 996

Footnotes


- 1 A violation of a rule or regulation of the Board of Fish and Game constitutes a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment for not more than 6 months, or by both. AS 16.05.900.
- 2 5 AAC 81.180(d) provides:
(d) Until a bear skull has been examined, sealed, and had a rudimentary lower premolar tooth removed by the department it shall be accompanied by the skin of the bear from which the skull was taken.

- 3 5 AAC 81.070(b) provides:
(5) in Game Management Units 9 and 10, brown or grizzly bear or parts of brown or grizzly bear taken on guided hunts may not be transported by aircraft except between registered camps or between a registered camp and an airport or between airports; . . .
- 4 This conduct is made the proper basis of board action by virtue of AS 08.54.200(b) which provides:
After a hearing, the board may revoke, suspend, or deny renewal of a license if the board finds that the licensee (1) engaged in unethical activity, unsafe activity, or activity which adversely affects the natural resources of the state when such activity is unrelated to the legal and legitimate purposes of the contract hunt; or (2) violated a provision of a federal or state sport fish, game or guide statute or regulation.
- 5 After arresting **Herscher** for transporting part of a bear from an unregistered camp in violation of Fish and Game Board regulation 5 AAC 81.070(b) (supra, n. 3), State Trooper Rotermund got in **Herscher's** plane with him in order to fly to Port Heiden. The tail section of the aircraft was stuck on a gravel bar. Rotermund got out of the plane and grabbed the tail section on the right hand section of the fuselage with his back toward the front of the plane. At this point, **Herscher** accelerated the engine and proceeded to take off, leaving Trooper Rotermund behind. At that moment, Rotermund was unable to get away from the tail section of the aircraft, and was forced to do several feet of "back pedaling" in order to avoid being hit by the plane. The officer then found himself alone with only his uniform, weapon, parka and hip waders, and he was obliged to hike about five miles to the nearest known camp.
- 6 AS 44.62.
- 7 See 2A C. Sands, Sutherland Statutory Construction s 46.05 (4th ed. 1973).
- 8 AS 16.50.205 reads in pertinent part:
Grounds for disciplining a licensee. After a hearing, the board may revoke, suspend or deny renewal of a license if the board finds that the licensee
(2) engages in activities which are unsportsmanlike, unethical, unsafe or degrading to the outfitting and guiding profession or which adversely affect the natural resources or the principles of conservation;
(4) violates a provision of a federal or state sport fish, game or guide statute or regulation; or . . .
AS 08.54.200 reads in pertinent part:
(b) After a hearing, the board may revoke, suspend, or deny renewal of a license if the board finds that the licensee
(1) engaged in unethical activity, unsafe activity, or activity which adversely affects the natural resources of the state when such activity is unrelated to the legal and legitimate purposes of the contract hunt; or
(2) violated a provision of a federal or state sport fish, game or guide statute or regulation.
- 9 Sutherland Statutory Construction, Vol. 1A, s 22.33 at 191 (4th ed. 1972) (footnotes omitted). See *Kimbrow v. Manson*, 30 Conn.Sup. 20, 295 A.2d 569, 572-573 (1972); *Bailey v. Tarr*, 469 F.2d 409, 411 (9th Cir. 1972). See also, *Great Northern Ry. Co. v. United States*, 155 Fed. 945 (8th Cir. 1907).
- 10 See also McQuillin on Municipal Corporations, ss 22-23, page 232 (3d ed. 1969) which notes:
(t)he general rule is that when a former provision is included in the same words in a revised law, the purpose is to continue the existence of the former provision, and not to make it operate as an original act to take effect from the date of the revised law; the revision does not have the effect of breaking the continuity of those provisions which were in force before it was made.
- 11 *Alaska Const. art. I, s 7* provides in part: "No person shall be deprived of life, liberty, or property, without due process of law."
U.S.Const. amend. XIV, s 1 provides in part: "No state shall . . . deprive any person of life, liberty, or property, without due process of law . . ."
- 12 "The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people." *Alaska Const. art. VIII, s 2*.
- 13 *U.S.Const. amend. XIV* provides in part: "No state shall . . . deny to any person within its jurisdiction equal protection of the laws."
- 14 *Alaska Const. art. I, s 1* provides in part: "This constitution is dedicated to the principles . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law . . ."

- 15 **Isakson v. Rickey, 550 P.2d 359, 362 (Alaska 1976)** (footnote omitted).
- 16 The law enforcement officials of the Department of Fish and Game are now Alaska State Troopers under the Department of Public Safety.
- 17 **385 U.S. at 514-515, 87 S.Ct. at 628, 17 L.Ed.2d at 577** (footnotes and citations omitted).

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 KeyCite Yellow Flag - Negative Treatment
Distinguished by *Lieutenant Governor of State v. Alaska Fisheries Conservation Alliance, Inc.*, Alaska, December 31, 2015
971 P.2d 1025
Supreme Court of Alaska.

James W. BROOKS, former Commissioner of the Alaska Department of Fish and Game, Joel Bennett, former member of the Alaska Board of Game, and Wolf Management Reform Coalition, Appellants,

v.

Patrick WRIGHT, Albert W. Franzmann, Alaska Fish and Wildlife Conservation Fund, and Scientific Management of Alaska's Resource Treasures, Appellees.

State of Alaska, Office of the Governor of the State of Alaska, Lieutenant Governor, Fran Ulmer, Appellant,

v.

Patrick Wright, Albert W. Franzmann, Alaska Fish and Wildlife Conservation Fund, and Scientific Management of Alaska's Resource Treasures, Appellees.

Nos. S-8676, S-8685.
|
Jan. 15, 1999.

Citizens and community organizations brought action against state seeking to remove from ballot an initiative prohibiting use of snares to trap wolves. The Superior Court, Fourth Judicial District, Fairbanks, **Ralph R. Beistline, J.**, granted summary judgment for plaintiffs and enjoined placement of proposed initiative on ballot. State appealed. The Supreme Court, **Fabe, J.**, held that common use clause of State Constitution did not grant legislature exclusive law-making powers over natural resources management and, thus, natural resource issues were not clearly inapplicable to initiative process.

Reversed and vacated.

West Headnotes (8)

^[1] **Appeal and Error**
 Cases Triable in Appellate Court

Supreme Court reviews questions of law de novo, applying court's independent judgment and adopting rule of law which is most persuasive in light of precedent, reason, and policy.

4 Cases that cite this headnote

^[2] **Election Law**
 Construction and operation in general

When reviewing initiative challenges, court liberally construes constitutional provisions that apply to initiative process and narrowly interprets subject matter limitations that State Constitution places on initiatives. Const. Art. 11, § 7; Art. 12, § 11.

10 Cases that cite this headnote

^[3] **Election Law**
 Pre-election challenges or review

Pre-election review of challenges to ballot initiatives is limited to ascertaining whether initiative complies with particular constitutional and statutory provisions regulating initiatives.

9 Cases that cite this headnote

^[4] **Constitutional Law**
 Justiciability

General contentions that provisions of an initiative are unconstitutional are justiciable only after initiative has been enacted by electorate.

8 Cases that cite this headnote

[5]

Statutes

🔑Matters subject to initiative

Proposed legislation prohibiting wolf snare traps was proper subject for initiative; wolf snare issue was not “clearly inapplicable” to initiative process. Const. Art. 11, § 7.

5 Cases that cite this headnote

[6]

Constitutional Law

🔑General Rules of Construction

Basic rules of statutory construction apply when interpreting State Constitution.

1 Cases that cite this headnote

[7]

Constitutional Law

🔑General Rules of Construction

When construing constitutional provisions, court uses its independent judgment, adopting reasonable practical interpretation in accordance with common sense based upon plain meaning and purpose of provisions and intent of framers, and also looks to meaning that voters would have placed on provision.

2 Cases that cite this headnote

[8]

Election Law

🔑Matters subject to initiative or submission

Constitutional grant of trust-like duties to legislature in matters of wildlife management did not preclude initiatives relating to wildlife management. Const. Art. 8, §§ 3, 4.

3 Cases that cite this headnote

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Michael A. Grisham, James N. Reeves, Bogle & Gates, P.L.L.C., Anchorage, for Amicus Curiae Alaska Wildlife Alliance.

Before MATTHEWS, Chief Justice, COMPTON, EASTAUGH, FABE, and BRYNER, Justices.

OPINION

FABE, Justice.

I. INTRODUCTION

Various citizens and community organizations sought to remove from the ballot an initiative prohibiting use of snares to trap wolves. The superior court agreed to decertify the initiative, reasoning that the initiative process is “clearly inapplicable” to natural resource management under Article XII of the Alaska Constitution because the state’s role as “trustee” over natural resources gives it exclusive law-making powers over natural resource issues. After concluding that the prohibition of wolf snare traps is an appropriate subject for initiative, we reversed the superior court’s order and placed the initiative back on the November 1998 general election ballot, announcing that an opinion would follow. Voters rejected the initiative in the November 1998 general election.

II. FACTS AND PROCEEDINGS

In October 1997 Lieutenant Governor Fran Ulmer certified a ballot initiative which, if passed, would

criminalize both the use of snares to trap wolves and the possession, sale, or purchase of wolf pelts known to have been taken by snare. The initiative, titled "An Act Relating to the Use of Snares in Trapping Wolves," reads in full:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

AS 16.05 is amended by adding a new section to read:

Section 16.05.784. PROHIBITED METHODS OF TRAPPING WOLVES.

- (a) A person may not use a snare with the intent of trapping a wolf.
- (b) A person may not possess, purchase, offer to purchase, sell, or offer to sell the skin of a wolf known by the person to have been caught with a snare.
- (c) A person who violates this section is guilty of a Class A misdemeanor.

One month later, a group of two citizens and two community organizations (Wright)¹ filed suit against the State challenging the constitutionality of the initiative. Wright argued that, by virtue of the state's role as trustee over Alaska's natural resources under Article VIII, the legislature has exclusive law-making power with respect to wildlife management issues.

Wright had filed a previous suit against the State challenging a separate initiative that prohibited same-day airborne hunting of certain wildlife. Several proponents of the airborne hunting initiative (Brooks)² intervened in that suit. Brooks also filed briefs in this appeal. In December 1997 Superior Court Judge Ralph R. Beistline consolidated the wolf snare suit with the airborne hunting suit.

Although Judge Beistline ruled that the challenge to the airborne hunting initiative was untimely because the initiative had already become law, he barred placement of the wolf snare initiative on the 1998 general election ballot. Relying on Justice Compton's concurrence in *Pullen v. Ulmer*,³ Judge Beistline reasoned:

*1027 It would be inappropriate to dictate to the legislature the method or tool it should use to manage wildlife. The effect of such restrictions would be to infringe upon the legislature's exclusive right to manage wildlife resources and would compromise the legislature's ability to fulfill its trust obligation to

preserve Alaska's fish and wildlife for the common use of all Alaskans.

The State appealed the superior court's ruling on the wolf snare initiative. On June 2, 1998, we issued an order to expedite the appeal. On August 17, 1998, after hearing oral arguments in the case, we reversed the superior court's ruling and vacated the injunction, thereby placing the wolf snare initiative back on the ballot. We stated in our order that an opinion of the court would follow. In the November general election the voters rejected the initiative.

III. STANDARD OF REVIEW

^[1] This appeal centers around the constitutionality of using the initiative process to prohibit wolf snare traps. We review such questions of law de novo, applying our independent judgment and "adopt[ing] the rule of law which is most persuasive in light of precedent, reason, and policy."⁴

^[2] When reviewing initiative challenges, we liberally construe constitutional provisions that apply to the initiative process.⁵ Specifically, we narrowly interpret the subject matter limitations that the Alaska Constitution places on initiatives.⁶ Still, we have a duty to give questions involving the propriety of an initiative's subject matter "careful consideration because the constitutional right of direct legislation is [also] limited by the Alaska Constitution."⁷

^[3] ^[4] Pre-election review of challenges to ballot initiatives is limited to ascertaining "whether [the initiative] complies with the particular constitutional and statutory provisions regulating initiatives."⁸ But "[g]eneral contentions that the provisions of an initiative are unconstitutional are justiciable only after the initiative has been enacted by the electorate."⁹ Hence, our review of the initiative at this stage is limited to whether the subject matter is constitutionally permissible.

IV. DISCUSSION

^[5] Articles XI and XII are the only provisions of the Alaska Constitution that explicitly mention the initiative process. Article XII describes when the people of Alaska may use the initiative to propose and pass legislation:

LAW-MAKING POWER....
Unless *clearly inapplicable*, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article

XI.¹⁰

In turn, Article XI imposes certain subject matter restrictions on initiatives:

SECTION 7. RESTRICTIONS.

The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.¹¹

Wright does not claim on appeal that the wolf snare initiative falls within one of the *1028 enumerated Article XI limitations.¹² Rather, he only argues that, under Article XII, the initiative process is “clearly inapplicable” to natural resource management decisions because of the state’s role as trustee over wildlife and other natural resources. We first discuss whether wildlife management is “clearly inapplicable” to the initiative process based on the language and framers’ understanding of Articles XI and XII. We then address whether the state’s trustee-like duty set forth in Article VIII implies that the public may not propose initiatives relating to wildlife management.

A. Whether Wildlife Management Is “Clearly Inapplicable” to the Initiative Process Based on the Language and History of Articles XI and XII

To determine whether the subject matter of wildlife management is clearly inapplicable to the initiative process, we look first to the language and history of the constitutional provisions regarding the initiative process.

¹⁶ ¹⁷ We apply basic rules of statutory construction when interpreting the Alaska Constitution.¹³ When construing constitutional provisions, we use our independent judgment, “adopting a reasonable practical interpretation in accordance with common sense based upon the plain meaning and purpose of the provision[s] and the intent of the framers.”¹⁴ We also “look to the meaning that the voters would have placed on [the] provision.”¹⁵ Although the restrictions included in Article XI are relatively straightforward and easy to decipher, the meaning of the phrase “clearly inapplicable” in Article XII is less obvious. We therefore look to the intent of the framers for guidance in interpreting the provision.

The debates about the initiative process at the Alaska Constitutional Convention make clear the framers’ understanding of the phrase “clearly inapplicable” in Article XII. During the discussion of what is now Article XII, § 11, Delegate George McLaughlin, chair of the Judiciary Committee and author of the proposed

language, explained that use of the phrase “the legislature” in an article marked the delegates’ intent to make the article subject to the initiative process as well:

What do I mean here by “unless clearly inapplicable”? ... Certainly we wouldn’t intend, where you read in the article on the judiciary that the supreme court may adopt rules which may be, in substance, disapproved by two-thirds of each house of the legislature, because it was obviously meant from that context that that couldn’t be subject to the initiative, and so we are clearly indicating here that *where we use the expression “by the legislature” or the expression “the legislature” we mean completely, thoroughly, and wholeheartedly know that it is subject not only to the initiative but to the referendum, and where it is clearly inapplicable, even 55 idiots would agree that it was inapplicable.*¹⁶

The convention adopted McLaughlin’s proposed language shortly after he gave this speech.¹⁷

*1029 Delegate Victor Fischer, in response to a motion to make “the legislature” signify *exclusively* the legislature, argued that such an interpretation would leave “hidden meanings” in the constitution that would limit the people’s legitimate use of the initiative:

I don’t think it is right for us as an afterthought to start going through the whole constitution and add additional items that are not subject to the initiative.... If you believe that certain items should be exempted let’s put them into Section 5 of Article 3 [later renumbered as art. XI, § 7] and specifically exempt them from the initiative instead of going through each article, section by section, and *by hidden meanings prevent the people from exercising the initiative.*¹⁸

Shortly after Fischer’s speech, the motion to narrow the intended meaning of the term “the legislature” was defeated by a 2–1 margin.¹⁹

The framers chose to use the phrase “the legislature” in

Article VIII, which concerns natural resource management:

GENERAL AUTHORITY. *The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.*²⁰

Such language evidences the delegates' intent that natural resource issues would be subject to the initiative. Indeed, unlike the Judiciary Committee,²¹ the Resources Committee made no effort to have the subject matter of Article VIII excluded from the initiative process. If we were to grant the legislature an exclusive right to propose wildlife legislation based on the state's role as "trustee" over wildlife under Article VIII, we would be relying on the very hidden meanings against which Fischer warned and that the delegates at the constitutional convention squarely rejected.

Even if Article VIII had not contained the words "the legislature," the subject of wildlife management is not so clearly inapplicable to the initiative process as to pass Delegate McLaughlin's "55 idiot" test. The convention debates suggest the framers added "clearly inapplicable" to Article XII so that the initiative would not replace the legislature where the legislature's power serves as a check on other branches of government, such as legislative power to define courts' jurisdiction or override judicial rules.²² This separation-of-powers concern does not exist with respect to natural resource issues under Article VIII. Hence, the debates do not support an interpretation of Article XII that would grant the legislature *exclusive* law-making powers over natural resource management on the grounds that such subject matter is "clearly inapplicable" to the initiative process.

Wright argues that natural resources issues are "sensitive and sophisticated" in Alaska, and therefore should be free from the "impulsive enactment of laws by the general public." He points to resolutions passed by the legislature and Game Board endorsing snare trapping as evidence that the initiative is ill-conceived. We agree with Wright that such issues are sensitive and complex; indeed, "public policy stakes are usually high" in initiative law.²³ But the framers of the constitution chose to include the initiative process as a law-making tool with full knowledge of the risks inherent to direct democracy.²⁴ And the public's disagreement with *1030 legislative and administrative officials can just as easily be taken as evidence of the appropriate use of the initiative process. Additionally, safeguards exist in the process, allowing the

legislature to repeal initiated legislation after two years and to amend such legislation at any time.²⁵ Concerned parties can also bring a post-election substantive challenge to what they may believe is an ill-advised law. As the Alaska Wildlife Alliance (AWA) points out, if any specific initiated law is "constitutionally infirm," it can be invalidated on that basis.²⁶

Finally, the delegates' decision to submit Ordinance 3, which banned commercial salmon traps, for voter ratification along with the rest of the constitution evidences the delegates' and voters' understanding that wildlife management issues would be subject to direct democracy. The wording of the referendum submitted to the people emphasized the public's role in the decision to abolish fish traps:

As a matter of immediate public necessity, to relieve economic distress among individual fishermen and those dependent upon them for a livelihood, to conserve the rapidly dwindling supply of salmon in Alaska, to insure fair competition among those engaged in commercial fishing, and to make manifest the will of the people of Alaska, the use of fish traps for the taking of salmon for commercial purposes is hereby prohibited in all the coastal waters of the State.²⁷

Those delegates opposed to submitting the ordinance to the voters argued that the matter should be resolved by future state legislative action rather than by popular vote.²⁸ A motion to this effect was defeated by a 42–12 vote.²⁹ After ratification, we held that Ordinance 3 was a valid modification of the territorial laws.³⁰ We viewed Ordinance 3, and by implication the process through which it was adopted, as being consistent with the state's management responsibilities for wildlife and other "property of the state, held in trust."³¹

Thus the language and framers' understanding of Articles XI and XII, along with the chosen wording of Article VIII and the inclusion of Ordinance 3 for ratification, suggest that natural resource management is not, as Wright contends, "clearly inapplicable" to the initiative process.

B. Whether the Legislature Has Exclusive Law-Making Powers over Wildlife Management by Virtue of the State's Trustee-Like Duties under Article VIII
Article VIII of the Alaska Constitution concerns the

management of natural resources:

SECTION 3. COMMON USE. Wherever occurring in their natural state, fish, wildlife, *1031 and waters are reserved to the people for common use.

SECTION 4. SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.³²

Wright argues that these clauses establish a “public trust” for management of the state’s wildlife, with the State of Alaska as “trustee” and the people of Alaska as the intended beneficiaries. From this premise, Wright further claims that the state, as part of its fiduciary duty, retains exclusive law-making authority over natural resource issues. We disagree.

We have frequently compared the state’s duties as set forth in **Article VIII** to a trust-like relationship in which the state holds natural resources such as fish, wildlife, and water in “trust” for the benefit of all Alaskans.³³ Instead of recognizing the creation of a public trust in these clauses per se, we have noted that “the common use clause was intended to engraft in our constitution certain trust principles guaranteeing access to the fish, wildlife and water resources of the state.”³⁴

We have applied the public trust doctrine to cases involving exclusive grants of natural resources by the state. In *CWC Fisheries, Inc. v. Bunker*,³⁵ we held that a holder of a state-granted fee interest in tidelands takes the land subject to a public easement.³⁶ We based our holding in part on the state’s public trust responsibilities with respect to tideland conveyance,³⁷ but did not address whether **Article VIII** creates a public trust per se or whether such responsibilities preclude public participation in natural resource management decisions. Furthermore, we suggested that expansion of the public trust doctrine to include all or most public uses merely because it has been applied to a particular public use would be inappropriate.³⁸

A few months after *CWC Fisheries*, we clarified in *Owsichek v. State, Guide Licensing & Control Board* that the purpose of the public trust doctrine was not to grant the legislature ultimate authority over natural resource management, but rather to prevent the state from giving out “exclusive grants or special privilege as was so frequently the case in ancient royal tradition.”³⁹ Hence, the State of Alaska acts as “trustee” over wolves and other wildlife not so much to avoid public misuse of these resources as to avoid the state’s improvident use or conveyance of them.

Indeed, in *Owsichek*, after a discussion of the holding in *CWC Fisheries*, we emphasized that the state’s duties with respect to natural resource management under **Article VIII** “[are] to be exercised like all other powers of government, ... and not as a prerogative for the advantage of the government as distinct from the people.”⁴⁰

Wright relies on a recent case, *Baxley v. State*,⁴¹ to argue that we should apply basic principles of private trust law to the trust-like relationship described in **Article VIII**. In *Baxley*, we referred to the public trust doctrine in examining the propriety of four state oil leases in the Beaufort Sea:

The public trust doctrine provides that the State holds certain resources (such as wildlife, minerals, and water rights) in trust for public use and that government owes a fiduciary duty to manage such resources *1032 for the common good of the public as beneficiary.⁴²

Although we declined to address in *Baxley* whether the state had breached its fiduciary duty, we relied on another case, *State v. Weiss (Weiss I)*, in noting that we should apply “basic principles of trust law to public land trusts.”⁴³

But, unlike this case, *Weiss I* involved the state’s duty as trustee over expressly created special purpose public land grants and leases.⁴⁴ In that case we stated:

Our reliance upon basic trust law principles finds ample support in the precedents of this court and the United States Supreme Court. See *Lassen v. Arizona*, 385 U.S. 458, 87 S.Ct. 584, 17 L.Ed.2d 515 (1967); *State v. University of Alaska*, 624 P.2d 807 (Alaska 1981). Both *Lassen* and *University of Alaska* involved federal grants to be used by states for school purposes. Those cases stand for the proposition “that the same private trust law principles are to apply to federal land granted to the states for school purposes.”⁴⁵

We have since emphasized that the applicability of private trust law depends greatly on both the type of trust created and the intent of those creating the trust. In *Weiss v. State (Weiss II)*,⁴⁶ involving the same grant lands as in *Weiss I*, we cautioned that “reliance [on principles of private trust law] does not imply that application of such principles yields the same result regardless of the nature of the trust at issue.”⁴⁷

Baxley, unlike *Weiss I*, did not involve an expressly created public land grant. Rather, *Baxley* simply relied on *Weiss I* to show that, if *Baxley* had timely raised his public trust argument in the trial court, then questions of fact and law might exist as to whether the state breached its fiduciary duty. Wright relies on dicta in *Baxley* to

argue that private trust law should be applied wholesale to the public trust doctrine. This result, however, would be an overbroad interpretation of our holdings in *Baxley* and *Weiss I*.

Moreover, application of private trust principles may be counterproductive to the goals of the trust relationship in the context of natural resources. For instance, private trusts generally require the trustee to maximize economic yield from the trust property, using reasonable care and skill.⁴⁸ But **Article VIII** requires that natural resources be managed for the benefit of all people, under the assumption that both development and preservation may be necessary to provide for future generations, and that income generation is not the sole purpose of the trust relationship.⁴⁹ And although trust law dictates that the acts of a trustee should be reviewed for abuse of discretion, we have held that grants of exclusive rights to harvest natural resources listed in the common use clause are subject to close scrutiny.⁵⁰ Private trust law principles also provide no guidance as to when the public's right to common use of resources can be limited through means such as licensing requirements.⁵¹ Finally, exceptions do exist to the general principle that beneficiaries cannot dictate how to manage the trust property. For example, in some circumstances, the creator may provide for the beneficiary's participation in trust management,⁵² and the beneficiary *1033 of a trust may act as trustee.⁵³

Other jurisdictions have held that, while general principles of trust law do provide some guidance, they do not supercede the plain language of statutory and constitutional provisions when determining the scope of the state's fiduciary duty or authority.⁵⁴ One commentator notes that general trust law should not be applied to the public trust doctrine in a way that limits or destroys the democratic process: "It would be a strict violation of democratic principle for the original voters and legislators of a state to limit, through a trust, the choices of the voters and legislators of today."⁵⁵

We most recently visited the public trust doctrine in the natural resource context in *Pullen v. Ulmer*.⁵⁶ In that case, we decertified an initiative allowing subsistence, personal use, and sport fisheries to have preference over other fisheries with respect to the harvestable salmon surplus.⁵⁷ We concluded that salmon should be considered "assets" of the state for purposes of carrying out the state's trust duties with respect to wildlife.⁵⁸ Because state assets may not be appropriated by initiative pursuant to **Article XI**,⁵⁹

and because we viewed the preferential treatment of certain fisheries over others as an appropriation,⁶⁰ we removed the initiative from the ballot. We left open the question of whether the state's trust responsibilities under **Article VIII** give the legislature exclusive law-making control over wildlife management.⁶¹

We find little support in the public trust line of cases for the proposition that the common use clause of **Article VIII** grants the legislature exclusive power to make laws dealing with natural resource management. **Article VIII** does not explicitly create a public trust; rather, we have used the analogy of a public trust to describe the nature of the state's duties with respect to wildlife and other natural resources meant for common use. Additionally, the wholesale application of private trust law principles to the trust-like relationship described in **Article VIII** is inappropriate and potentially antithetical to the goals of conservation and universal use. And in *Pullen*, the only case in which we discussed the initiative process, we declined to hold that the public trust doctrine gives the legislature exclusive law-making authority over the subject matter of **Article VIII**. We therefore reject Wright's argument to the contrary and decline to decertify the initiative on public trust grounds.

^[8] For these reasons, we conclude that the legislature does not have exclusive law-making powers over natural resources issues merely because of the state's management role over wildlife set forth in **Article VIII** of the Alaska Constitution, and therefore the wolf snare issue is not "clearly inapplicable" to the initiative process under **Article XII**.

V. CONCLUSION

Pursuant to this court's August 17, 1998 order, the superior court's order on summary judgment is REVERSED and its injunction against placement of the proposed ballot measure, "An Act Relating to the Use of *1034 Snares in Trapping Wolves," on the general election ballot is VACATED.

All Citations

971 P.2d 1025

Footnotes

1 The four plaintiff-appellees in this case are: Patrick Wright, a member of the Anchorage Fish and Game Advisory Committee; Albert Franzmann, a past member of the Alaska Board of Game; the Alaska Fish and Wildlife

Conservation Fund; and Scientific Management of Alaska's Resource Treasures (SMART).

2 Intervenor-appellants include James Brooks, a former commissioner of the Alaska Department of Fish and Game; Joel Bennett, a former member of the Alaska Board of Game; and the Wolf Management Reform Coalition.

3 923 P.2d 54, 65–66 (Alaska 1996) (Compton, J., concurring).

4 *Ford v. Municipality of Anchorage*, 813 P.2d 654, 655 (Alaska 1991) (citing *Guin v. Ha*, 591 P.2d 1281, 1284 n. 6 (Alaska 1979)).

5 See *Interior Taxpayers Ass'n, Inc. v. Fairbanks North Star Borough*, 742 P.2d 781, 782 (Alaska 1987).

6 See *Citizens' Coalition for Tort Reform v. McAlpine*, 810 P.2d 162, 168 (Alaska 1991) (“[T]he law-making powers assigned to the legislature are to be liberally construed as within the people’s right to legislate by initiative.”).

7 *Pullen v. Ulmer*, 923 P.2d 54, 58 (Alaska 1996) (quoting *Fairbanks v. Convention & Visitors Bureau*, 818 P.2d 1153, 1155 (Alaska 1991)).

8 *Boucher v. Engstrom*, 528 P.2d 456, 460 (Alaska 1974), overruled in part on other grounds, *McAlpine v. University of Alaska*, 762 P.2d 81 (Alaska 1988).

9 *Id.* at 460 n. 13.

10 Alaska Const. art. XII, § 11 (emphasis added).

11 Alaska Const. art. XI, § 7.

12 At no stage of this case has any party argued that the wolf snare initiative makes or repeals an appropriation in violation of Article XI, § 7. As Judge Beistline wrote:

[N]or did [the parties] address the issue of whether or not an initiative addressing methods of wildlife management or harvest, such as the use of snares, would constitute an appropriation of state assets....

Indeed, Wright himself acknowledges that:

While an argument can be made that the establishment of laws involving means and methods of game harvest may effectively result in an appropriation of state assets, ... Wright argues here, as he did in the superior court, that the subject of the wolf snare initiative is clearly inapplicable....

The question is therefore not properly before us, and we do not address it here.

13 See *Thomas v. Bailey*, 595 P.2d 1, 4 (Alaska 1979).

14 *Cissna v. Stout*, 931 P.2d 363, 366 (Alaska 1996) (citation omitted).

15 *Division of Elections v. Johnstone*, 669 P.2d 537, 539 (Alaska 1983) (citation omitted).

16 See 4 Proceedings of the Alaska Constitutional Convention (PACC) 2849 (January 21, 1956) (emphasis added).

17 See *id.* at 2850–51.

18 *Id.* at 2837 (emphasis added).

19 See *id.* at 2841.

20 Alaska Const. art. VIII, § 2 (emphasis added).

- 21 See 4 PACC at 2843–46 (January 21, 1956).
- 22 See, e.g., PACC at 2848–49 (January 21, 1956) (statement of Del. McLaughlin) (stating that initiative should not be used to override judicial rules); *id.* at 2821 (statement of Del. Davis) (defining the jurisdiction of courts); *id.* at 2836–37 (statement of Del. Rivers) (changing fundamental aspects of the judiciary as defined in the constitution). See also *Citizens' Coalition for Tort Reform v. McAlpine*, 810 P.2d 162, 168 (Alaska 1991) (invalidating an initiative to limit attorney contingency fees because "[o]nly the law-making powers assigned to the legislature" are within the right to legislate by initiative).
- 23 M. Katheryn Bradley & Deborah L. Williams, "Be It Enacted by the People of the State of Alaska ..."—A Practitioner's Guide to Alaska's Initiative Law, 9 Alaska L.Rev. 279, 302 (1992).
- 24 See *Thomas v. Bailey*, 595 P.2d 1, 8 (Alaska 1979) ("The restrictions on permissible subjects for direct legislation represent a recognition ... that certain particularly sensitive or sophisticated areas of legislation should not be exposed to emotional electoral dialogue and impulsive enactment by the general public.") (internal citation omitted).
- 25 See Alaska Const. art. XI, § 6.
- 26 See also *Owsichek v. State, Guide Licensing & Control Bd.*, 763 P.2d 488, 494–96 (Alaska 1988) (invalidating board's establishment of guide areas for hunting as violative of Article VIII's public use clause).
- 27 Alaska Const. ord. III, § 2 (emphasis added).
- 28 See 5 PACC at 3564–3752 (January 30, 1956).
- 29 See *id.* at 3572.
- 30 See *Metlakatla Indian Community, Annette Island Reserve v. Egan*, 362 P.2d 901, 922–23 (Alaska 1961), vacated on other grounds, 369 U.S. 45, 82 S.Ct. 552, 7 L.Ed.2d 562 (1962), *aff'd sub nom. Organized Village of Kake v. Egan on other grounds*, 369 U.S. 60, 82 S.Ct. 562, 7 L.Ed.2d 573 (1962).
- 31 *Id.* at 915. One could argue that regulation of salmon traps is an allocation of resources, given that the purpose of the ordinance was to give individual commercial Alaska fishermen greater access to the salmon population. See 5 PACC at 3564–71 (January 30, 1956); Alaska Const. ord. III, § 2. This argument was not made by opponents of Ordinance 3, nor was it made by Wright in this case with respect to the wolf snare initiative. Moreover, the wolf snare initiative, the main purpose of which is presumably to prevent cruelty to animals, does not present the same opportunity or motive for self-dealing as did Ordinance 3. In any event, such an argument does not diminish the persuasiveness of the Ordinance 3 example in countering Wright's public trust argument.
- 32 Alaska Const. art. VIII, §§ 3, 4.
- 33 See, e.g., *McDowell v. State*, 785 P.2d 1, 18 (Alaska 1989); *Herscher v. State, Dep't of Commerce*, 568 P.2d 996, 1002–03 (Alaska 1977).
- 34 *Owsichek v. State, Guide Licensing & Control Bd.*, 763 P.2d 488, 496 (Alaska 1988).
- 35 755 P.2d 1115 (Alaska 1988).
- 36 See *id.* at 1121.
- 37 See *id.* at 1118–19.

- 38 See *id.* at 1118 nn. 7–8.
- 39 *Owsichек v. State, Guide Licensing & Control Bd.*, 763 P.2d 488, 493 (Alaska 1988) (citing constitutional convention papers).
- 40 *Owsichек*, 763 P.2d at 494 (citation omitted).
- 41 958 P.2d 422 (Alaska 1998).
- 42 *Id.* at 434 (citation and internal quotation marks omitted).
- 43 *Id.* (citing *State v. Weiss (Weiss I)*, 706 P.2d 681, 683 n. 3 (Alaska 1985)).
- 44 See *Weiss I*, 706 P.2d at 681–82.
- 45 706 P.2d at 683 n. 3 (emphases added) (quoting *University of Alaska*, 624 P.2d at 813).
- 46 939 P.2d 380 (Alaska 1997), *cert. denied*, 522 U.S. 948, 118 S.Ct. 366, 139 L.Ed.2d 285 (1997).
- 47 *Id.* at 389.
- 48 See Restatement (Second) of Trusts §§ 174, 176, 181 (1959).
- 49 See Alaska Const. art. VIII, §§ 1, 4.
- 50 See *Owsichек v. State*, 763 P.2d 488, 494 (Alaska 1988).
- 51 See *id.* at 492 (noting that the common use clause does not prohibit all regulation of use of listed resources).
- 52 See Restatement (Second) of Trusts at § 37 cmt. b (1959) (creator may reserve for beneficiary the power to administer, revoke, or modify trust).
- 53 See *id.* at §§ 99, 100.
- 54 See, e.g., *Evans v. City of Johnstown*, 96 Misc.2d 755, 410 N.Y.S.2d 199, 207–08 (N.Y.App.Div.1978) (“While the use of the name ‘public trust’ may suggest duties similar to those under a private trust, that interpretation is not feasible.”); *City of Coronado v. San Diego Unified Port Dist.*, 227 Cal.App.2d 455, 38 Cal.Rptr. 834, 844 (Cal.Dist.App.1964) (“[P]rivate trust principles cannot be called upon to nullify an act of the legislature or modify its duty....”).
- 55 James L. Huffman, *A Fish Out of Water: The Public Trust Doctrine in a Constitutional Democracy*, 19 *Envtl. L.* 527, 544 (1989).
- 56 923 P.2d 54 (Alaska 1996).
- 57 See *id.* at 55, 64–65.
- 58 *Id.* at 61.
- 59 See *id.* at 58.

60 See *id.* at 64.

61 See *id.* at 64 n. 18. Justice Compton concurred with our result in *Pullen*, disagreeing with our conclusion that salmon was a state "asset" and basing his decision instead on the [Article VIII](#) public trust argument. See *Pullen*, 923 P.2d at 65–66 (Compton, J., concurring).

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SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 24.05.010, DEFINITIONS; AMENDING MSB 24.05.020(A), JURISDICTION; ADOPTING MSB 24.05.105; AMENDING MSB 24.40.050, FINES FOR INFRACTIONS; ADOPTING MSB 24.05.055, FORFEITURE OF TRAPS; AMENDING MSB 2.85.020(D), CLOSURES AND RESTRICTIONS; ADOPTING MSB 2.85.020(E); ADOPTING MSB 2.85.030, DEFINITIONS; AMENDING CHAPTER TITLE 19.12; ADOPTING MSB 19.12.015, TRAPPING PROHIBITED; ADOPTING OF MSB 19.12.030, DEFINITIONS; AMENDING MSB 1.45.100(C), FINES FOR INFRACTIONS; AND ADOPTING MSB 1.45.105, FORFEITURE OF TRAPS IN ORDER TO PROHIBIT TRAPPING ON BOROUGH OWNED PUBLIC SCHOOL PROPERTY AND TO RESTRICT TRAPPING ON THE BOROUGH OWNED PORTION OF CREVASSE MORAINES TRAIL SYSTEM.

AGENDA OF: February 21, 2017

ASSEMBLY ACTION:
OR 17-021 Reconsidered, amended, adopted as amended w/o objection @ 3/21/17 RM

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route To:	Department/Individual	Initials	Remarks
	Originator	SB JB	For Assemblymember Mayfield
	Community Development Director	Q	
	Finance Director		
	Borough Attorney	JB	
	Borough Clerk	JMM	2/13/17

ATTACHMENT (S): Fiscal Note: NO

Ordinance Serial No. 17-021 (14 pp)
 Parks & Rec Resolution #17-01 (2 pp)

- Petition (1 pp.)
- memo fr. Animal Care & Regulation Board (1 pp.)
- Map (1 pp.)

SUMMARY STATEMENT:

Assemblymember Mayfield was presented with a petition from Borough residents which requested the Borough Assembly pass an ordinance that would prohibit the placing of traps at the

Crevasse Moraine trail system, the developed Government Peak recreation trail area, and at the Borough's Core area schools. The petition also requested that exceptions be made for wildlife biologists with the State's Department of Fish and Game. The first page of the petition is in the packet materials; a total of 3568 people signed it.

An ordinance was drafted utilizing the Matanuska Susitna Borough's powers pursuant to AS 29.35.010(8), to regulate its own property, as well as its power to regulate and protect animals pursuant to AS 29.35.210(a)(3). The ordinance restricted trapping in a more discrete area relating to trails than proposed by the petition; more specifically, the ordinance limits trapping on only Borough owned portions of Crevasse Moraine trail system rather than all the trails.

However, instead of only applying to Borough core area school property, the ordinance was drafted to restrict trapping on all Borough public school property - rather than just those in the core area. Additionally, the intent of the language "public school property owned by the Borough" in the ordinance is meant to be construed broadly. More specifically, there are some school sites that have Borough owned parcels next to them - parcels which the public schools use for related school functions (like skiing), that are likewise open to the public as well. Sometimes the schools have a formal agreement to manage the adjacent property, other times they manage or utilize them without a formal agreement. Examples of such include an area around the Talkeetna Elementary School, as well as 80 acres adjacent to Houston Jr Senior School's 40 acre school site. There are other elementary schools which also use adjacent Borough property for science and studies which may or may not be on cleared trails. Under the ordinance these adjacent parcels would be public school property owned by the Borough on which trapping is restricted.

At the same time, there are currently only a few charter schools that would fall under the ordinance as written as "Borough owned school property." Those are the Fronteras, Academy Charter, and Twindly Bridge charter schools. The Borough could acquire or allow charter schools to utilize Borough property in the future (like Midnight Sun Family Learning Center). While the other privately owned parcels that are leased to charter schools could close trapping on their property if they choose to, this ordinance will not affect them.

The draft ordinance was then provided to the Animal Care and Regulation Board, the Parks, Recreation and Trails Advisory Board, and the MSB Fish and Wildlife Commission. It was also forwarded to the Matanuska-Susitna Borough School District. All

entities were asked to review and comment.

The Animal Care and Regulation Board considered the proposed legislation at their regular board meeting on November 28, 2016. The Board took no action and provided no comments. The memorandum provided by the Assistant Clerk is provided herewith.

The draft ordinance was introduced at the Parks, Recreation and Trails Advisory Board on October 24, 2016, and was discussed at length at the November 30, 2016, meeting.

On December 2, 2016, Luke Fulp, the Assistant Superintendent of Business and Operations with the Matanuska-Susitna Borough School District, conveyed that the District did not have any official comments regarding the draft legislation beyond the fact that it aligns with what they are trying to do to maintain safe/healthy environments for students.

The draft ordinance was then modified by Assembly member Mayfield after the Parks, Recreation and Trails Advisory Board meetings in light of some of the dialogue. More specifically, the following changes were made to the draft ordinance:

- Parts of the ordinance title was changed;
- "Prohibit" language was added in the "whereas" statements;
- Language was added to clarify that "trapping" does not mean the simple possession or transportation of traps;
- Language was added to create an exception to the trapping buffer in Crevasse Moraine, and the exclusion to Borough owned school properties so that certain trapping educational demonstrations can take place;
- Language was added to the Title 24 and Title 2.85 portions to further clarify that they only apply to Borough owned property and is not meant to apply to land owned by other entities;
- A typographical error was corrected where yards was referenced instead of 100 feet.

The Board then held a special meeting on December 29th, 2016, to review the legislation and propose any edits. On January 23, 2017, the Board passed Resolution 17-01 suggesting some modifications to it. Some of those modifications have been incorporated into the draft now before the Assembly.

The MSB Fish and Wildlife Commission was provided an opportunity to comment on the proposed ordinance. They briefly discussed the draft trapping ordinance with a member of the Parks, Recreation and Trails Advisory Board on December 15, 2016, and intended to take it up at their January 5, 2017, meeting. Other items on the agenda prevented them from allocating enough time to it to provide comments.

The Matanuska Susitna Borough is the fastest growing area in the State of Alaska. The Department of Labor estimates its population was 102,598 people in 2016. The core area (where Crevasse Moraine trail system), and the Borough public school property are impacted by population growth and more heavily utilized.

As a result of the increasing population in the Borough, conflicts are increasingly rising between those trapping and other users. There is a legitimate concern that additional individuals, children and/or their pets could come into contact with set traps on Borough owned land intended to be utilized for educating children, walking, running, hiking and other non-motorized activities. The restrictions proposed in this ordinance are an effort to mitigate those user group conflicts and allow various user groups to enjoy their experiences on Borough owned property without the fear of injury.

The restrictions in the proposed ordinance - the exclusion of traps on the maintained trail and within a 100 foot of a Borough owned Crevasse Moraine trail and the exclusion of traps on Borough owned public school property - will not interfere with the State of Alaska's ability to regulate wildlife. There are approximately fifteen (15) miles of trails in the Crevasse Moraine trail system on Borough owned lands; the area buffered from traps is only approximately three hundred twenty two (322) acres¹ of the vast amount of land in the Matanuska Susitna Borough. The map illustrating the Crevasse Moraine trail system buffered area is included in your materials. Additionally, the restrictions contained in the ordinance will have only an incidental impact on trapping.

In summary, this ordinance restricts the use of certain Borough owned real property for trapping. All other federal, state and private lands within the Matanuska Susitna Borough are not affected by this ordinance.

¹ This calculation of the acres within the Crevasse Moraine Trail System affected by the ordinance used a width of 12' for trails coded as dirt roads or wide track and buffered them by 100'. For trails coded as single track, the calculation used a buffer of 100' from the centerline. A similar analysis was not undertaken for the acres of school property.

RECOMMENDATION OF ADMINISTRATION:

Adoption of legislation.

Jess Kilborn

From: Lonnie McKechnie
Sent: Wednesday, March 08, 2017 10:26 AM
To: Barbara Doty; Dan Mayfield; George McKee; Jim Sykes; Matthew Beck; RANDALL KOWALKE; stevecolligan@mtaonline.net; Vern Halter
Cc: Nicholas Spiropoulos; John Moosey; Eric Phillips; Jess Kilborn; Brenda Henry
Subject: FW: Request to reconsider MSB 17-021
Importance: High

Mayor and Assembly:

Please see the below request from Assemblymember Kowalke to reconsider Ordinance 17-021 (trapping). This will be placed on the 3/21 agenda under reconsideration.

Thank you,
Lonnie

From: RANDALL KOWALKE [mailto:randallk_2@msn.com]
Sent: Wednesday, March 08, 2017 7:30 AM
To: Lonnie McKechnie <Lonnie.McKechnie@matsugov.us>
Subject: Request to reconsider MSB 17-021
Importance: High

Lonnie,

I am requesting that we reconsider MSB 17-021. It is my hope that we can actually have a map to see what area are being effected with this ordinance, clear wording as to what the ordinance actually says AND the possibly to add some other locations.

Thank you!

Randall Kowalke
District 7

IM17-034
OR17-021

Assemblymember Doty:

LEGISLATIVE STATEMENT:

These amendments will change the proposed ordinance to prohibit trapping on the Borough owned Matanuska River Park trails, the Alcantra Recreation Area Trails, and the Borough owned portion of the West Bodenbug Butte Trail in addition to the Borough owned Crevasse Moraine and public school property. The reason this amendment is being proposed is that the Borough also owns property that makes up the Matanuska River Park trails, the Alcantra Recreation Area Trails, and the West Bodenbug Butte Trail. The West Bodenbug Butte Trail is included within the Trails Plan. Like the Crevasse Moraine Trail system and the Borough owned public school property, there are no express trapping restrictions on these other Borough owned trails and allowing traps to be placed on them is also incompatible with the recreational uses for those areas. Recreational trail users, including dogs and children, may not be able to timely identify the location of traps on these Borough-owned trails and may not be able to successfully avoid them accordingly.

ADDING LEGISLATIVE STATEMENTS TO IM:

Along with these amendments, I move to amend the Informational Memorandum by adding this printed copy of the amendments to the IM so the legislative history is clear.

AMENDMENTS TO ORDINANCE ADDING MATANUSKA RIVER PARKS TRAILS, ALCANTRA RECREATION AREA TRAILS, and WEST BODENBURG BUTTE TRAIL

Before the words "Crevasse"

I move to amend Ordinance Serial Number 17-021 by adding the terms "~~Matanuska River Park trails, the Alcantra Recreation Area trails, and West Bodenbug Butte trail~~" after the words "Crevasse Moraine" throughout the entire proposed ordinance.

- by inserting the words "on Borough owned recreation lands including" before the words "Crevasse Moraine" throughout the code section of the ordinance; and
- by inserting the following after "Crevasse Moraine" throughout the code section of the ordinance:
 - Matanuska Lakes
 - Lazy Mountain Recreation Area
 - Matanuska River Park
 - Alcantra Athletic Complex
 - West Bodenbug Butte
 - Reflections Lake

IF DOTY'S PASSES – AMENDMENT TO APPLY THE TRAPPING PROHIBITION TO THE ENTIRE PARK/RECREATIONAL AREA INSTEAD OF JUST TRAILS

LEGISLATIVE STATEMENT:

These amendments will change the proposed ordinance to prohibit trapping on the *entire* Borough owned portion of Matanuska River Park Campground and Recreation Area, the entire Alcantra Recreation Area, and the Borough owned portion of the West Bodenbug Butte Trail in addition to the entire Borough owned Crevasse Moraine and Borough owned public school property. The reason this amendment is being proposed is that the Borough owns more property than just the trails systems on these properties. There are no express trapping restrictions on these Borough owned properties. The concern is that recreational users of the Borough owned property, including dogs and children, may not be able to timely identify the location of traps on these Borough-owned properties and may not be able to successfully avoid them accordingly. Also, individuals that are recreating on these Borough owned properties may not stay on Borough maintained trails. Therefore, trapping is incompatible not only with the recreational use of *trails* on these properties but trapping is incompatible with the recreational use of all portions of the property. Also, prohibiting trapping on all portions of these Borough owned properties makes enforcement of no trapping areas less cumbersome for the Borough.

ADDING LEGISLATIVE STATEMENTS TO IM: Along with these amendments, I move to amend the Informational Memorandum by adding this printed copy of the amendments to the IM so the legislative history is clear.

AMENDMENT TO CHANGE FROM TRAILS TO ENTIRE PARK/RECREATIONAL AREA PARCEL:

I move to amend Ordinance Serial Number 17-021 to substitute the terms "~~Crevasse Moraine trail system~~" with "Crevasse Moraine," the terms "~~Matanuska River Park trails~~" with "Matanuska River Park Campground and Recreational Area," and the terms "~~Alcantra Recreation Area trails~~" with "Alcantra Recreation Area" in Section 4 addressing MSB 24.05.105(A)(1), Section 6 addressing MSB 24.40.055, Section 7 addressing MSB 2.85.020(D) and (D)(1) and (D)(3) and Section 13 addressing MSB 1.45.105.

AMENDMENTS TO CHANGE THE PROHIBITED TRAPPING FROM BUFFER TO THE ENTIRE PARCEL

I move to amend Ordinance Serial Number 17-021 proposed Section 4 as follows:

Delete the terms "within the Borough maintained trails or within 100' of the Borough maintained trails" from proposed 24.05.105(A)(1).

I move to amend Ordinance Serial Number 17-021 proposed Section 6 as follows:

Delete the terms "any Borough maintained trail that is part of" and delete the terms "or within 100 feet of such" from proposed 24.40.055.

I move to amend Ordinance Serial Number 17-021 proposed Section 7 as follows:

Delete "on Borough maintained trails within the Crevasse Moraine trail system and within 100 feet of any such trail" from proposed 2.85.020(D).

I move to amend Ordinance Serial Number 17-021 proposed Section 13 as follows:

Delete "on a Borough maintained trail or within 100 feet of such."

Delete the word "trails" throughout the code section of the ordinance

710ued (2)
1 motion

PETITION TO MATANUSKA-SUSITNA BOROUGH ASSEMBLY

IM17-034
OR17-021

We, residents of the Borough, ask that the Borough Assembly pass a narrowly-focused ordinance that would do the following:

1. Prohibit the placing of traps and snares at the Crevasse Moraine trail system, the developed Government Peak recreation trail area, and at the Borough's Core area schools.
2. Make exceptions for wildlife biologists with the State's Department of Fish and Game.

PRINTED NAME	SIGNATURE	RESIDENCE ADDRESS	PHONE #
Cindy Fox	<i>Cindy Fox</i>	Majestic View	745-8817
SEAN Tynan	<i>Sean Tynan</i>	2600 N Garment Ln	376-5250
Billie Longfellow	<i>Billie Longfellow</i>	15916 N. Glenn Hwy #102 Susitna AK 99674	746-4205
EVA BLURTON	<i>Eva Burton</i>	Mat-su Valley	746-1630
Andrea Freierhardt	<i>Andrea Freierhardt</i>	3520 N White Knight Dr Houston AK 99694	892-0155
Jessica Chenaut	<i>Jessica Chenaut</i>	501 Wosoy way Houston AK 9964	841-1016
LINDA L. WALLACE	<i>Linda L. Wallace</i>	11275 W. Hazelt Ave, Wasilla, AK 99623	715-5413
Tom Pine	<i>Tom Pine</i>	12231 Kalwies Rd Palmer	232-2894
Jessica	<i>Jessica</i>	3760 Junction + Wasilla ak 99654	232-0251
Ernie T. Ortiz III	<i>Ernie T. Ortiz III</i>	1775 THUNA ST. apt A7. Palmer AK 99645	414-0258
Samuel Richardson	<i>Samuel Richardson</i>	775 N. Cascade Ct Palmer AK 99645	232-7111
Daniel J. Parks	<i>Daniel J. Parks</i>	830 N. Hilltop Dr. 99645	746-3718
Anesday L. Twohy	<i>Anesday L. Twohy</i>	7873 N. Highlander lp. 99645	746-3152
Karla Kallam	<i>Karla Kallam</i>	3200 Sparrow Court 99645	354-7319

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OR17-021



MATANUSKA-SUSITNA BOROUGH

Office of the Borough Clerk

350 E. Dahlia Avenue • Palmer, Alaska 99645-6488

Phone (907) 861-8684 • Fax (907) 861-9845

MEMORANDUM

DATE: November 29, 2016

TO: Assemblymember Dan Mayfield
Shannon Bodolay, Assistant Borough Attorney

THROUGH: Brenda J. Henry, CMC, Assistant Clerk

FROM: Animal Care and Regulation Board

RE: Proposed Trapping Legislation

On November 28, 2016, the Animal Care and Regulation Board took up review of the proposed trapping legislation, at their regular board meeting.

Prior to review of the legislation the Board heard from Hugh Leslie, MSB Recreation and Library Services Manager, who offered to answer questions of the Board and from four members of the public.

The public testimony was all from members of the trapping community, Mr. Richard Person, Mr. Kenny Barber, Ms. Jonathan Zeppa, and Mr. Kyle Waite, who expressed concerns that the real problem of pets getting caught in traps is caused by off leash pets. Opinions were expressed that the legislation was poorly written because it was not clear in its intent.

After public testimony, the Board reviewed each section and expressed no comments or concerns but did ask a couple of minor questions regarding intent. The Board requested that Ms. Henry draft a memorandum on their behalf stating that they had no comments.

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MATANUSKA-SUSITNA BOROUGH
PARKS, RECREATION AND TRAILS ADVISORY BOARD
RESOLUTION NO. 17-01

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PARKS, RECREATION, AND TRAILS ADVISORY BOARD SUPPORTING ORDINANCE 16-XX WHICH COVERS TRAPPING PROHIBITION ON MATANUSKA-SUSITNA BOROUGH OWNED DEVELOPED SCHOOL PROPERTIES AND TRAPPING RESTRICTIONS WITHIN THE MATANUSKA-SUSITNA BOROUGH OWNED PROPERTY WITHIN THE CREVASSE MORAINÉ TRAIL SYSTEM AND AMENDS MSB 1.45, MSB 2.85, MSB 19.12, MSB 24.05, and MSB 24.40AS AMENDED INCLUDING RECOMMENDATIONS FOR MODIFICATION TO IMPROVE READABILITY AND CONSISTENCY OF APPLICATION AS INTRODUCED AT THE DECEMBER 29, 2016, PARKS, RECREATION, AND TRAILS ADVISORY BOARD MEETING.


WHEREAS, population within the Mat-Su Borough continues to increase and safety risk management issues surface for consideration reasonable mitigation and accommodation of issues should be pursued; and

WHEREAS, the Matanuska Borough Assembly has requested the Parks, Recreation, and Trails Advisory Board to review proposed Ordinance 16-xx, this Board has conducted an in-depth review of the proposed Ordinance, and supports and submits an amended version of the proposed ordinance as a recommendation for action by the Matanuska-Susitna Borough Assembly; and

WHEREAS, the Parks, Recreation, and Trails Advisory Board had concern as to the structure, language, and impacts associated with the original proposal, amended language has been drafted to address the safety based concerns voiced by the originators while imposing minimal impacts on residents of the State of Alaska, the residents of the Matanuska-Susitna Borough, and the diverse Crevasse Moraine trail user groups.

NOW, THEREFORE, BE IT RESOLVED, that the Parks, Recreation, and Trails Advisory Board Recommends adoption of the amended draft ordinance covering trapping prohibition on Matanuska-Susitna owned developed school property and trapping restrictions imposed on Matanuska-Susitna Borough maintained trails within the Borough owned portion of the Crevasse Moraine trail system.

Adopted by the Matanuska-Susitna Parks, Recreation, and Trails Advisory Board this 23rd day of January, 2017.

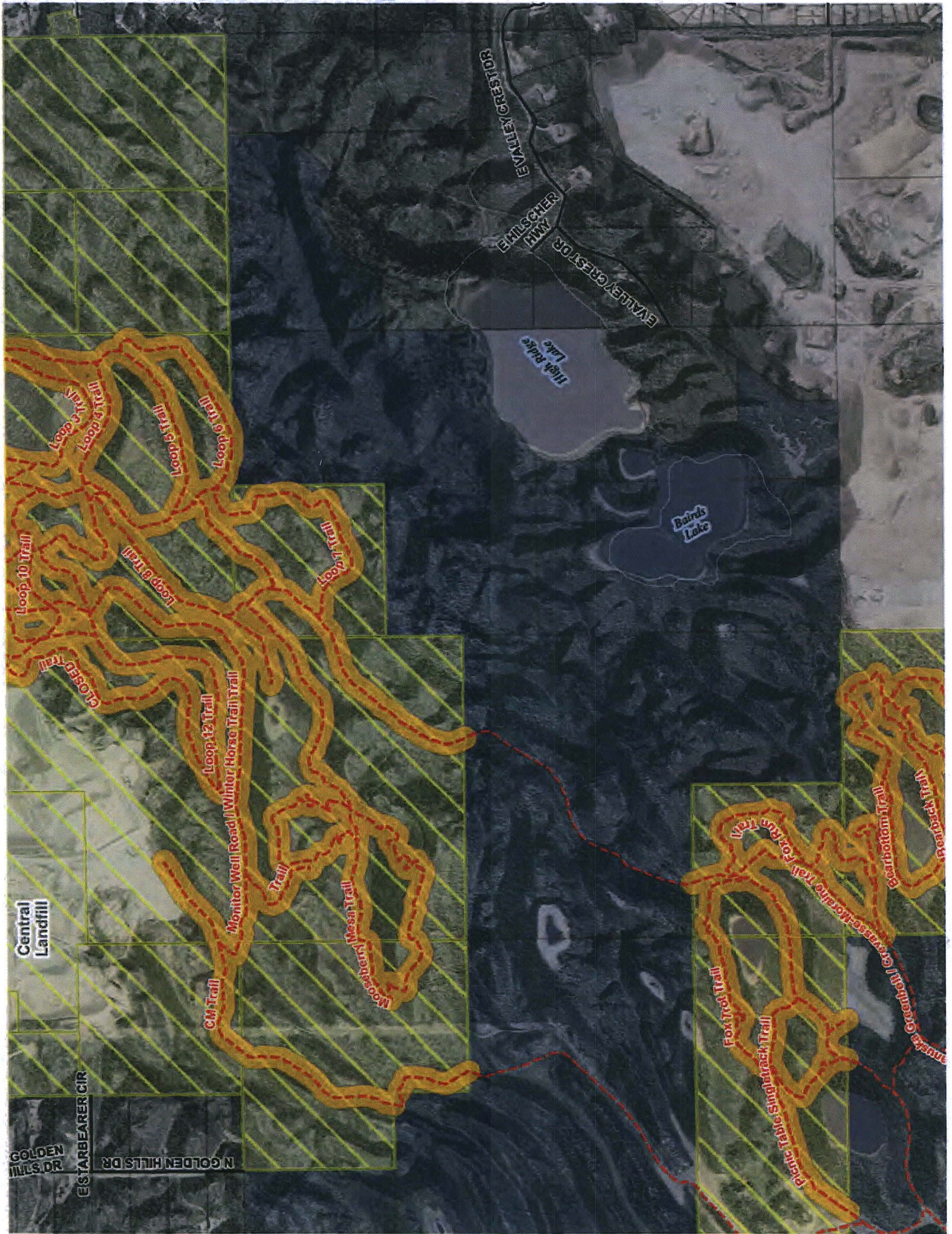


David R. Palmer Chairperson

ATTEST:



Jill Irsik, Admin. Secretary



Central Landfill

GOLDEN MILLS DR
N GOLDEN HILLS DR
E STARBEARER CIR

EMBLEY GUESTOR
EMILSCHER HWY
EMBLEY GUESTOR

High Lake

Birds Lake

Loop 10 Trail

Loop 8 Trail

Loop 9 Trail

Loop 11 Trail

Loop 13 Trail

Loop 14 Trail

Closed Trail

Loop 12 Trail

Monitor Well Road / Winter Horse Trail

Trail

Nooshern Mesa Trail

CM Trail

Fox Trot Trail

Petrie Lake Singletrack Trail

Caribou Trail / Curlew / Starbuck / Monitor Well Road

Starbuck / Monitor Well Road / Monitor Well Road

Starbuck / Monitor Well Road

CODE ORDINANCE

Sponsored by:
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-___**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 24.05.010, DEFINITIONS; AMENDING MSB 24.05.020(A), JURISDICTION; ADOPTING MSB 24.05.105; AMENDING MSB 24.40.050, FINES FOR INFRACTIONS; ADOPTING MSB 24.05.055, FORFEITURE OF TRAPS; AMENDING MSB 2.85.020(D), CLOSURES AND RESTRICTIONS; ADOPTING MSB 2.85.020(E); ADOPTING MSB 2.85.030, DEFINITIONS; AMENDING CHAPTER TITLE 19.12; ADOPTING MSB 19.12.015, TRAPPING PROHIBITED; ADOPTING OF MSB 19.12.030, DEFINITIONS; AMENDING MSB 1.45.100(C), FINES FOR INFRACTIONS; AND ADOPTING MSB 1.45.105, FORFEITURE OF TRAPS IN ORDER TO PROHIBIT TRAPPING ON BOROUGH OWNED PUBLIC SCHOOL PROPERTY AND TO RESTRICT TRAPPING ON THE BOROUGH OWNED PORTION OF CREVASSE MORAINES TRAIL SYSTEM.

WHEREAS, the Matanuska-Susitna Borough owns property that has been developed for public school sites; and

WHEREAS, the Matanuska-Susitna Borough school sites are heavily utilized by children, teachers, school administrators, and members of the public; and

WHEREAS, the Borough also owns property that makes up various trail systems; and

WHEREAS, the Borough owns property within the core area that serves as part of the Crevasse Moraine Trail system;

WHEREAS, the Borough maintains certain trails on its property in the Crevasse Moraine Trail system; and

WHEREAS, people recreate beyond the boundaries of the Borough maintained trails in the Crevasse Moraine Trail system,

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as there are no requirements or restrictions that recreational use is limited to a particular area or trail; and

WHEREAS, there are other "social trails" on the Borough property in the Crevasse Moraine Trail system that are not Borough maintained; and

WHEREAS, the Matanuska-Susitna Borough Recreational Trails Plan (Trails Plan) evaluated the needs and desires of Borough residents and landowners with regard to recreational trail development; and

WHEREAS, one of the goals of the Recreational Trails Plan is to preserve the existing popular recreational trails; and

WHEREAS, one of the Trails Plan management recommendation goals is to minimize conflicts between different types of trail users and avoid trail degradation due to improper use; and

WHEREAS, the Trails Plan recognizes that trail conflicts between separate user groups are likely to increase as trail use increases; and

WHEREAS, the Trails Plan likewise recognizes that it is important for the Borough to take some proactive steps to insure these conflicts are minimized; and

WHEREAS, the Trails Plan further recognizes that trails should be managed so as to provide the greatest recreational

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benefit to those types of recreational trail uses for which the trail is uniquely situated; and

WHEREAS, the Trails Plan also recognizes that it may be necessary to limit some uses in certain situations; and

WHEREAS, in a survey reported in the Trails Plan, 51 percent of the respondents stated that walking or dog walking was the most common trail recreation activity; and

WHEREAS, the Crevasse Moraine trail system is included within the Trails Plan; and

WHEREAS, the Crevasse Moraine Trail System is described as a regionally significant trail in the Trails Plan; and

WHEREAS, in a separate plan called the Crevasse Moraine Master Plan, the area is described as a "high demand attraction serving diverse non-motorized users, including walkers (often with dogs), runners, equestrians, and mountain bikers;" and

WHEREAS, the Crevasse Moraine Master Plan explains that investment in the site is focused on providing healthy, enjoyable recreation opportunities for a compatible mix of nonmotorized uses, including family stroll and dog walking among others; and

WHEREAS, in the "Desired Future Conditions" of the Crevasse Moraine Master Plan, it states Crevasse Moraine consists of 360 acres reserved for a permanent, formalized, soft tread trail

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network for which investment is focused on providing healthy, enjoyable recreation opportunities for a compatible mixture of non-motorized users including: family stroll/non strenuous walking; dog walking; strenuous walking/hiking; running/cross country training; equestrian; mountain biking; Nordic skiing; snowshoeing; skijoring; geocaching; bird/wildlife watching; orienteering; and informal neighborhood picnic and play areas; and

WHEREAS, in the "Desired Future Conditions" section of the Crevasse Moraine Master Plan also notes that Valley Pathways School shares some common infrastructure with Crevasse Moraine, and that the school seeks to instill respect for the Crevasse Moraine area by working with the Borough to create opportunities for student trail use related to their education; community service learning trail maintenance projects, forestry and trail building vocational training; and summer facility use for recreational programming; and

WHEREAS, demand for Borough trails increases every year, and is expected to continue as visitors and residents continue to get outside and enjoy the Borough's natural beauty in increasing numbers; and

WHEREAS, the Borough has an interest in managing its property to facilitate the intended use of the property, and

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protect members of the public, their children and their pets;
and

WHEREAS, there are currently no prohibitions or
restrictions against trapping in these areas; and

WHEREAS, according to the "Trap Safety for Pet Owners"
guide that is published by the Alaska State Department of Fish
and Game, Division of Wildlife Conservation's and the Alaska
Trappers Association, trapping is a popular pastime and a
livelihood for some and occurs throughout Alaska, even on some
popular recreation trails; and

WHEREAS, MSB 23.05.050(A) already prohibits a person from
placing personal property upon or making unauthorized use of
Borough owned real property without written permission from the
Manager; and

WHEREAS, there are no express trapping restrictions on
Borough owned public school sites, or within the Borough owned
Crevasse Moraine trails; and

WHEREAS, allowing traps to be placed on Borough owned
public school sites or within the Borough owned Crevasse Moraine
trails or nearby is incompatible with the intended educational
and or recreational uses for those areas; and

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WHEREAS, school site users, including children, may not be able to timely identify the location of traps on public school property and may not be able to successfully avoid them; and

WHEREAS, recreational trail users, including children, may not be able to timely identify the location of traps of on Borough owned Crevasse Moraine Trail and may not be able to successfully avoid them accordingly; and

WHEREAS, allowing traps to be placed in these areas could inadvertently, but seriously injure those using these areas including children and/or the pets individuals they recreate with; and

WHEREAS, at least dogs have been inadvertently caught in traps in the Borough over the year/s and treated by the Animal Care and Regulation shelter; and

WHEREAS, dogs in the Borough have suffered significant injuries as a result of being caught in traps; and

WHEREAS, AS 29.35.010(8) provides the Borough the power to manage and control real property; and

WHEREAS, the Borough has an interest in managing its property to protect the property users; and

WHEREAS, the Borough has an interest in managing its trail property to ensure the primary intended uses such as walking,

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hiking, running, biking etcetera, with or without pets, is safe from conflicts relating to traps; and

WHEREAS, the Borough has an interest in protecting domestic animals and the power to do so pursuant to A.S. 29.35.210(a)(3).

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 24.05.010 is hereby amended as follows:

"Trapping" means the placing or setting of a trap. ~~It does not include the possession or transportation of traps.~~

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Section 3. Amendment of section. MSB 24.05.020(A) is hereby amended as follows:

(A) The borough generally has jurisdiction only over domestic and domesticated animals. Except for purposes of enforcing MSB 2.85.020, MSB 19.12.015, and MSB 24.05.105, the borough does not have jurisdiction over the following animals:

(1) wild animals; and

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(2) game animals, the taking or possession of which is regulated by the state or federal government.

Section 4. Adoption of section. MSB 24.05.105 is hereby adopted as follows:

(A) Except as provided in MSB 24.05.110, no person may engage in trapping, attempting to trap, or aiding and abetting any person in trapping any wild or domesticated animal:

(1) ~~Within any Borough maintained trail, or within 100 feet of such, on Borough owned property which is part of the Crevasse Moraine trail system~~ Within the Crevasse Moraine trail system there shall be no trapping with 100' of the Borough maintained trails, unless they are performing an educational demonstration, pursuant to a Borough issued permit, and the traps are removed at the end of the day the presentation began.

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(2) On any part of public school property owned by the Borough, unless they are performing an educational demonstration pursuant to written permission from the School Administration, and

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the traps are removed at the end of the day the presentation began.

(B) The Borough will prepare and keep current a map within the Crevasse Moraine trail system showing areas where trapping is not allowed pursuant to this section. A copy of the map shall be provided to any person upon request.

(C) The Alaska Department of Fish and Game, Alaska Department of Public Safety, United States Fish and Wildlife Service, or their authorized agents or designees, may trap animals within the area in which trapping is expressly prohibited by the chapter.

(D) This section shall not apply to property owned by other entities within the Crevasse Moraine trail system. This section shall not apply to the trapping or capturing of rats, mice, shrews, or similar vermin. This section shall not apply to the possession or transportation of traps

(E) Violation of this section shall be punishable as set forth in MSB 24.40.

Section 5. Amendment of section. MSB 24.40.050 is hereby amended as follows:

24.05.105 Trapping Prohibited

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1st Offense \$150

2nd Offense \$300

3rd and Subsequent \$500

Section 6. Adoption of section. MSB 24.40.055, is hereby adopted as follows:

24.40.055 FORFEITURE OF TRAPS

Ownership rights of any set trap found on public school property owned by the Borough, or within any Borough maintained trail that is part of the Crevasse Moraine Trail system or within 100 feet of such, are forfeited upon conviction of MSB 24.05.105.

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Section 7. Amendment of section. MSB 2.85.020(D) is amended as follows:

(D) [THE MANAGER MAY CLOSE OR RESTRICT TRAILS BECAUSE OF ENVIRONMENTAL, SEASONAL, SAFETY CONCERNS, or OTHER VALID REASONS AND MAY RESTRICT CERTAIN USES TO AVOID TRAIL CONFLICTS OR SAFETY CONCERNS.] Except as provided in MSB 24.05.110, Borough owned property which is part of the Crevasse Moraine trail system is closed to trapping, attempting to trap, or aiding and abetting in trapping any wild or domesticated animal on Borough maintained trails within the Crevasse Moraine trail system and within 100 feet of any such

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trail to prevent trail conflicts and ensure safety.
Trapping in this area is allowed if the individual is
performing an educational demonstration, pursuant to a
Borough issued permit, and the traps are removed at
the end of the day the presentation began.

(1) The Borough will prepare and keep
current a map of the Crevasse Moraine trail system
showing the Borough owned property areas where
trapping is not allowed pursuant to this section. A
copy of the map shall be provided to any person upon
request.

(2) The Alaska Department of Fish and Game,
Alaska Department of Public Safety, United States Fish
and Wildlife Service, or their authorized agents or
designees, may trap animals within the area.

(3) This section shall not apply to
property owned by other entities within the Crevasse
Moraine trail system. This section shall not apply to
the trapping or capturing of rats, mice, shrews, or
similar vermin. This section shall not apply to the
possession or transportation of traps

(4) Violation of this section shall be
punishable as set forth in MSB 1.45.

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(E) The Manager may close or restrict additional trails because of environmental, seasonal, safety concerns, or other valid reasons and may restrict certain uses to avoid trail conflicts or safety concerns.

Section 8. Adoption of Section. MSB 2.85.030 is adopted as follows:

2.85.030 DEFINITIONS

"Trap" means any device designed or used to capture or hold an animal and that operates without direct human control. This includes any device for catching and holding wild or domesticated animals including, but not limited to, snares, nets, pitfalls, or clamp-like devices that spring shut suddenly.

"Trapping" means the placing or setting of a trap. ~~It does not include the possession or transportation of traps.~~

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Section 9. Amendment of Chapter Title. The title is amended as follows:

(OPERATION OF MOTOR VEHICLES) SCHOOL PROPERTY

Section 10. Adoption of Section. MSB 19.12.020 is hereby adopted as follows:

19.12.020 TRAPPING PROHIBITED

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(A) Except as provided in MSB 24.05.110, no person may engage in trapping, attempting to trap, or aiding and abetting any person in trapping any wild or domesticated animals on any part of public school property owned by the Borough unless they are performing an educational demonstration pursuant to written permission from the School Administration, and the traps are removed at the end of the day the presentation began.

(B) The Borough will prepare and keep current a map showing areas where trapping is not allowed pursuant to this section. A copy of the map shall be provided to any person upon request.

(C) The School District, Alaska Department of Fish and Game, Alaska Department of Public Safety, United States Fish and Wildlife Service, or their authorized agents or designees, may trap animals within the area.

(D) Violation of this section shall be punishable as set forth in MSB 1.45.

Section 11. Adoption of Section. MSB 19.12.030 is hereby adopted as follows:

19.12.030 DEFINITIONS

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"Trap" means any device designed or used to capture or hold an animal and that operates without direct human control. This includes any device for catching and holding wild or domesticated animals including, but not limited to, snares, nets, pitfalls, or clamp-like devices that spring shut suddenly.

"Trapping" means the placing or setting of a trap. ~~It does not include the possession or transportation of traps.~~

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Section 12. Amendment of Section. MSB 1.45.100(C) is hereby amended as follows:

19.12.020 Trapping on School Property

1st Offense \$150

2nd Offense \$300

3rd and Subsequent \$500

23.05.105 Trapping Prohibited

1st Offense \$150

2nd Offense \$300

3rd and Subsequent \$500

Section 13. Adoption of section. MSB 1.45.105 is hereby adopted as follows:

1.45.105 FORFEITURE OF TRAPS

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Ownership rights of any set trap found on public school property owned by the Borough, or any trap found on a Borough maintained trail or within 100 feet of such on Borough owned property which is part of the Crevasse Moraine trail system, forfeited upon conviction of MSB 2.85.020 (D) or MSB 19.12.020.

Section 14. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2016.

VERN HALTER, Borough Mayor

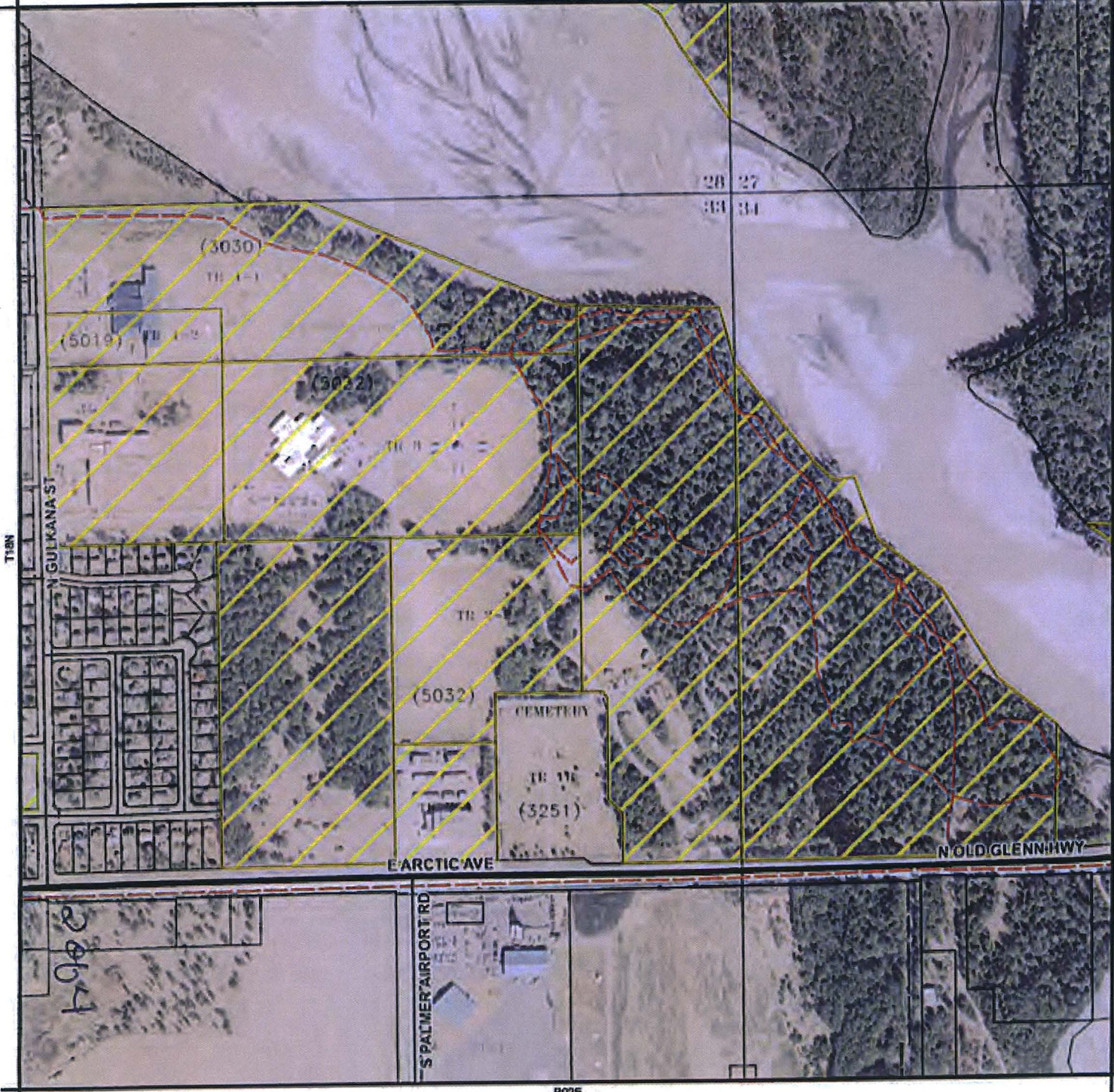
ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

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R02E

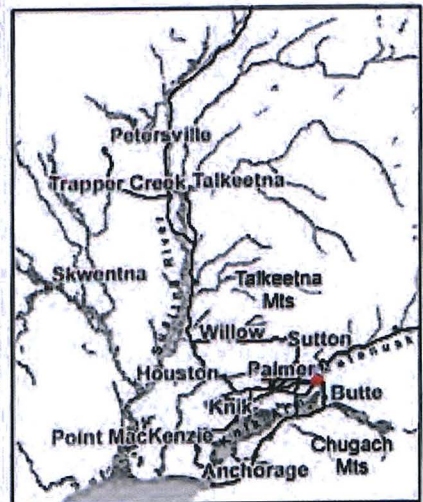


**Matanuska - Susitna Borough
Land and Resource
Management Division**



**Matanuska River Park
Campground and Rec Area**

- Trails
- Borough Land



Date: February, 2017
 Sources: MSB GIS, MSB LRMD, AK DOT
 Projection: NAD 83 AK ST PLN 24
 Location: MSB
 Author: MSB LRMD

R02E

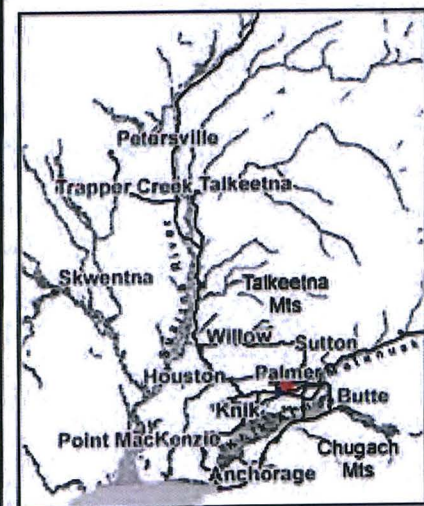


**Matanuska - Susitna Borough
Land and Resource
Management Division**



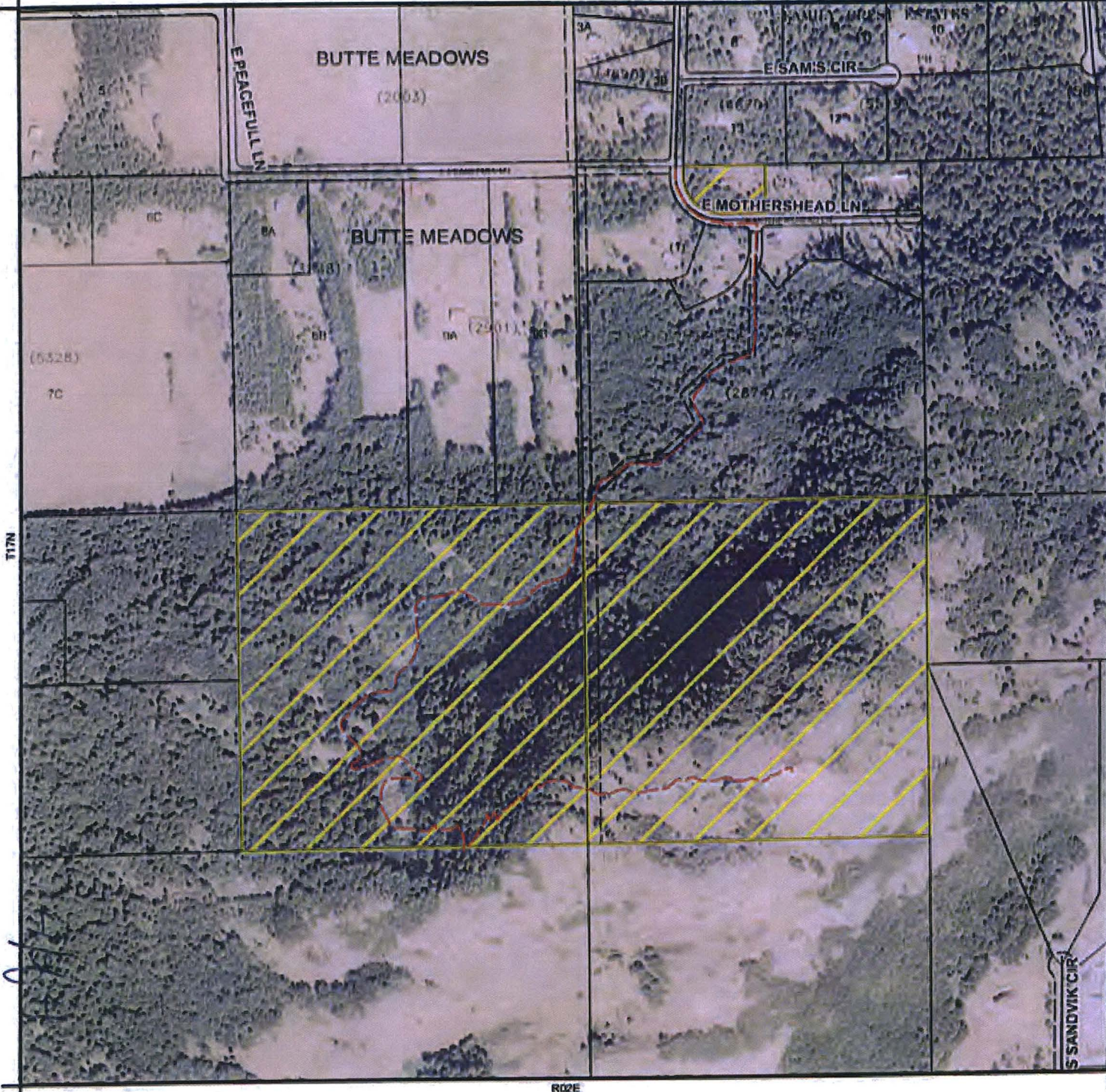
**Alcantra
Recreation Area**

-  Trails
-  Borough Land



Date: February, 2017
 Sources: MSB GIS, MSB LRMD, AK DOT
 Projection: NAD 83 AK ST PLAN 24
 Location: MSB
 Author: MSB LRMD

R02E

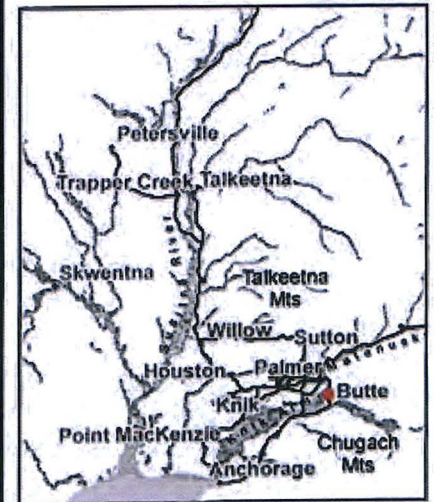


**Matanuska - Susitna Borough
Land and Resource
Management Division**



**Bodenburg Butte
West Butte Trail**

-  Trails
-  Borough Land



Date: February, 2017
Sources: MSB GIS, MSB LRMD, AK DOT
Projection: NAD 83 AK ST PLN 24
Location: MSB
Author: MSB LRMD

R02E

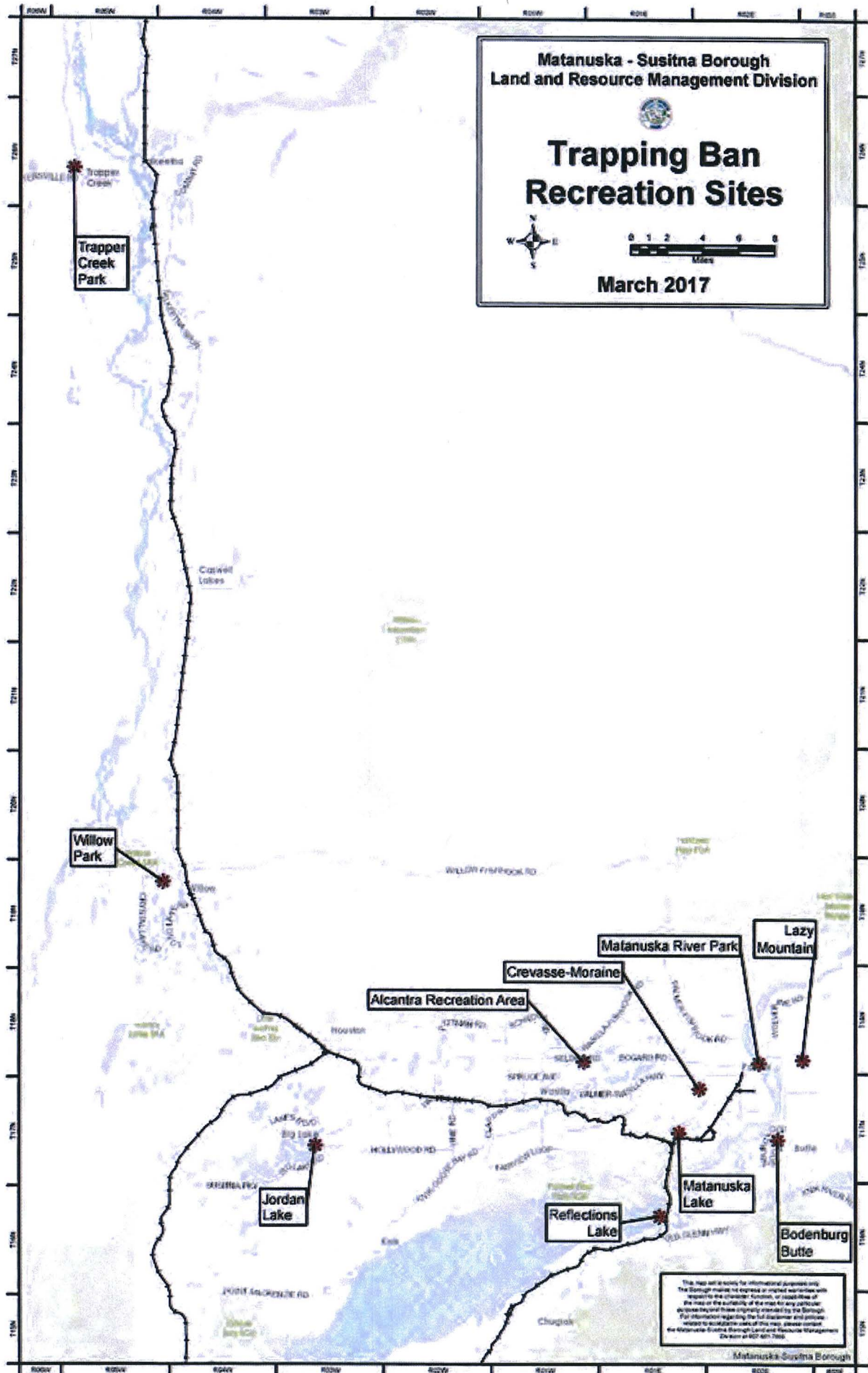
Matanuska - Susitna Borough
Land and Resource Management Division



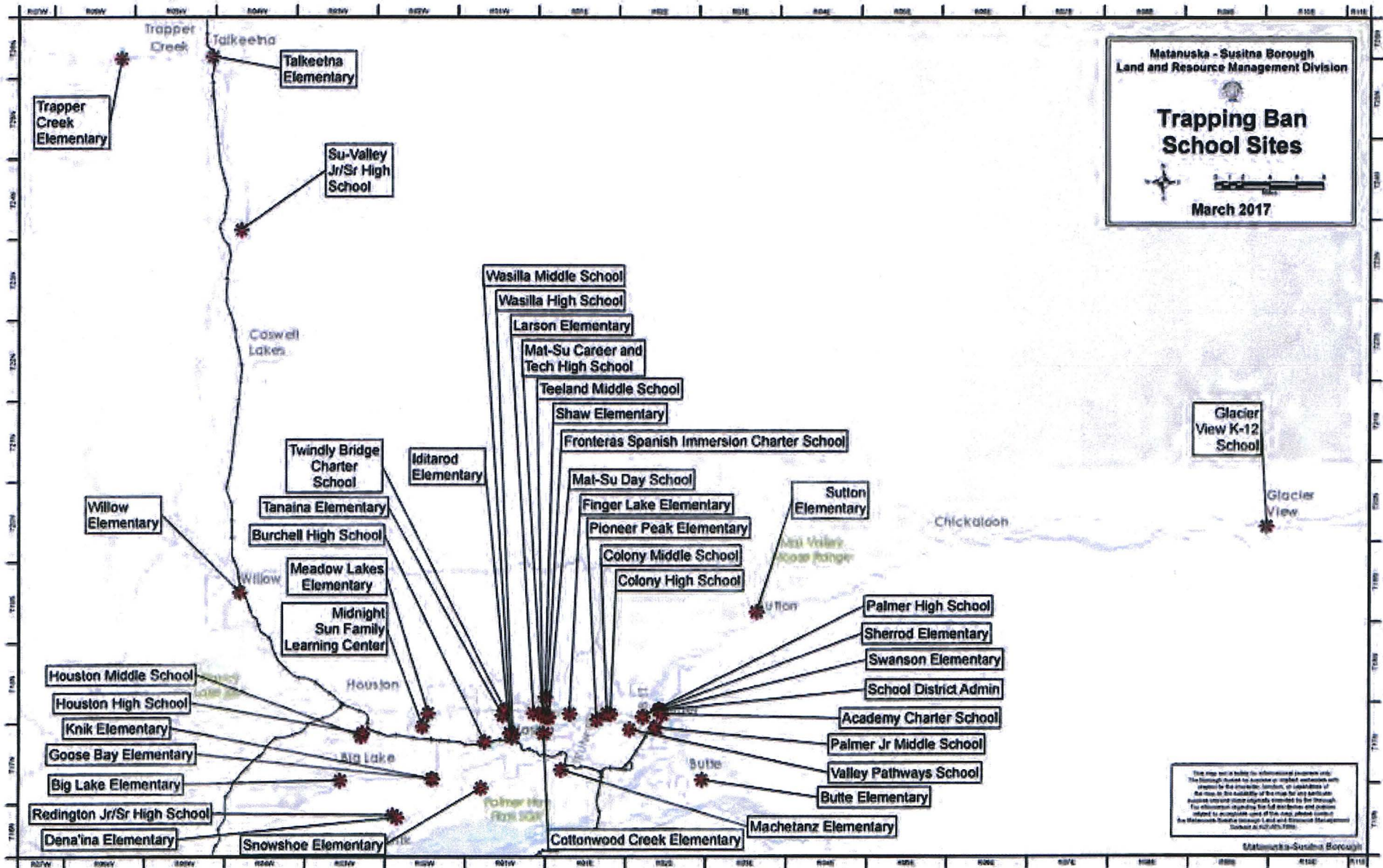
Trapping Ban Recreation Sites



March 2017



This map and its contents are informational purposes only. The Borough makes no express or implied warranties with respect to the character, function, or usefulness of the data or the suitability of the map for any particular purpose beyond those originally intended by the Borough. For information regarding the full disclaimer and privacy policy to accompany this map, please contact the Matanuska-Susitna Borough Land and Resource Management Division at 607-461-7368.



Matanuska - Susitna Borough
Land and Resource Management Division



Big Lake Elementary School Property Ownership Map

Sec. 28, T17N, R03W, S.M.
Tax Map HO13
March 10, 2017

Legend

- Roads
- Parcels
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Big Lake
Elementary School

(17N03W28A011)

17N03W

17N03W28

17N03W21
BIG LAKE LODGE

FOX

MINK

MUSK OX

MARTEN

BIG LAKE

AERO

TAXI

PILOT

TAILWIND



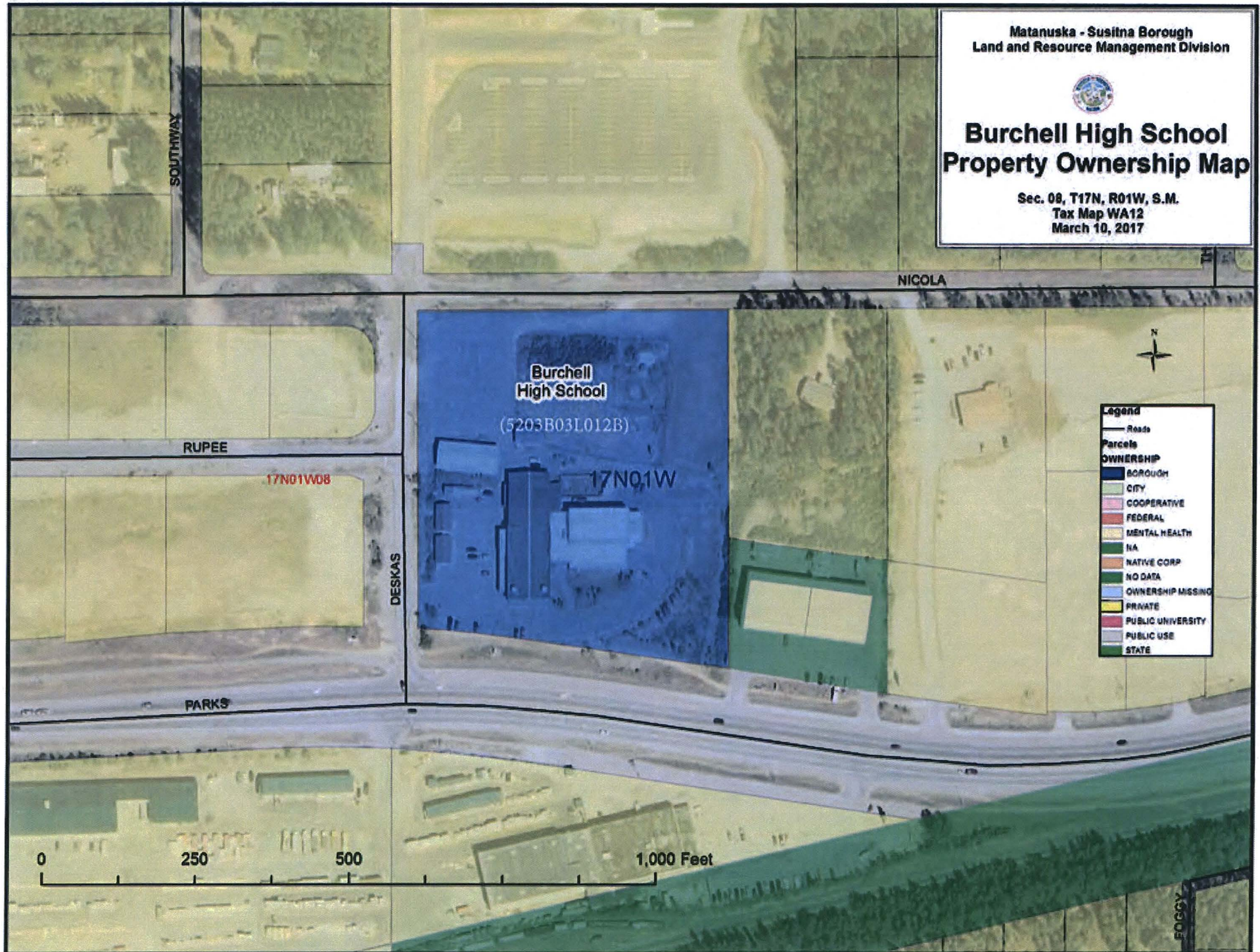
FRANCE





Burchell High School Property Ownership Map

Sec. 08, T17N, R01W, S.M.
Tax Map WA12
March 10, 2017



Burchell
High School

(5203B03L012B)

17N01W

17ND1W08

SOUTHWAY

NICOLA

RUPEE

DESKAS

PARKS

FOGGY

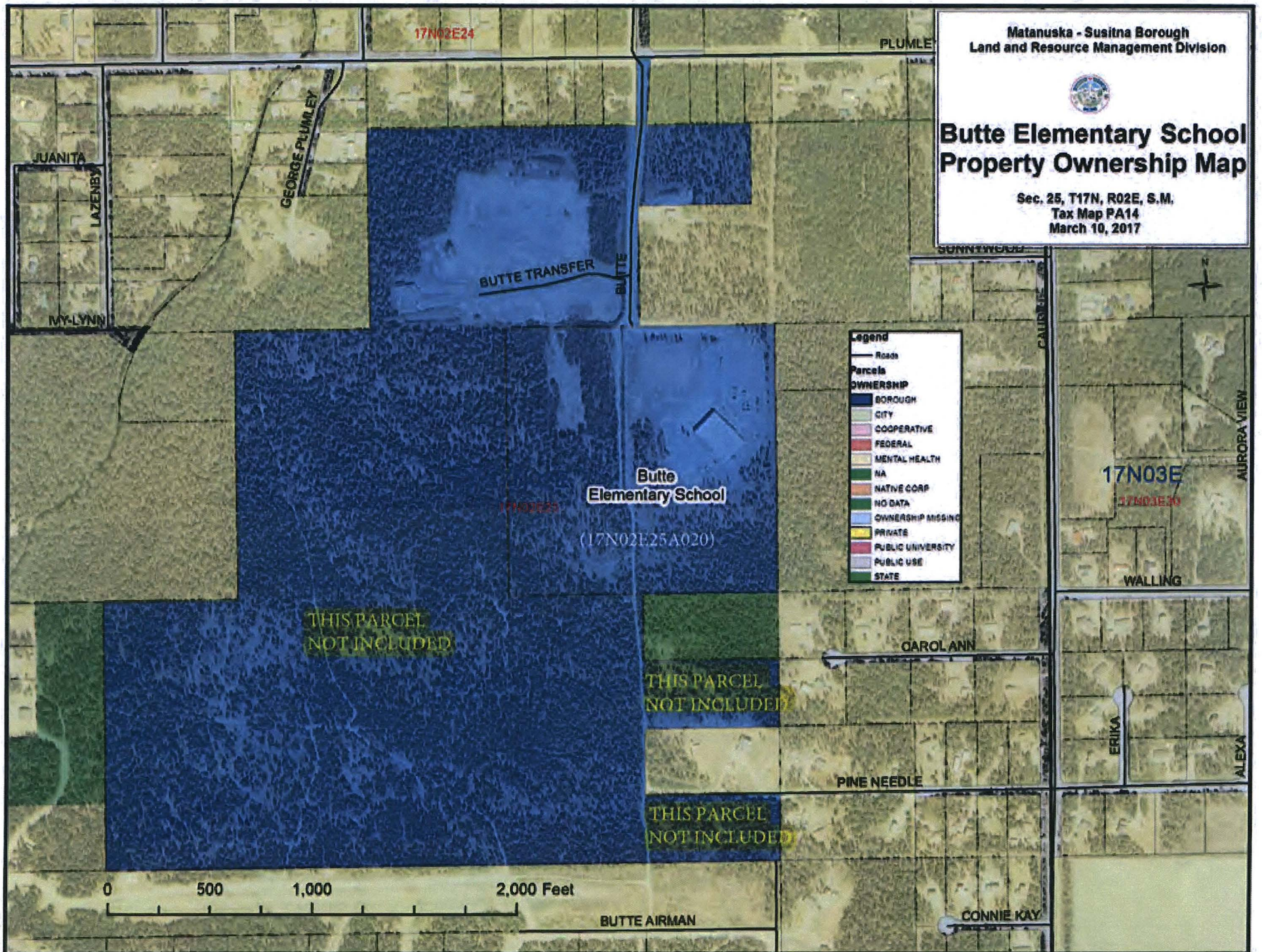
Legend	
	Roads
Parcels	
OWNERSHIP	
	BOROUGH
	CITY
	COOPERATIVE
	FEDERAL
	MENTAL HEALTH
	NA
	NATIVE CORP
	NO DATA
	OWNERSHIP MISSING
	PRIVATE
	PUBLIC UNIVERSITY
	PUBLIC USE
	STATE

0 250 500 1,000 Feet



Butte Elementary School Property Ownership Map

Sec. 25, T17N, R02E, S.M.
Tax Map PA14
March 10, 2017

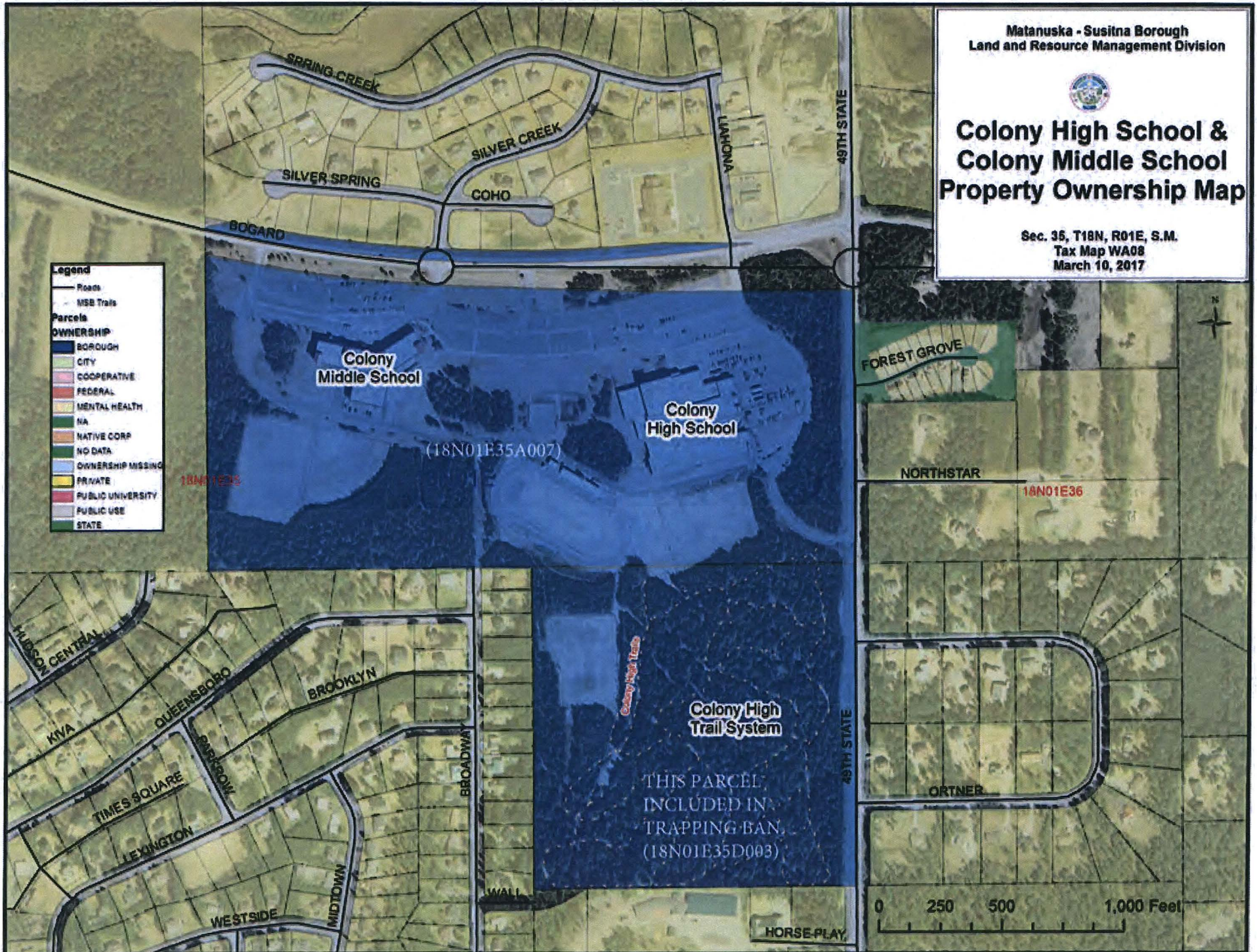




Colony High School & Colony Middle School Property Ownership Map

Sec. 36, T18N, R01E, S.M.
Tax Map WA08
March 10, 2017

Legend	
	Roads
	MSB Trails
Parcel	
OWNERSHIP	
	BOROUGH
	CITY
	COOPERATIVE
	FEDERAL
	MENTAL HEALTH
	NA
	NATIVE CORP
	NO DATA
	OWNERSHIP MISSING
	PRIVATE
	PUBLIC UNIVERSITY
	PUBLIC USE
	STATE





Cottonwood Elementary School Property Ownership Map

Sec. 01, T17N, R01W, S.M.
Tax Map WA11
March 10, 2017

- Legend**
- Roads
 - Parcels**
 - OWNERSHIP**
 - BOROUGH
 - CITY
 - COOPERATIVE
 - FEDERAL
 - MENTAL HEALTH
 - NA
 - NATIVE CORP.
 - NO DATA
 - OWNERSHIP MISSING
 - PRIVATE
 - PUBLIC UNIVERSITY
 - PUBLIC USE
 - STATE

MERIDIAN PARK

Cottonwood
Elementary School

(17N01W01D014)

17N01W01

17N01E06

MERIDIAN

17N01E

17N01W

CADWALLDER

SEWARD MERIDIAN

COTTLE

0 250 500 1,000 Feet

PALMER-WASILLA

17N01W12

17N01E07

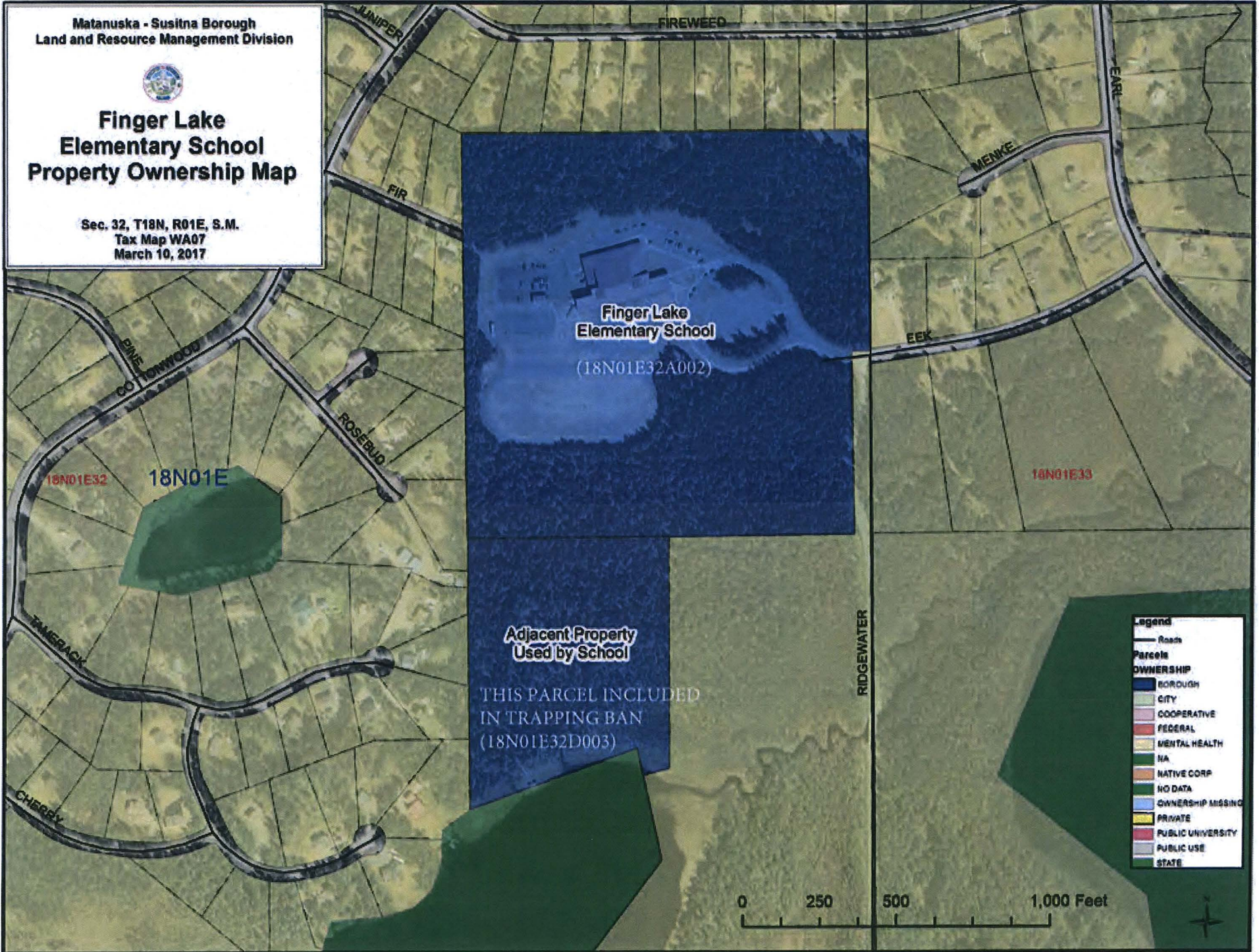
STEVEN

Matanuska - Susitna Borough
Land and Resource Management Division



Finger Lake Elementary School Property Ownership Map

Sec. 32, T18N, R01E, S.M.
Tax Map WA07
March 10, 2017



Finger Lake
Elementary School

(18N01E32A002)

18N01E33

18N01E

18N01E32

Adjacent Property
Used by School

THIS PARCEL INCLUDED
IN TRAPPING BAN
(18N01E32D003)

Legend	
—	Roads
Parcels	
OWNERSHIP	
Blue	BOROUGH
Green	CITY
Pink	COOPERATIVE
Red	FEDERAL
Yellow	MENTAL HEALTH
Light Green	NA
Orange	NATIVE CORP
Dark Green	NO DATA
Light Blue	OWNERSHIP MISSING
Yellow	PRIVATE
Purple	PUBLIC UNIVERSITY
Light Purple	PUBLIC USE
Dark Green	STATE

0 250 500 1,000 Feet



Legend

— Roads

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Matanuska - Susitna Borough
Land and Resource Management Division



Glacier View K-12 School Property Ownership Map

Sec. 30, T20N, R10E, S.M.
Tax Map MG07
March 10, 2017



Matanuska - Susitna Borough
Land and Resource Management Division



Houston High School & Houston Middle School Property Ownership Map

Sec. 02, T17N, R03W, S.M.
Tax Map HO11
March 10, 2017



PEPPER

LITTLE MILLERS

PARIS

THIS PARCEL
NOT
INCLUDED 17N03W03

Legend	
	Roads
Parcels	
OWNERSHIP	
	BOROUGH
	CITY
	COOPERATIVE
	FEDERAL
	MENTAL HEALTH
	NA
	NATIVE CORP
	NO DATA
	OWNERSHIP MISSING
	PRIVATE
	PUBLIC UNIVERSITY
	PUBLIC USE
	STATE

THIS PARCEL
NOT
INCLUDED

(17N03W02B004)

Houston
High School

17N03W02

17N03W

Houston
Middle School

(17N03W02B004)

DERRICK

HAWK

17N03W10

THIS PARCEL
NOT
INCLUDED

17N03W11





Joe Redington Sr. Jr./Sr. High School & Dena'ina Elementary Property Ownership Map

Sec. 06, T16N, R02W, S.M.
Tax Map OC04
March 10, 2017

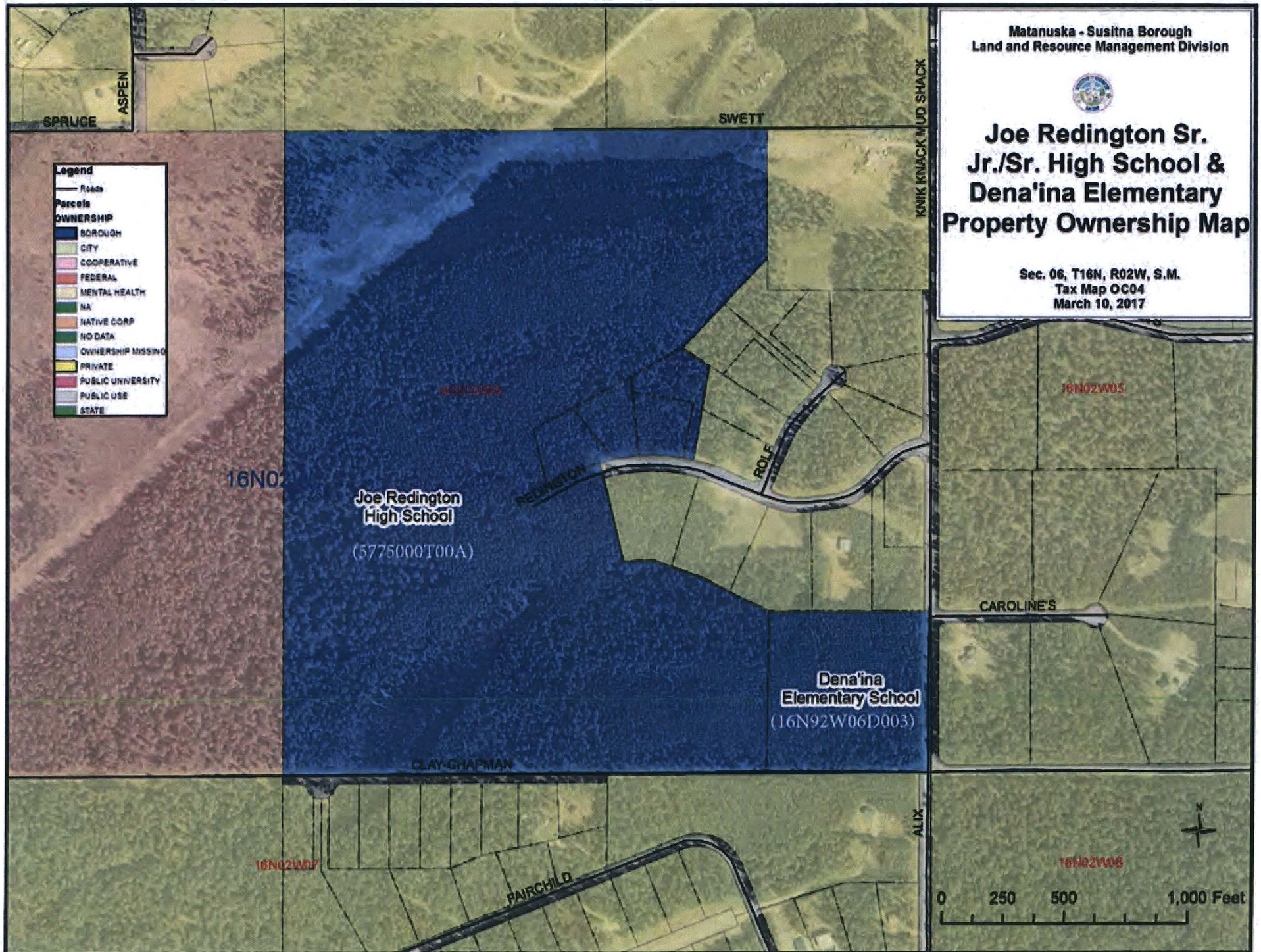
Legend

— Roads

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE





Legend


— Roads

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

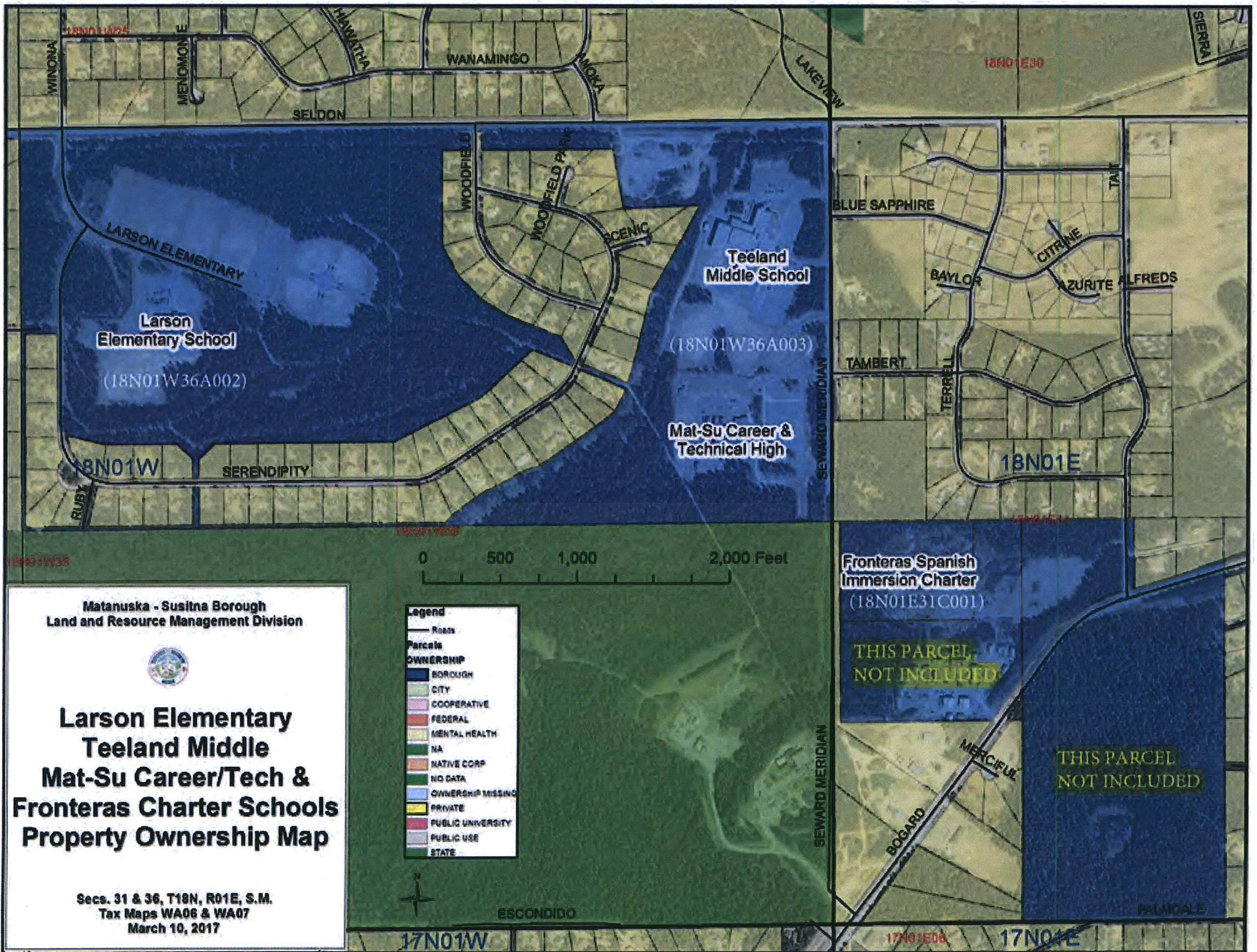
Matanuska - Susitna Borough
 Land and Resource Management Division



**Knik & Goose-Bay
 Elementary Schools
 Property Ownership Map**

Sec. 27, T17N, R02W, S.M.
 Tax Map HO16
 March 10, 2017





Matanuska - Susitna Borough
Land and Resource Management Division



Larson Elementary Teeland Middle Mat-Su Career/Tech & Fronteras Charter Schools Property Ownership Map

Secs. 31 & 36, T18N, R01E, S.M.
Tax Maps WA06 & WA07
March 10, 2017

Legend

— Roads

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

0 500 1,000 2,000 Feet



**THIS PARCEL,
NOT INCLUDED**

**THIS PARCEL,
NOT INCLUDED**

Matanuska - Susitna Borough
Land and Resource Management Division



Machetanz Elementary School Property Ownership Map

Sec. 20, T17N, R01E, S.M.
Tax Map WA16
March 10, 2017

Legend

Roads

- Roads

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Machetanz
Elementary School

(6742000T00B-1)

17N01E

17N01E19

17N01E20

NELSON

LOFT

BARN

SPAWN BRIDGE

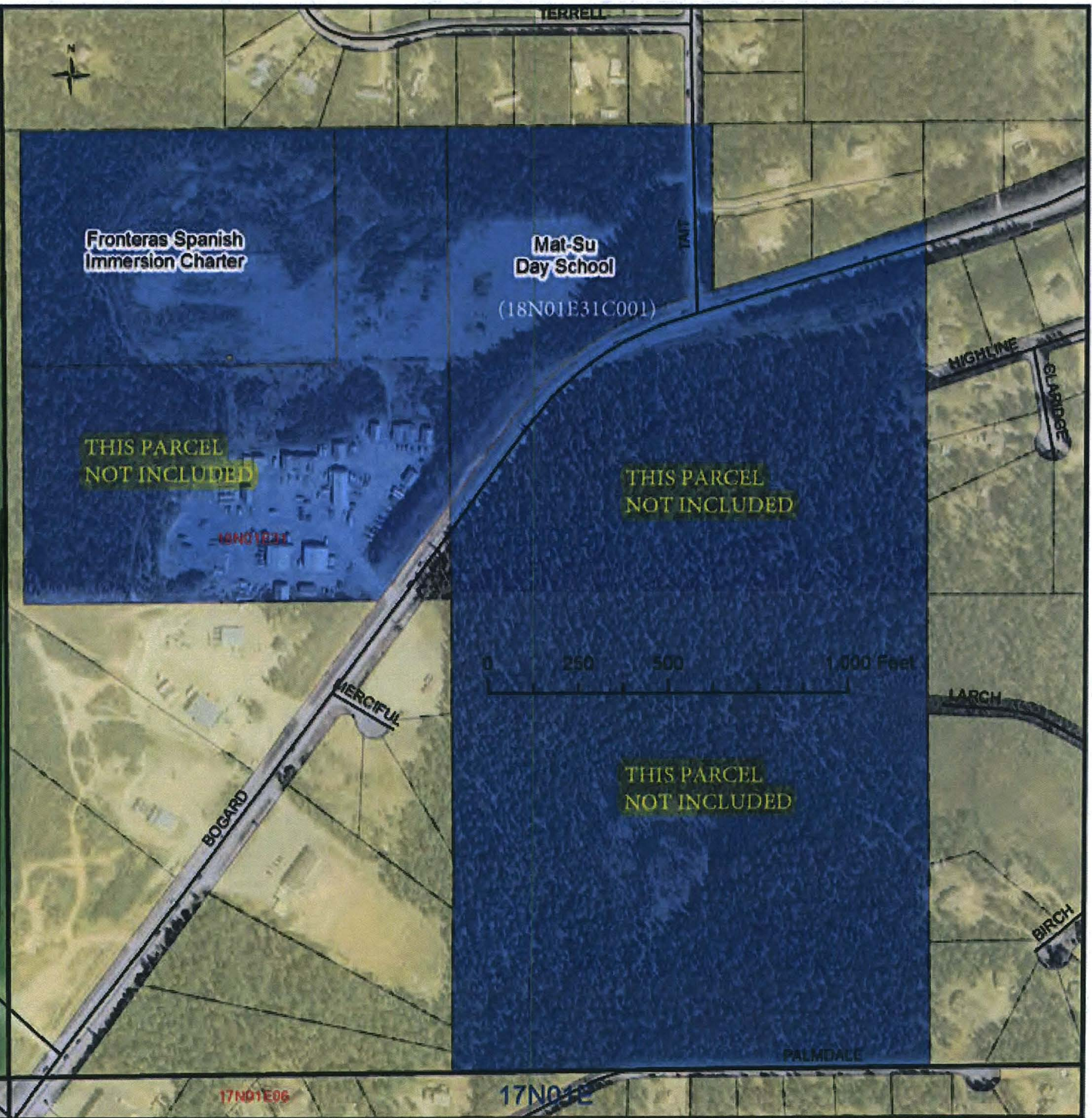


Matanuska - Susitna Borough
Land and Resource Management Division



Mat-Su Day School & Fronteras Spanish Immersion Charter Property Ownership Map

Sec. 31, T18N, R01W, S.M.
Tax Map WA07
March 10, 2017



Legend

- Roads
- Parcels**
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

18N01W36 18N01W

17N01E06

17N01E

PALMDALE

BIRCH

LARCH

HIGHLINE

SLUDGE

TAIT

TERRELL

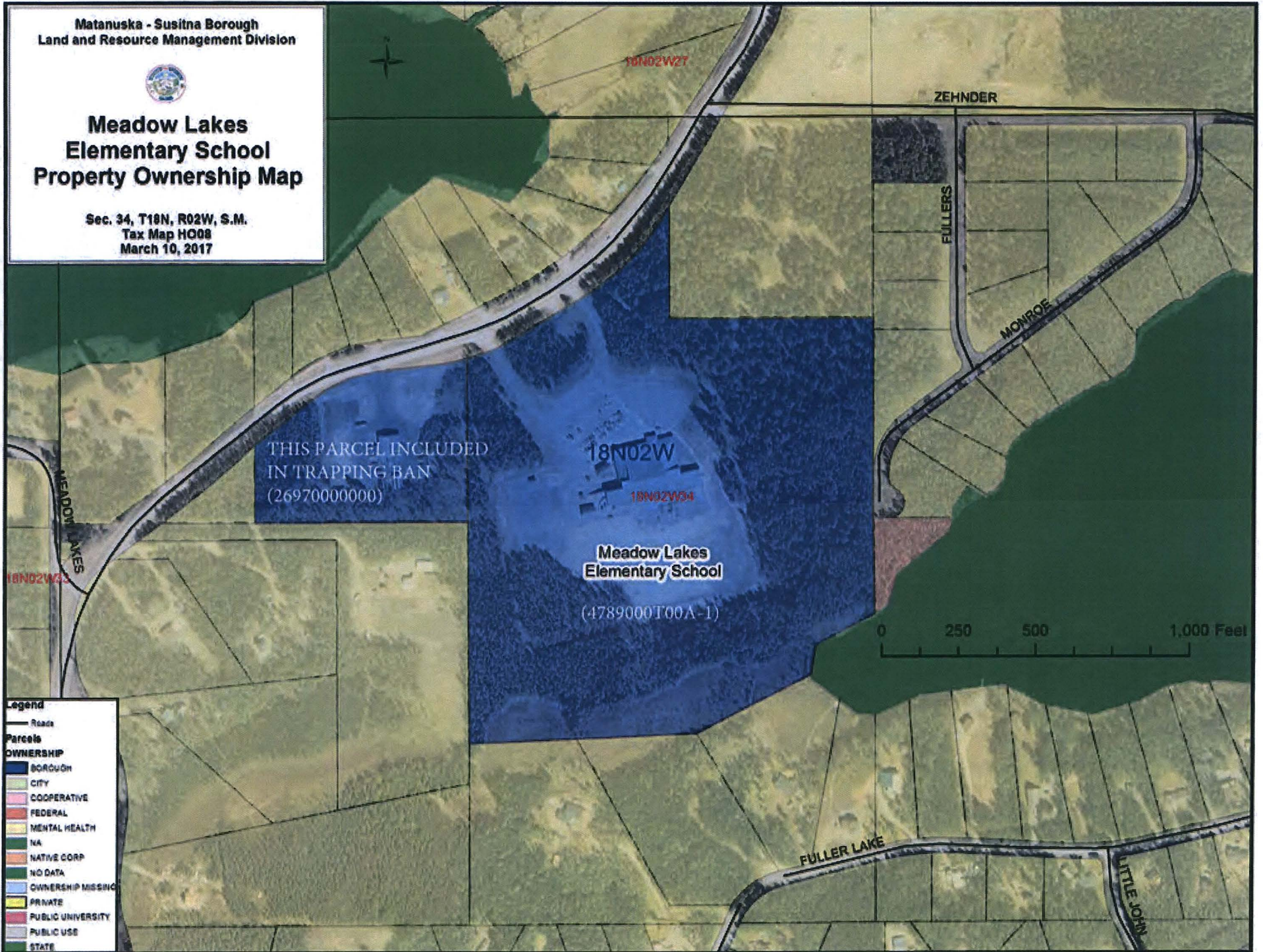


Matanuska - Susitna Borough
Land and Resource Management Division



Meadow Lakes Elementary School Property Ownership Map

Sec. 34, T18N, R02W, S.M.
Tax Map H008
March 10, 2017



Legend

- Roads
- Parcels OWNERSHIP**
- BOBCOON
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE



Midnight Sun Family Learning Center Property Ownership Map

Sec. 04, T17N, R02W, S.M.
Tax Map HO10
March 10, 2017

0 250 500 1,000 Feet

18N02W

19N02W34

KAREN

Adjacent Property
Used by School
(Borough-owned)

(7326000T00A)

MidnightSun
Family Learning
Center
(leased property)

17N02W04

17N02W

17N02W01

PITTMAN

BIRDSELL

MIDNIGHT SUN

SUN SCHOOL

Legend

- Roads
- Parcels**
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE





Palmer High School Property Ownership Map

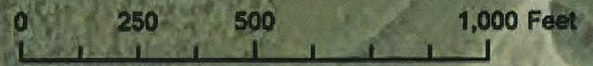
Sec. 32, T18N, R02E, S.M.
Tax Map PA06
March 10, 2017



Palmer
High School

(18N02E32C017)
18N02

Legend	
—	Roads
Parcels	
OWNERSHIP	
Blue	BOROUGH
Light Green	CITY
Pink	COOPERATIVE
Red	FEDERAL
Light Blue	MENTAL HEALTH
Dark Green	NA
Orange	NATIVE CORP
White	NO DATA
Light Blue	OWNERSHIP MISSING
Yellow	PRIVATE
Red	PUBLIC UNIVERSITY
Grey	PUBLIC USE
Green	STATE



Matanuska - Susitna Borough
Land and Resource Management Division



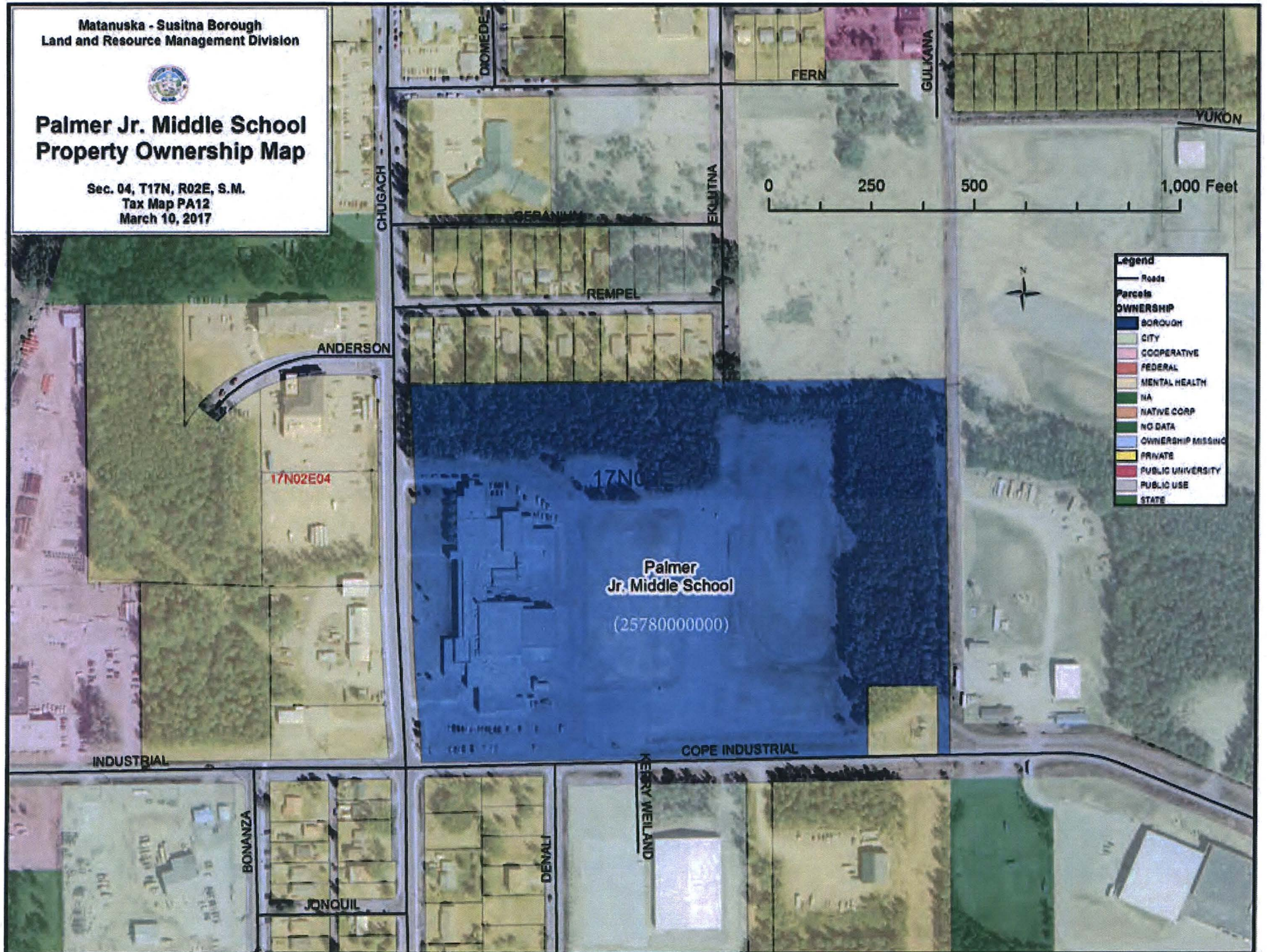
Palmer Jr. Middle School Property Ownership Map

Sec. 04, T17N, R02E, S.M.
Tax Map PA12
March 10, 2017

0 250 500 1,000 Feet

Legend

- Roads
- Parcels
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE



Matanuska - Susitna Borough
Land and Resource Management Division



Pioneer Peak Elementary School Property Ownership Map

Sec. 34, T18N, R01E, S.M.
Tax Map WA08
March 10, 2017



0 250 500 1,000 Feet



Legend

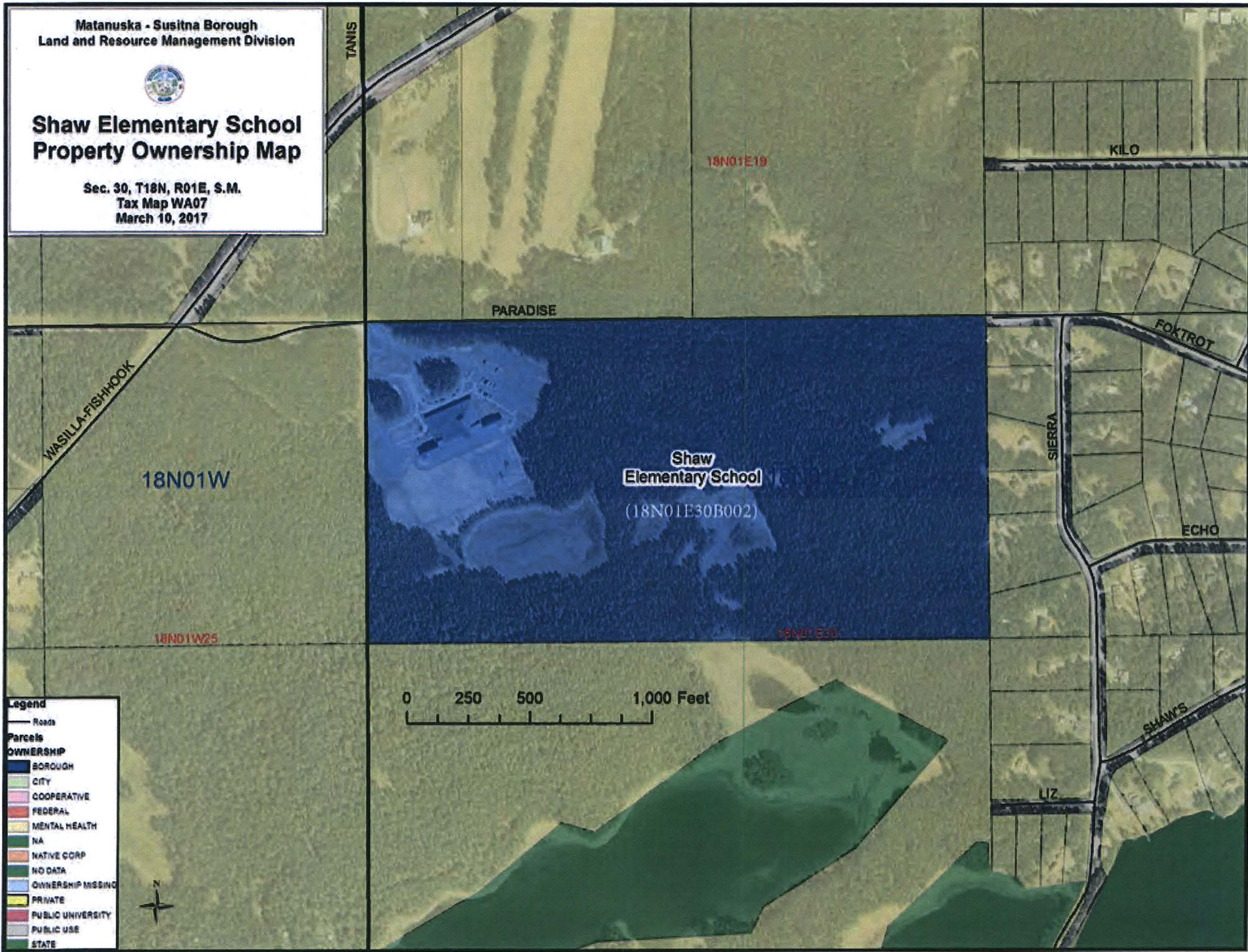
- Roads
- Parcels**
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Matanuska - Susitna Borough
Land and Resource Management Division



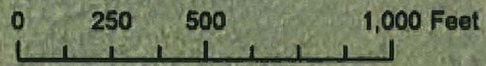
Shaw Elementary School Property Ownership Map

Sec. 30, T18N, R01E, S.M.
Tax Map WA07
March 10, 2017



Legend

- Roads
- Parcels**
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE





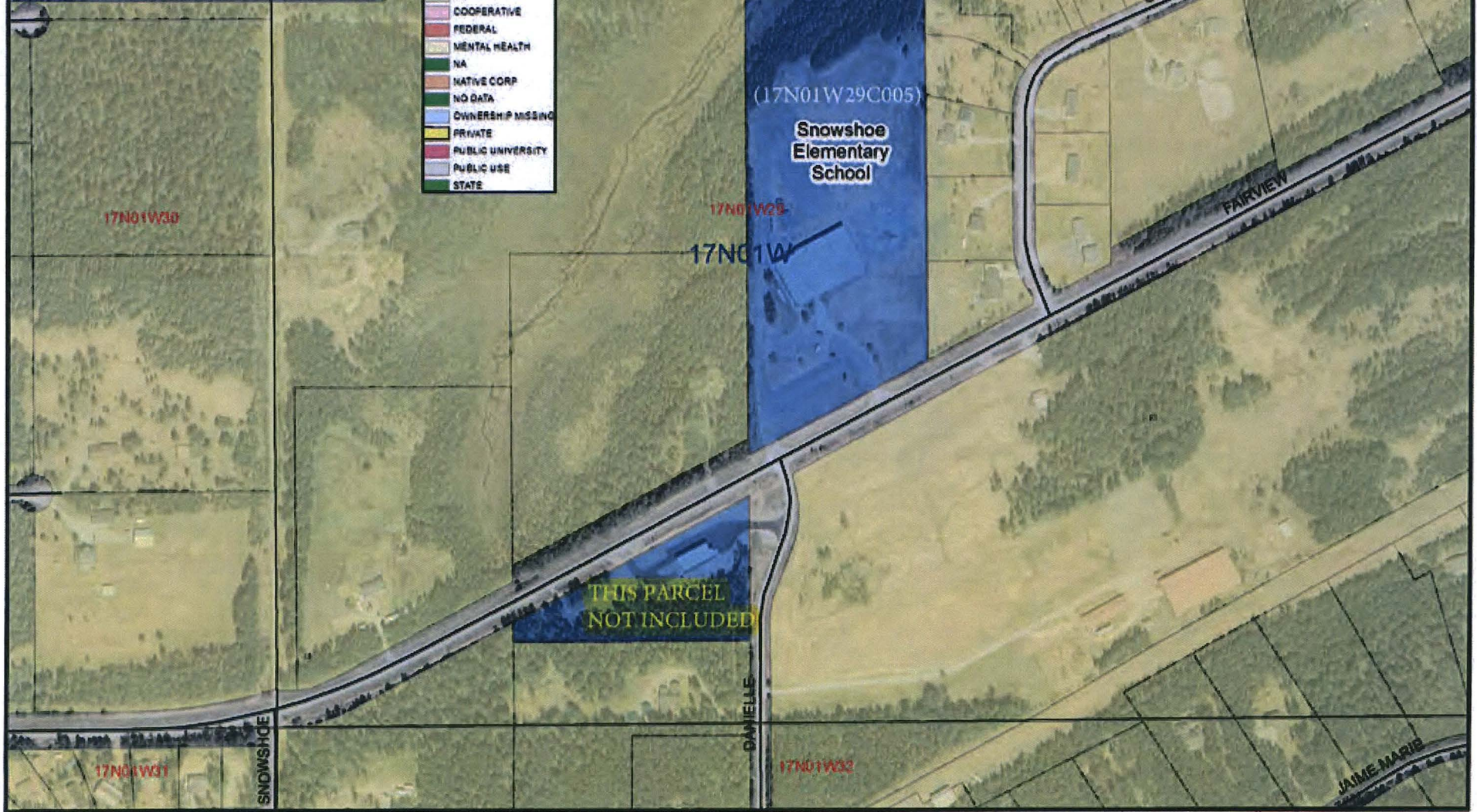
Snowshoe Elementary School Property Ownership Map

Sec. 29, T17N, R01W, S.M.
Tax Map WA13
March 10, 2017

0 250 500 1,000 Feet



Legend	
Roads	
Parcels	
OWNERSHIP	
	BOROUGH
	CITY
	COOPERATIVE
	FEDERAL
	MENTAL HEALTH
	NA
	NATIVE CORP
	NO DATA
	OWNERSHIP MISSING
	PRIVATE
	PUBLIC UNIVERSITY
	PUBLIC USE
	STATE





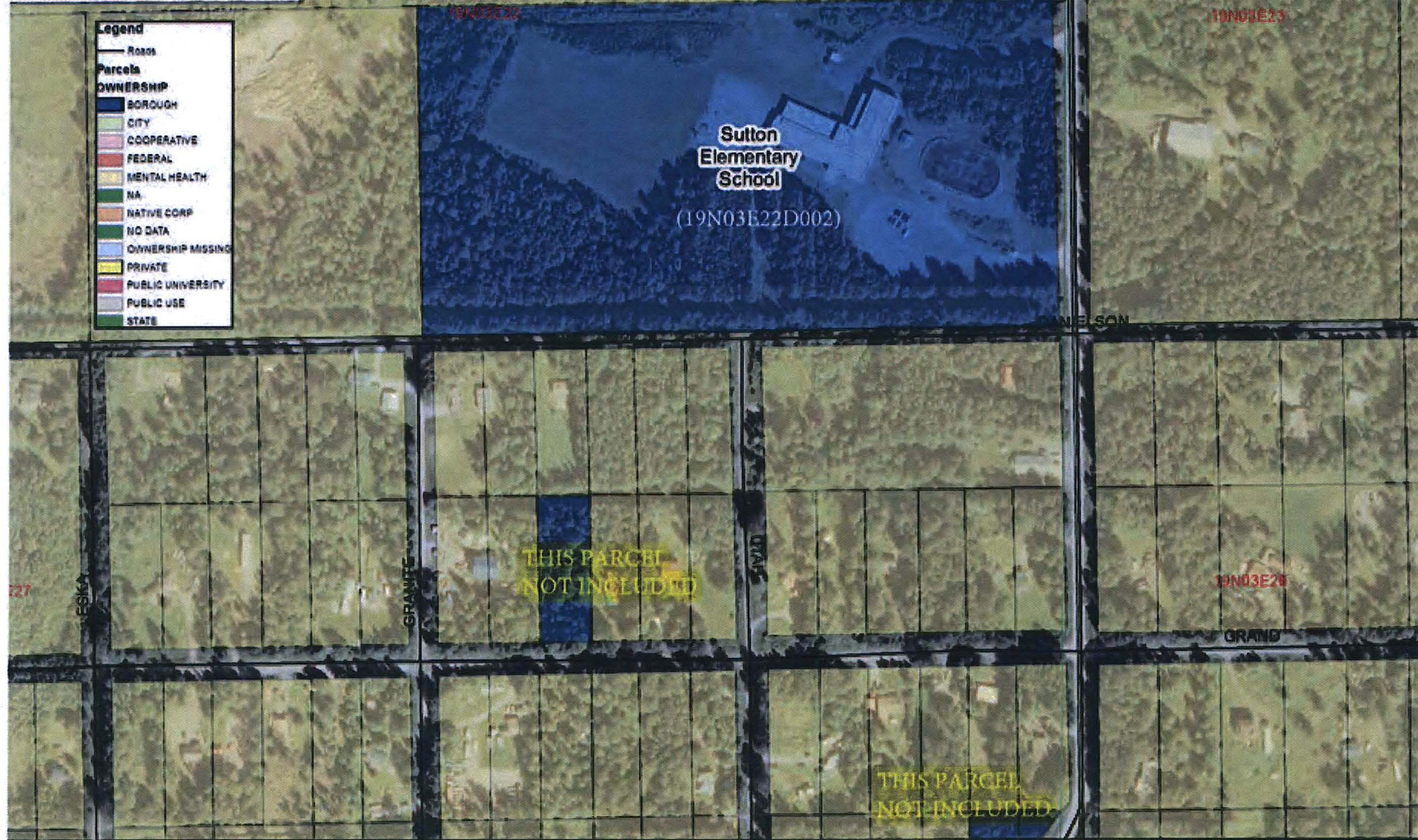
Sutton Elementary School Property Ownership Map

Sec. 22, T19N, R03E, S.M.
Tax Map SU14
March 10, 2017

0 250 500 1,000 Feet



Legend	
	Roads
	Parcels
OWNERSHIP	
	BOROUGH
	CITY
	COOPERATIVE
	FEDERAL
	MENTAL HEALTH
	NA
	NATIVE CORP
	NO DATA
	OWNERSHIP MISSING
	PRIVATE
	PUBLIC UNIVERSITY
	PUBLIC USE
	STATE

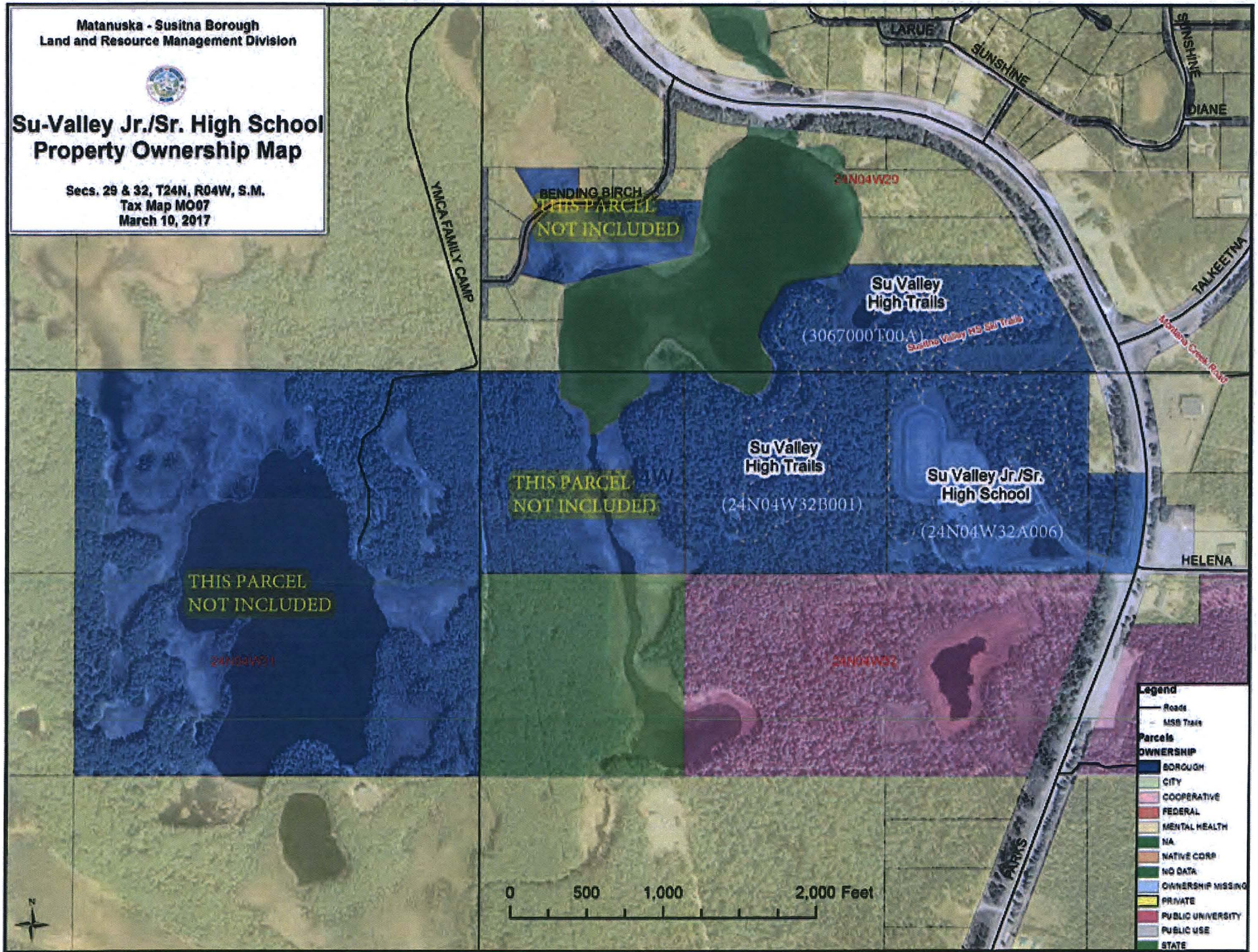


Matanuska - Susitna Borough
Land and Resource Management Division



Su-Valley Jr./Sr. High School Property Ownership Map

Secs. 29 & 32, T24N, R04W, S.M.
Tax Map M007
March 10, 2017



Legend	
—	Roads
- - -	MSB Trails
Parcels	
OWNERSHIP	
Blue	BOROUGH
Light Green	CITY
Pink	COOPERATIVE
Red	FEDERAL
Orange	MENTAL HEALTH
Dark Green	NA
Light Green	NATIVE CORP
White	NO DATA
Light Blue	OWNERSHIP MISSING
Yellow	PRIVATE
Light Blue	PUBLIC UNIVERSITY
Light Blue	PUBLIC USE
Dark Green	STATE



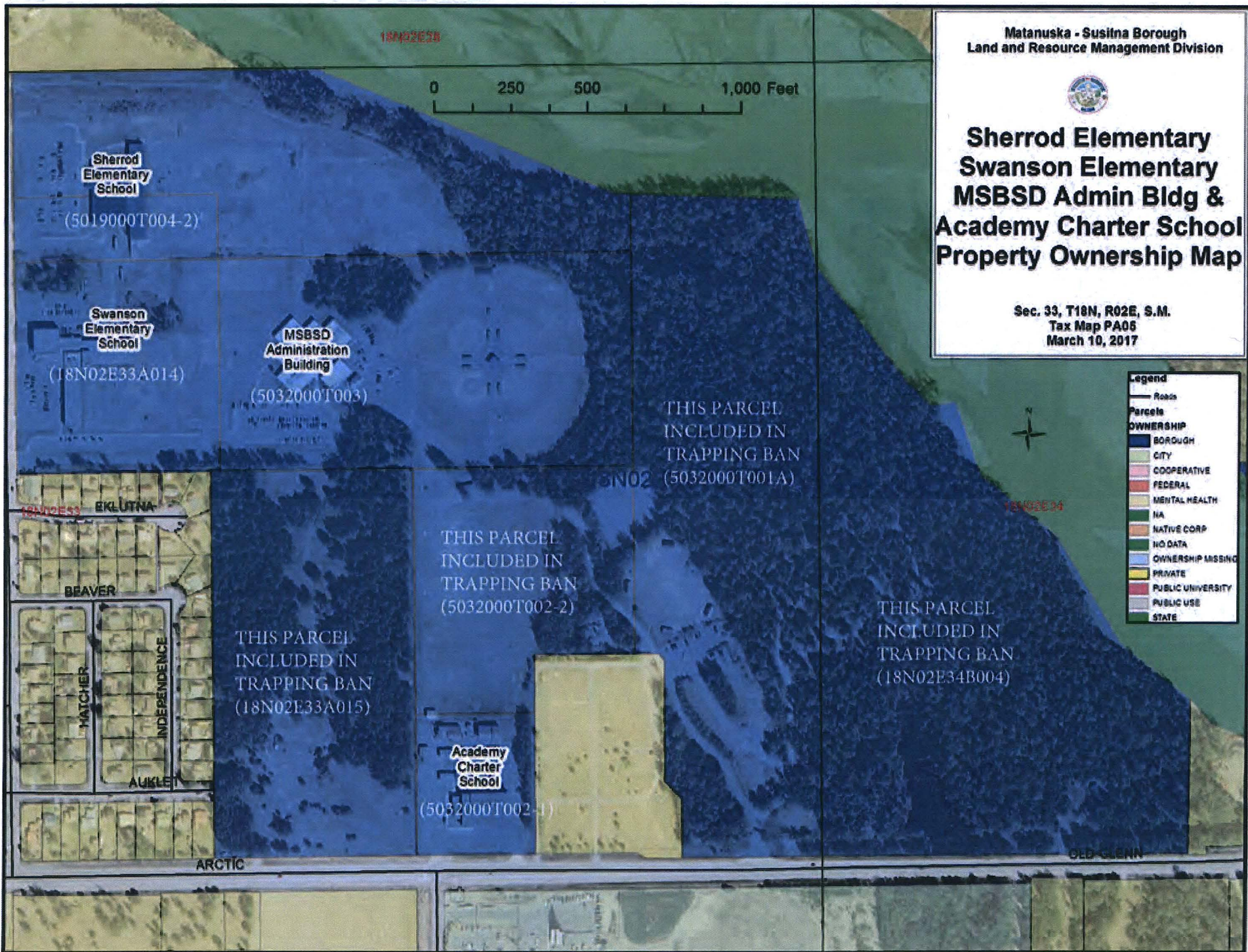
Sherrod Elementary Swanson Elementary MSBSD Admin Bldg & Academy Charter School Property Ownership Map

Sec. 33, T18N, R02E, S.M.
Tax Map PA05
March 10, 2017

0 250 500 1,000 Feet

Legend

- Roads
- Parcels
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE



Sherrod Elementary School
(5019000T004-2)

Swanson Elementary School
(18N02E33A014)

MSBSD Administration Building
(5032000T003)

THIS PARCEL INCLUDED IN TRAPPING BAN
(5032000T001A)

THIS PARCEL INCLUDED IN TRAPPING BAN
(5032000T002-2)

THIS PARCEL INCLUDED IN TRAPPING BAN
(18N02E33A015)

Academy Charter School
(5032000T002-1)

THIS PARCEL INCLUDED IN TRAPPING BAN
(18N02E34B004)

18N02E33

EKLUTNA

BEAVER

HATCHER

INDEPENDENCE

AUKLET

ARCTIC

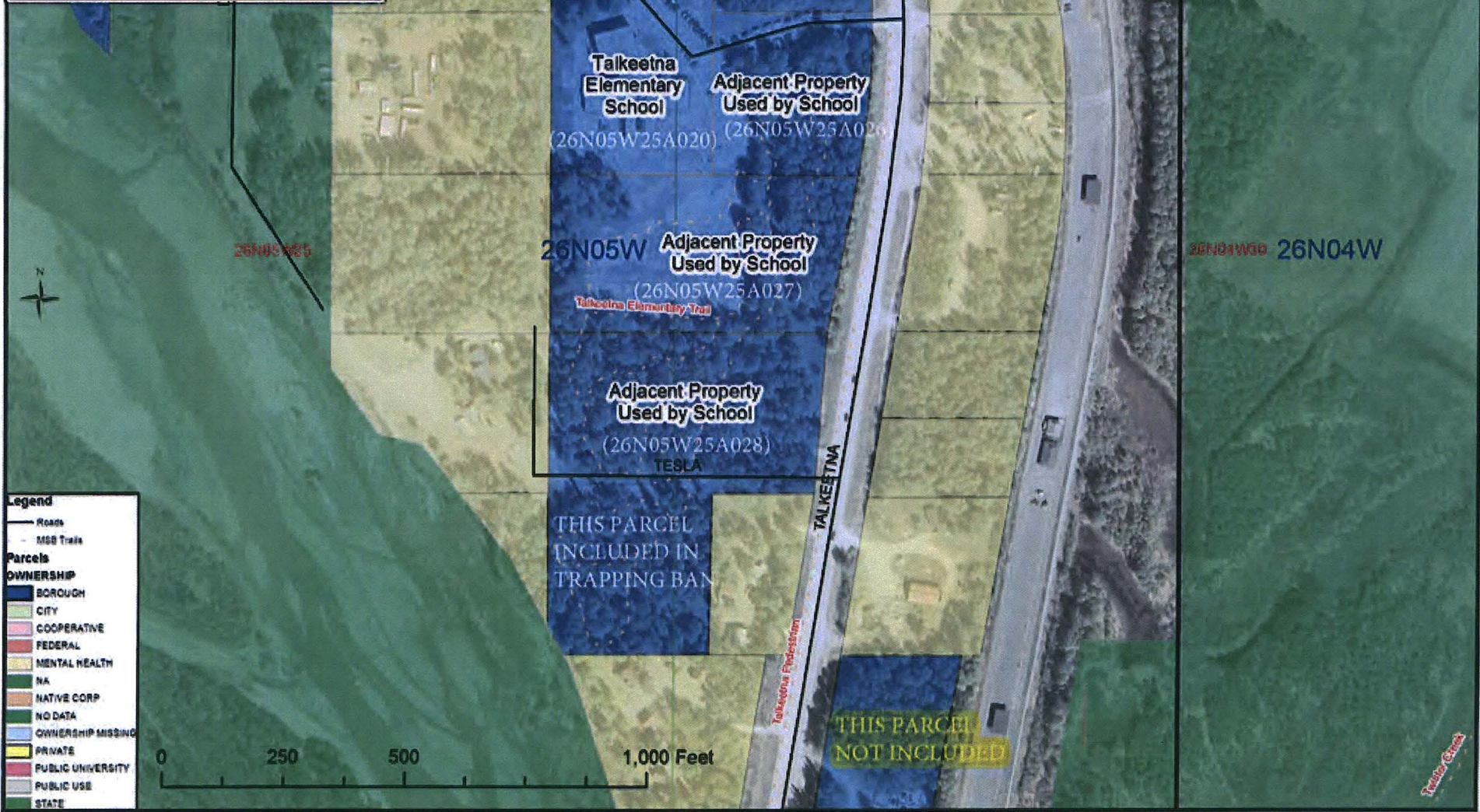
OLD GLENN





Talkeetna Elementary School Property Ownership Map

Sec. 25, T26N, R05W, S.M.
Tax Map TA06
March 10, 2017



Legend

- Roads
- MSB Trails

Parcels

OWNERSHIP

- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE



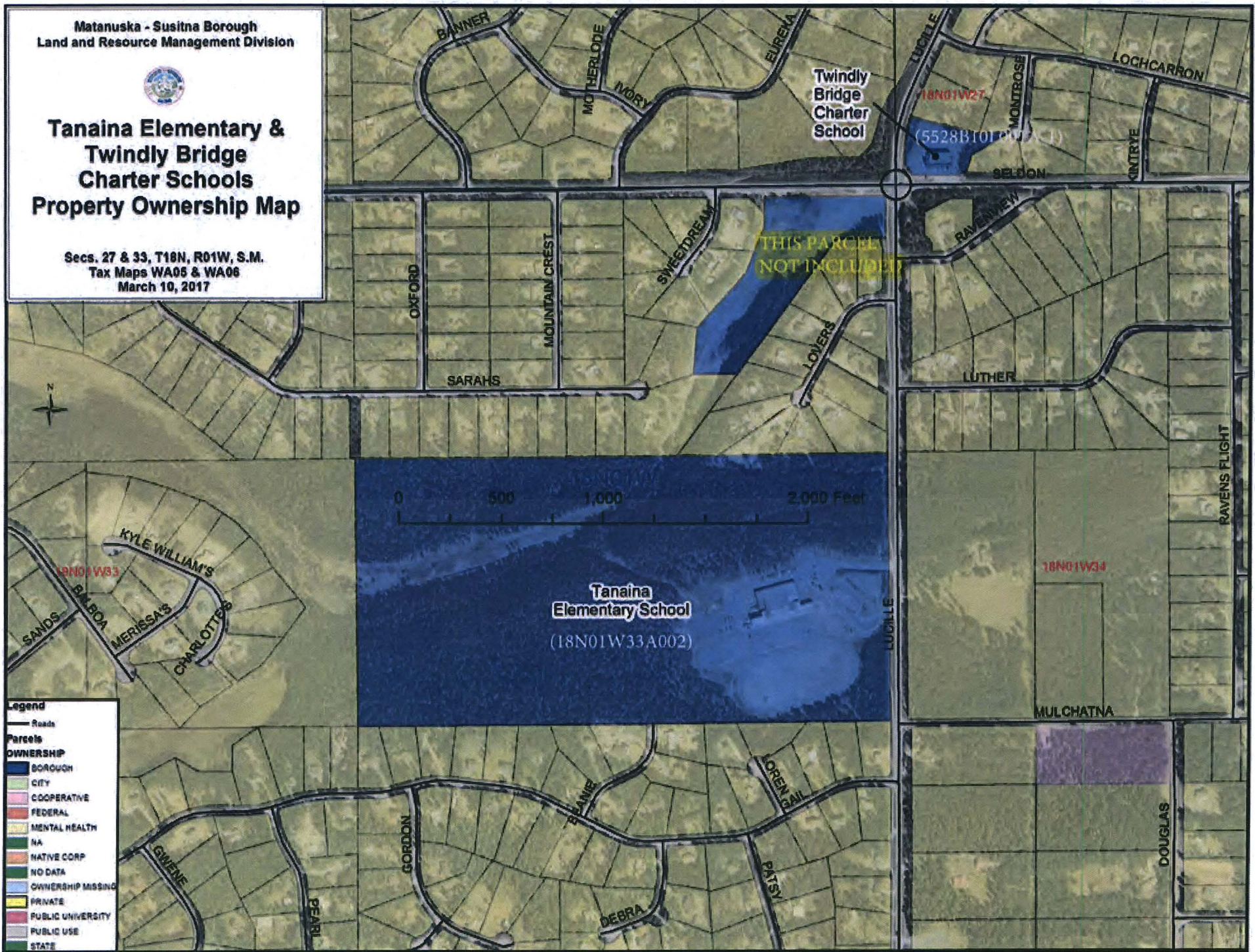
Talkeetna Borough

Matanuska - Susitna Borough
Land and Resource Management Division



Tanaina Elementary & Twindly Bridge Charter Schools Property Ownership Map

Secs. 27 & 33, T19N, R01W, S.M.
Tax Maps WA05 & WA06
March 10, 2017



Matanuska - Susitna Borough
Land and Resource Management Division



Trapper Creek Elementary School Property Ownership Map

Secs. 25 & 26, T26N, R06W, S.M.
Tax Map PV48
March 10, 2017

THIS PARCEL
NOT INCLUDED

THIS PARCEL
NOT INCLUDED

Trapper Creek
Elementary School

(26N06W26D001)

Adjacent Property
Used by School

(26N06W26B002)

Legend

- Roads
- MSB Trails

Parcels

OWNERSHIP

Blue	BOROUGH
Light Green	CITY
Pink	COOPERATIVE
Red	FEDERAL
Yellow	MENTAL HEALTH
Dark Green	NA
Orange	NATIVE CORP
Light Blue	NO DATA
Light Blue	OWNERSHIP MISSING
Yellow	PRIVATE
Pink	PUBLIC UNIVERSITY
Grey	PUBLIC USE
Green	STATE

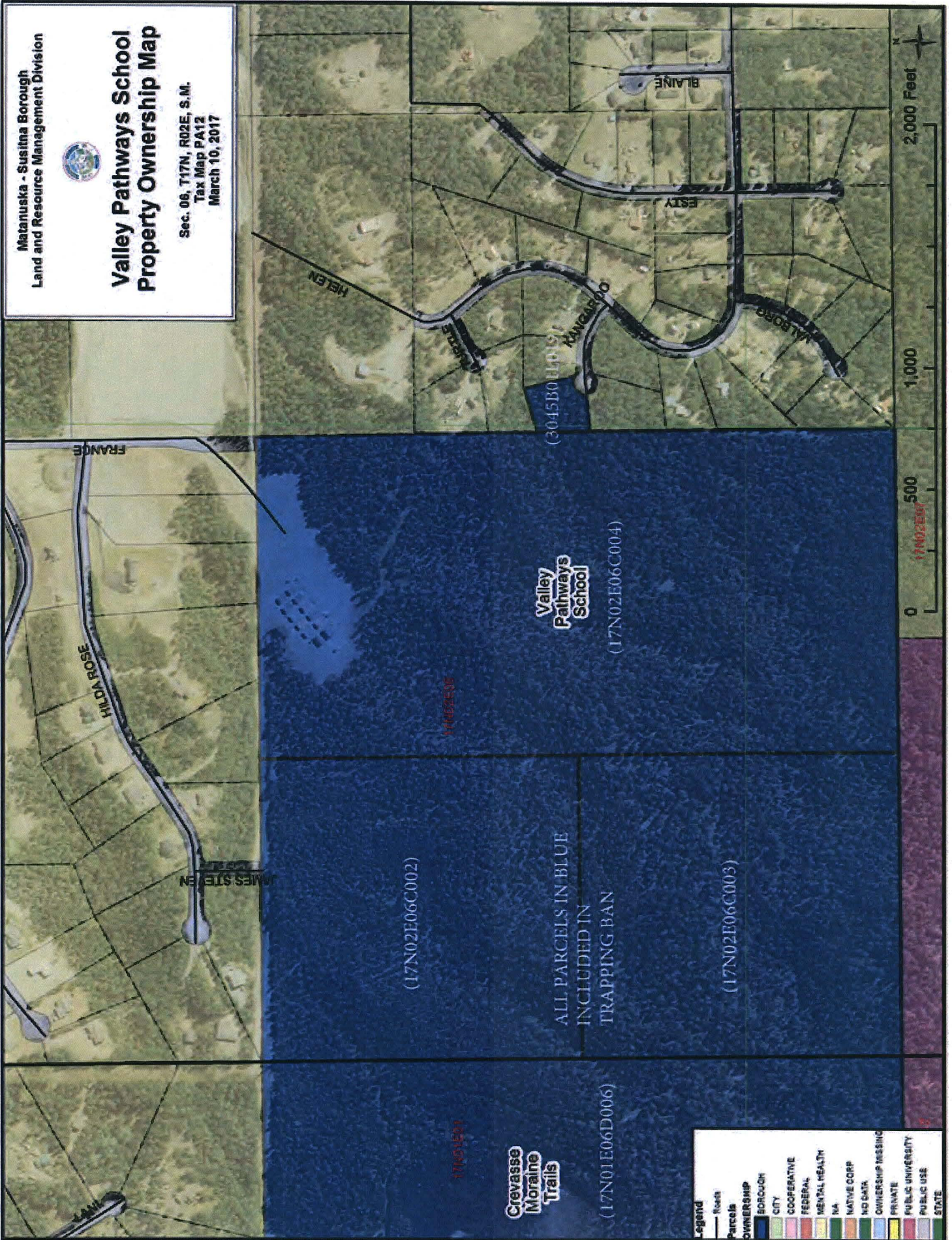
0 500 1,000 2,000 Feet





Valley Pathways School Property Ownership Map

Sec. 06, T17N, R02E, S. M.
Tax Map PA12
March 10, 2017



Legend

—	Roads
—	Parcels
OWNERSHIP	
[Blue]	SCHOOL
[Green]	CITY
[Light Green]	COOPERATIVE
[Pink]	FEDERAL
[Light Blue]	MENTAL HEALTH
[Yellow]	INDIA
[Orange]	NATIVE CORP
[Light Purple]	NO DATA
[Dark Purple]	OWNERSHIP MISSING
[Light Blue-Gray]	PRIVATE
[Pink-Red]	PUBLIC UNIVERSITY
[Light Purple]	PUBLIC USE
[Green]	STATE

**Crevasse
Moraine
Trails**

**Valley
Pathways
School**

ALL PARCELS IN BLUE
INCLUDED IN
TRAPPING BAN

(17N02E06C002)

(17N01E06D006)

(17N02E06C003)

(17N02E06C004)

YINDEESE

0 500 1,000 2,000 Feet



HELEN

BLAINE

ESTY

(3045B01P19)

KANGAROO

VALBORG

FRANDE

HILDA ROSE

JAMES STEVEN

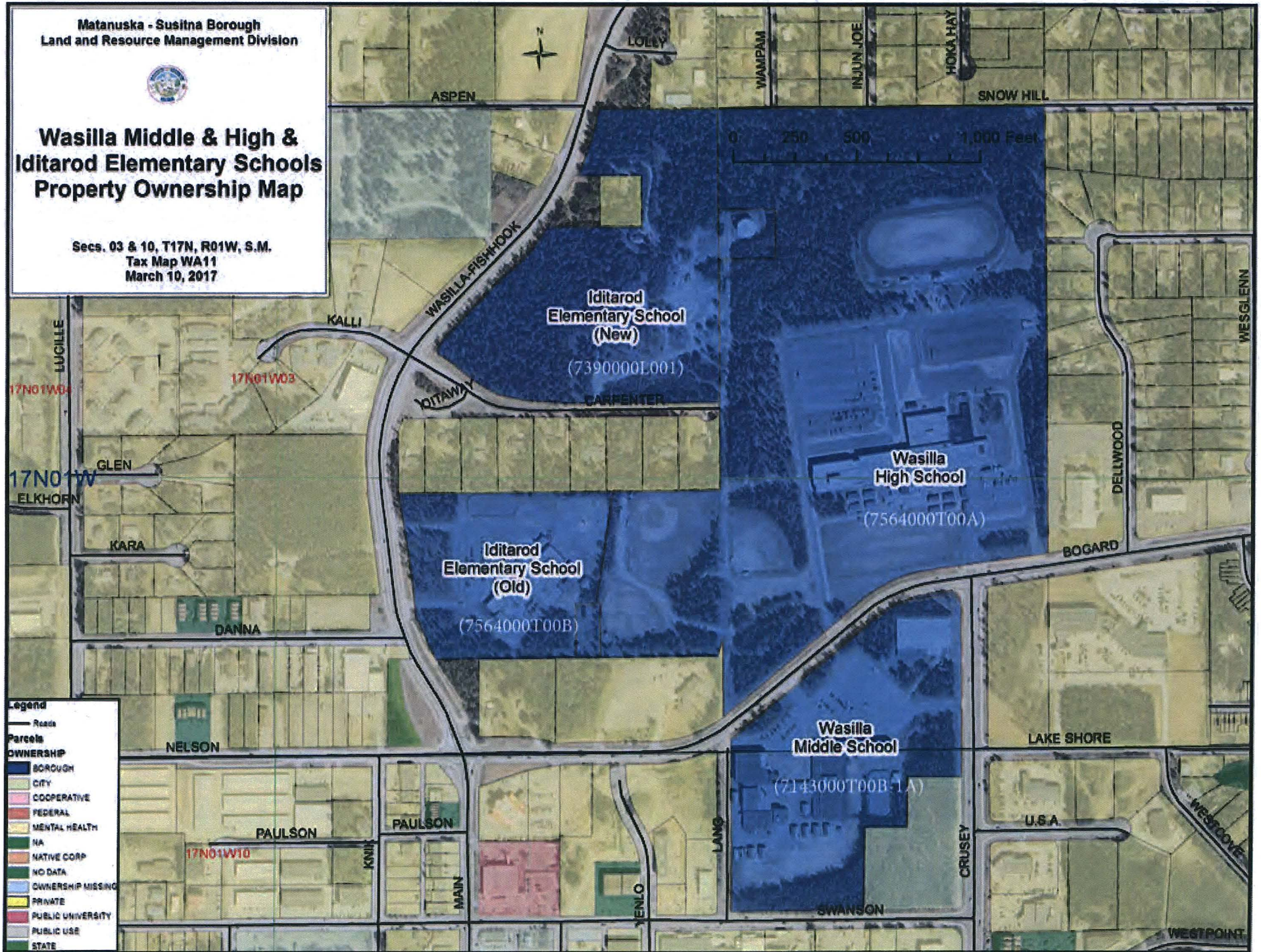
LANE

Matanuska - Susitna Borough
Land and Resource Management Division



Wasilla Middle & High & Iditarod Elementary Schools Property Ownership Map

Secs. 03 & 10, T17N, R01W, S.M.
Tax Map WA11
March 10, 2017



Legend

- Roads
- Parcels
- OWNERSHIP**
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Matanuska - Susitna Borough
Land and Resource Management Division

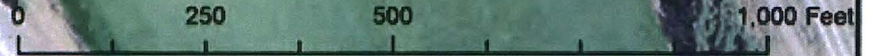


Willow Elementary School Property Ownership Map

Sec. 17, T19N, R04W, S.M.
Tax Map W110
March 10, 2017

THIS PARCEL
NOT INCLUDED

19N04W08



WILLOW STATION

19N04W
Willow
Elementary School

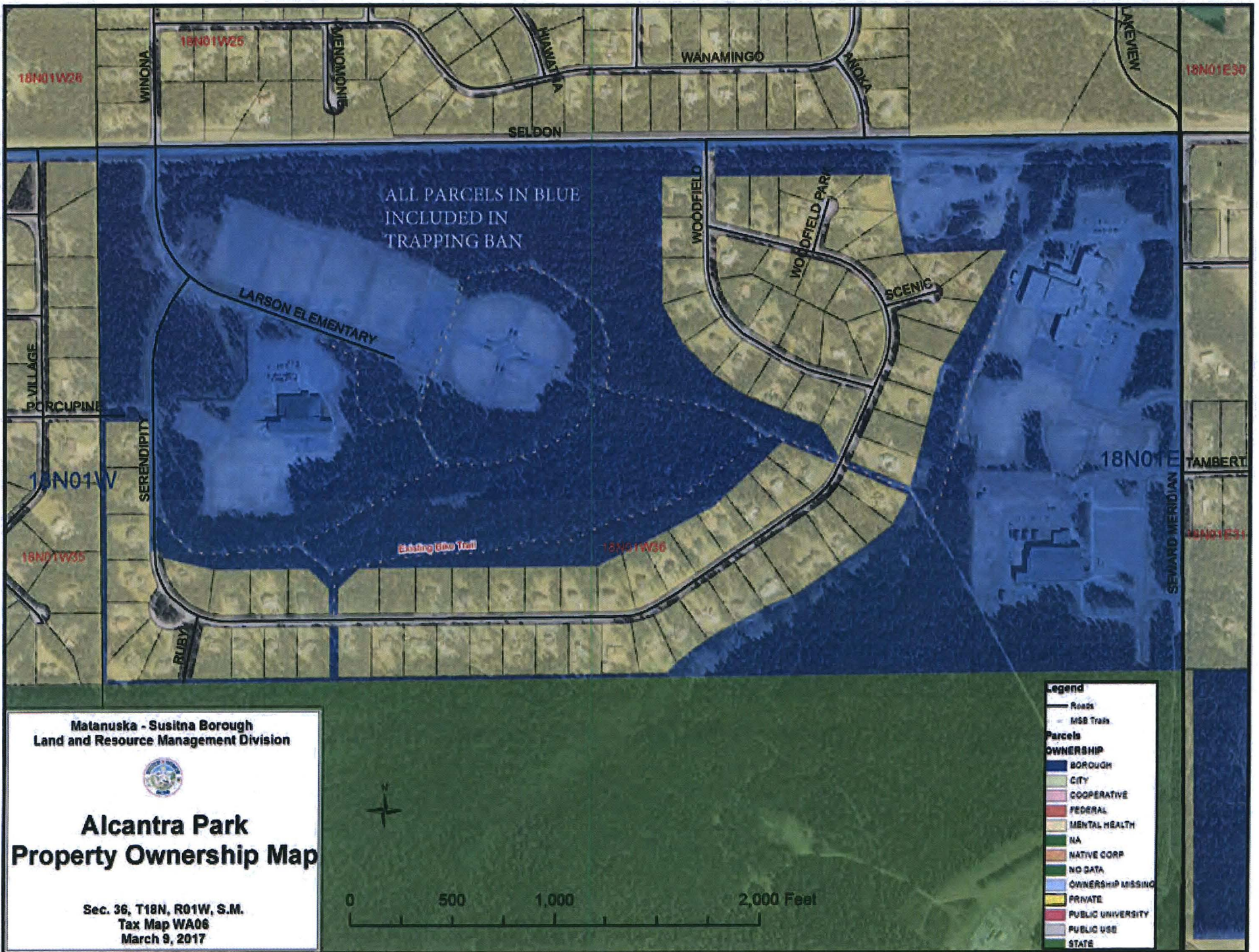
19N04W17
(19N04W17B004)

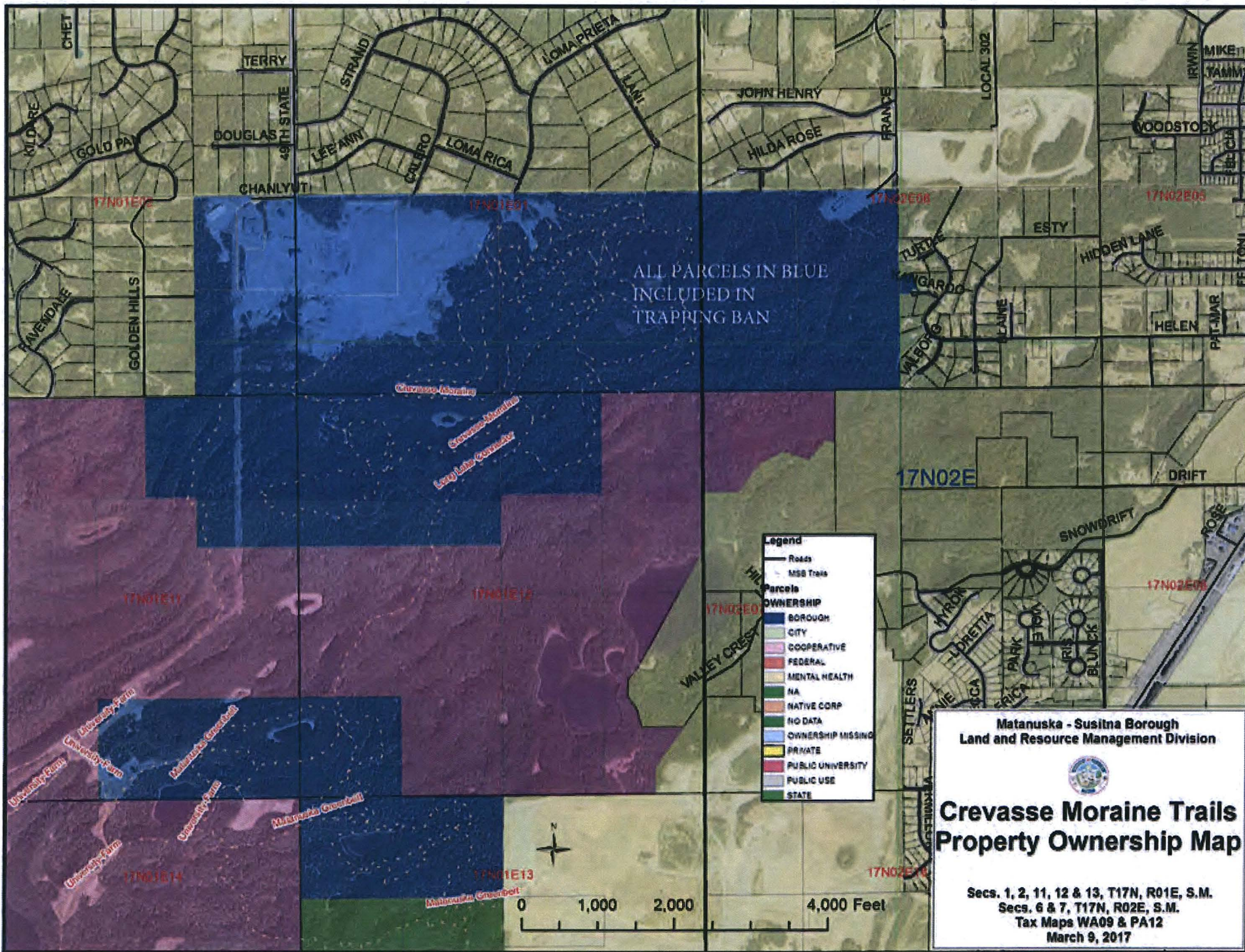
PARKS

ALEXANDER

- Legend**
- Roads
 - Parcels
 - OWNERSHIP**
 - BOROUGH
 - CITY
 - COOPERATIVE
 - FEDERAL
 - MENTAL HEALTH
 - NA
 - NATIVE CORP
 - NO DATA
 - OWNERSHIP MISSING
 - PRIVATE
 - PUBLIC UNIVERSITY
 - PUBLIC USE
 - STATE





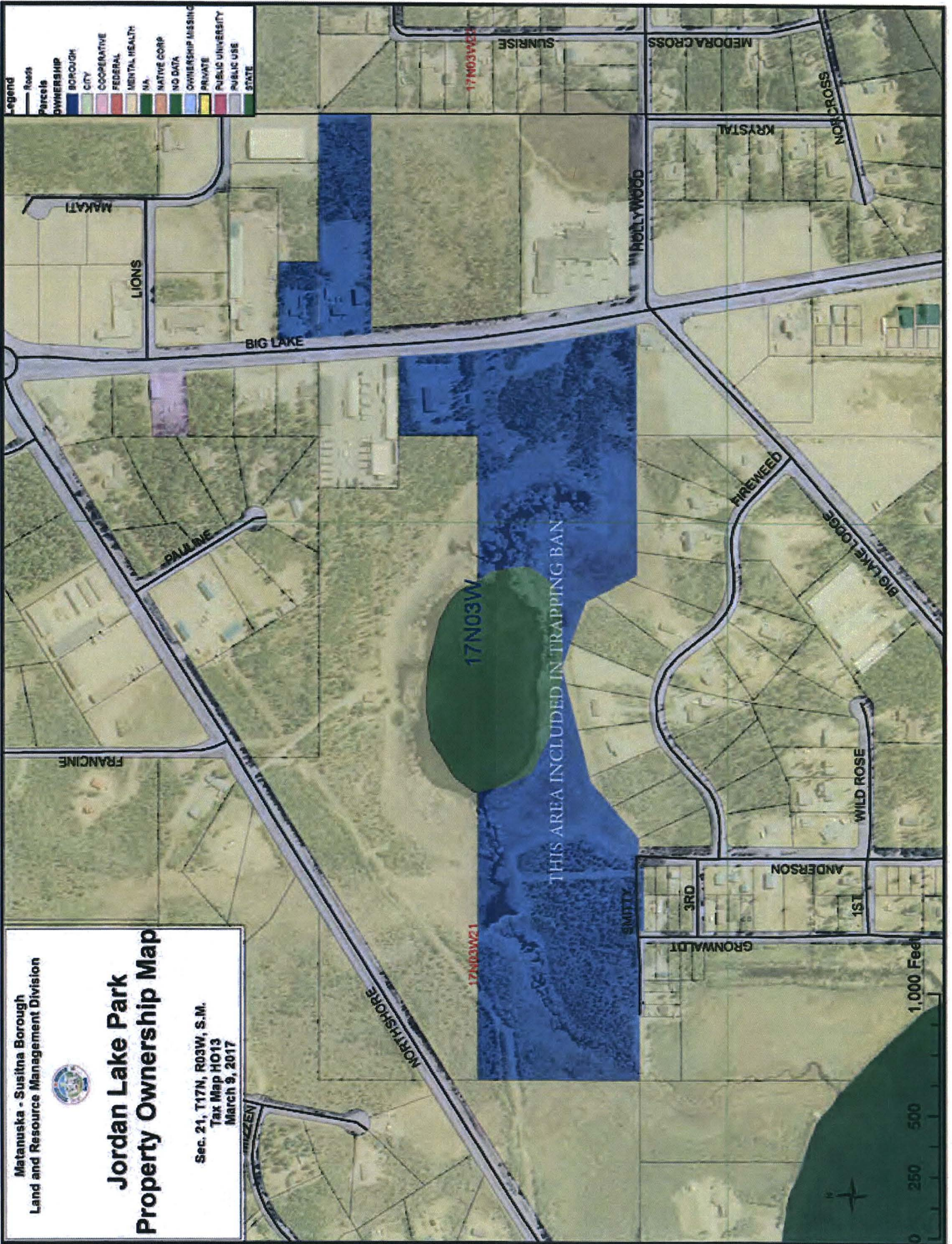


Matanuska - Susitna Borough
Land and Resource Management Division



Jordan Lake Park Property Ownership Map

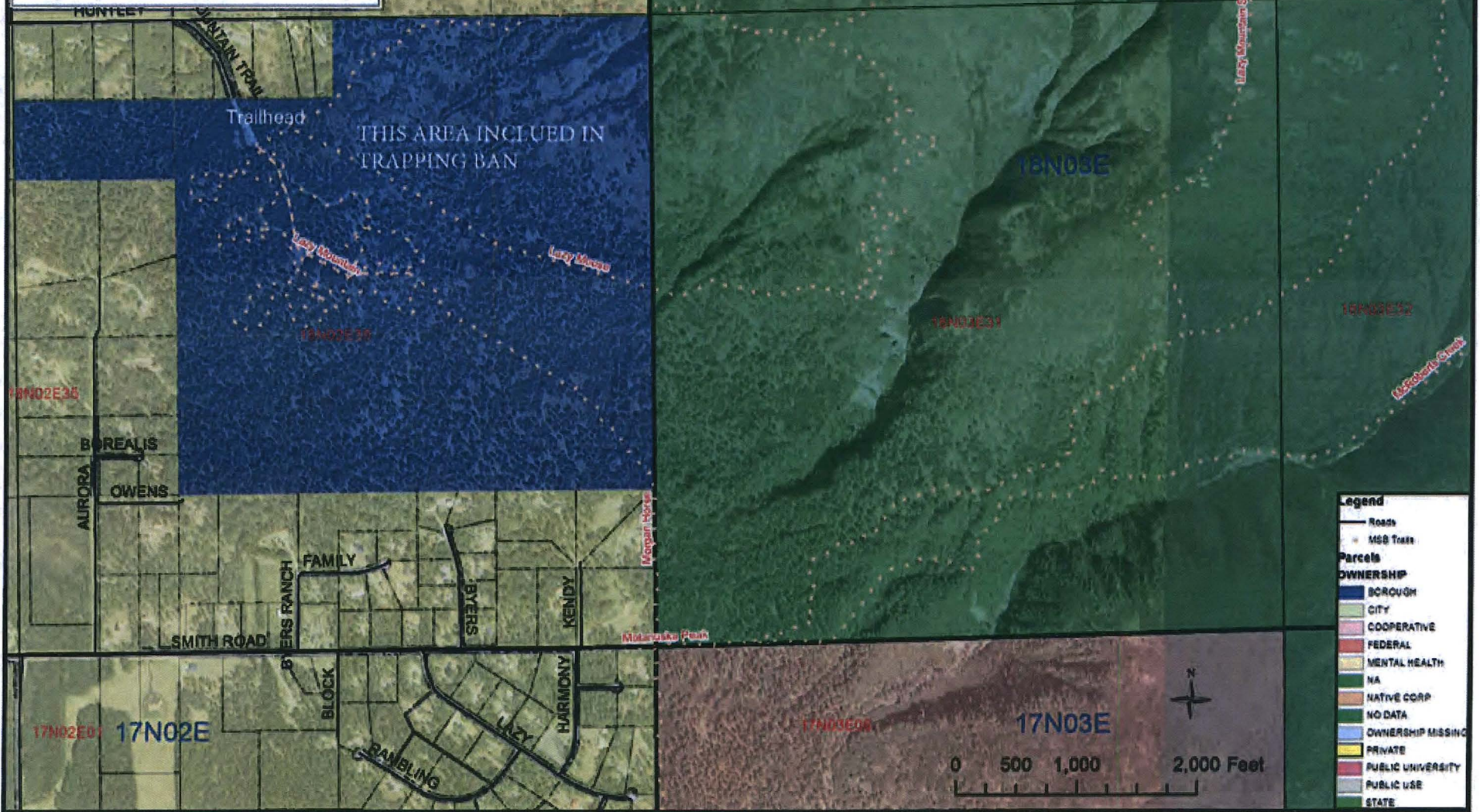
Sec. 21, T17N, R03W, S.1M.
Tax Map HO13
March 9, 2017

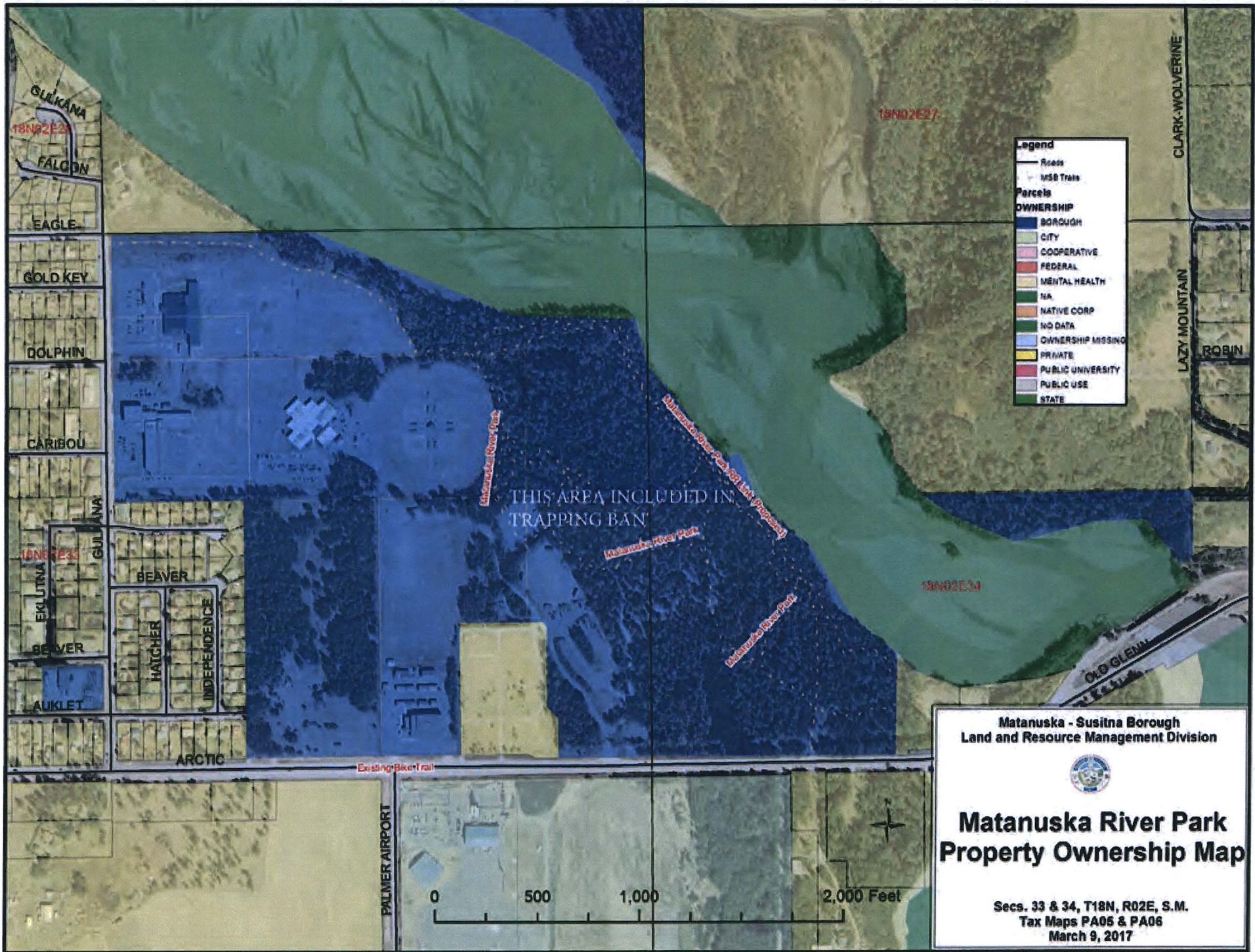




Lazy Mountain Recreation Area Property Ownership Map

Sec. 36, T18N, R02E, S.M.
Tax Map PA06
March 9, 2017





Legend


- Roads
- MSB Trails

Parcels

OWNERSHIP

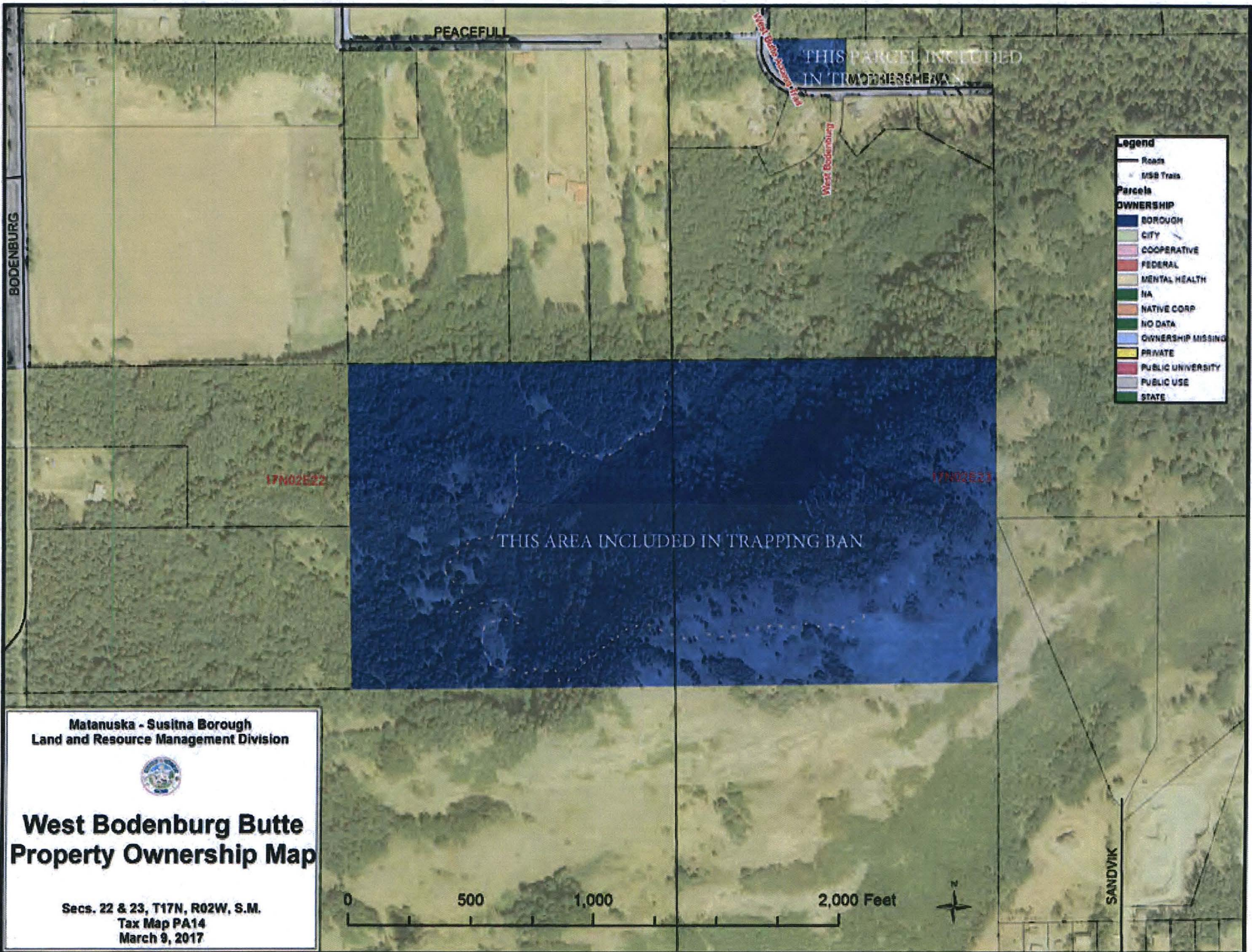
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Matanuska - Susitna Borough
 Land and Resource Management Division



**Matanuska River Park
 Property Ownership Map**

Secs. 33 & 34, T18N, R02E, S.M.
 Tax Maps PA05 & PA06
 March 9, 2017



Legend

- Roads
- MSB Trails

Parcel

OWNERSHIP

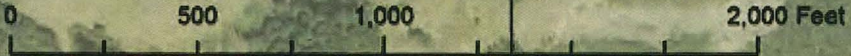
- BOROUGH
- CITY
- COOPERATIVE
- FEDERAL
- MENTAL HEALTH
- NA
- NATIVE CORP
- NO DATA
- OWNERSHIP MISSING
- PRIVATE
- PUBLIC UNIVERSITY
- PUBLIC USE
- STATE

Matanuska - Susitna Borough
 Land and Resource Management Division



**West Bodenbutte Butte
 Property Ownership Map**

Secs. 22 & 23, T17N, R02W, S.M.
 Tax Map PA14
 March 9, 2017



CODE ORDINANCE

Sponsored by: Assemblymember Mayfield
Introduced: 02/21/17
Public Hearing: 03/07/17
Amended: 03/07/17
Adopted: 03/07/17
Reconsider Filed: 03/08/17
Reconsidered Passed: 03/21/17
Amended: 03/21/17
Adopted: 03/21/17

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 17-021**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 24.05.010, DEFINITIONS; AMENDING MSB 24.05.020(A), JURISDICTION; ADOPTING MSB 24.05.105, TRAPPING PROHIBITIONS AND RESTRICTIONS; AMENDING MSB 24.40.050, FINES FOR INFRACTIONS; ADOPTING MSB 24.05.055, FORFEITURE OF TRAPS; AMENDING MSB 2.85.020(D) and ADOPTING MSB 2.85.020(E); CLOSURES AND RESTRICTIONS; ADOPTING MSB 2.85.030, DEFINITIONS; AMENDING CHAPTER TITLE 19.12 FROM OPERATION OF MOTORIZED VEHICLES TO SCHOOL PROPERTY; ADOPTING MSB 19.12.015, TRAPPING PROHIBITED; ADOPTING MSB 19.12.030, DEFINITIONS; AMENDING MSB 1.45.100(C), FINES FOR INFRACTIONS; AND ADOPTING MSB 1.45.105, FORFEITURE OF TRAPS IN ORDER TO PROHIBIT TRAPPING ON BOROUGH OWNED PUBLIC SCHOOL PROPERTY AND TO RESTRICT TRAPPING ON THE BOROUGH OWNED PORTION OF CREVASSE MORAINÉ TRAIL SYSTEM.

WHEREAS, the Matanuska-Susitna Borough owns property that has been developed for public school sites; and

WHEREAS, the Matanuska-Susitna Borough school sites are heavily utilized by children, teachers, school administrators, and members of the public; and

WHEREAS, the Borough also owns property that makes up various trail systems; and

WHEREAS, the Borough owns property within the core area that serves as part of the Crevasse Moraine Trail system; and

WHEREAS, the Borough maintains certain trails on its property in the Crevasse Moraine Trail system; and

WHEREAS, people recreate beyond the boundaries of the Borough-maintained trails in the Crevasse Moraine Trail system, as there are no requirements or restrictions that recreational use is limited to a particular area or trail; and

WHEREAS, there are other "social trails" on Borough property in the Crevasse Moraine Trail system that are not Borough-maintained; and

WHEREAS, the Matanuska-Susitna Borough Recreational Trails Plan (Trails Plan) evaluated the needs and desires of Borough residents and landowners with regard to recreational trail development; and

WHEREAS, one of the goals of the Trails Plan is to preserve the existing popular recreational trails; and

WHEREAS, one of the Trails Plan management recommendation goals is to minimize conflicts between different types of trail users and avoid trail-degradation due to improper use; and

WHEREAS, the Trails Plan recognizes that trail conflicts between separate user groups are likely to increase as trail use increases; and

WHEREAS, the Trails Plan likewise recognizes that it is important for the Borough to take some proactive steps to ensure these conflicts are minimized; and

WHEREAS, the Trails Plan further recognizes that trails should be managed so as to provide the greatest recreational benefit to those types of recreational trail uses for which the trail is uniquely situated; and

WHEREAS, the Trails Plan also recognizes that it may be necessary to limit some uses in certain situations; and

WHEREAS, in a survey reported in the Trails Plan, 51 percent of the respondents stated that walking or dog walking was the most common trail recreation activity; and

WHEREAS, the Crevasse Moraine trail system is included within the Trails Plan; and

WHEREAS, the Crevasse Moraine Trail System is described as a regionally significant trail in the Trails Plan; and

WHEREAS, in a separate plan called the Crevasse Moraine Master Plan, the area is described as a "high demand attraction serving diverse non-motorized users, including walkers (often with dogs), runners, equestrians, and mountain bikers;" and

WHEREAS, the Crevasse Moraine Master Plan explains that investment in the site is focused on providing healthy, enjoyable recreation opportunities for a compatible mix of non-motorized uses, including family strolls and dog walking among others; and

WHEREAS, in the "Desired Future Conditions" of the Crevasse Moraine Master Plan, it states Crevasse Moraine consists of 360 acres reserved for a permanent, formalized, soft tread trail

network for which investment is focused on providing healthy, enjoyable recreation opportunities for a compatible mixture of non-motorized users including: family stroll/non-strenuous walking; dog walking; strenuous walking/hiking; running/cross-country training; equestrian; mountain biking; Nordic skiing; snowshoeing; skijoring; geocaching; bird/wildlife watching; orienteering; and informal neighborhood picnic and play areas; and

WHEREAS, the "Desired Future Conditions" section of the Crevasse Moraine Master Plan also notes that Valley Pathways School shares some common infrastructure with Crevasse Moraine, and that the school seeks to instill respect for the Crevasse Moraine area by working with the Borough to create opportunities for student trails use related to their education; community service learning trail maintenance projects, forestry and trail building vocational training; and summer facility use for recreational programming; and

WHEREAS, demand for Borough trails increases every year, and is expected to continue as visitors and residents continue to get outside and enjoy the Borough's natural beauty in increasing numbers; and

WHEREAS, the Borough has an interest in managing its property to facilitate the intended use of the property, and protect members of the public, their children and their pets; and

WHEREAS, there are currently no prohibitions or restrictions against trapping in these areas; and

WHEREAS, according to the "Trap Safety for Pet Owners" guide that is published by the Alaska State Department of Fish and Game, Division of Wildlife Conservation, and the Alaska Trappers Association, trapping is a popular pastime and a livelihood for some and occurs throughout Alaska, even on some popular recreation trails; and

WHEREAS, MSB 23.05.050(A), already prohibits a person from placing personal property upon or making unauthorized use of Borough-owned real property without written permission from the Manager; and

WHEREAS, there are no express trapping restrictions on Borough-owned public school sites, or within the Borough-owned Crevasse Moraine trails; and

WHEREAS, allowing traps to be placed on Borough-owned public school sites or within the Borough-owned Crevasse Moraine trails or nearby is incompatible with the intended educational and/or recreational uses for those areas; and

WHEREAS, school site users, including children, may not be able to timely identify the location of traps on public school property and may not be able to successfully avoid them; and

WHEREAS, recreational trail users, including children, may not be able to timely identify the location of traps on Borough-owned Crevasse Moraine Trail and may not be able to successfully avoid them accordingly; and

WHEREAS, allowing traps to be placed in these areas could inadvertently, but seriously, injure those using these areas including children and/or the pets individuals recreate with; and

WHEREAS, at least 3 dogs have been inadvertently caught in traps in the Borough over the years and treated by the Animal Care and Regulation shelter; and

WHEREAS, dogs in the Borough have suffered significant injuries as a result of being caught in traps; and

WHEREAS, AS 29.35.010(8), provides the Borough the power to manage and control real property; and

WHEREAS, the Borough has an interest in managing its property to protect the property users; and

WHEREAS, the Borough has an interest in managing its trails property to ensure the primary intended uses such as walking, hiking, running, biking etc., with or without pets, is safe from conflicts relating to traps; and

WHEREAS, the Borough has an interest in protecting domestic animals and the power to do so pursuant to AS 29.35.210(a)(3).

WHEREAS, Matanuska-Susitna Borough owned lands support a diverse population of users with varied interest and activities, no Borough owned lands shall be added to this ordinance without referral to the Parks, Recreation, and Trails Advisory Board for review and public comment.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 24.05.010 is hereby amended as follows:

"Trapping" means the placing or setting of a trap. It does not include the possession or transportation of traps.

Section 3. Amendment of section. MSB 24.05.020(A) is hereby amended as follows:

(A) The borough generally has jurisdiction only over domestic and domesticated animals. Except for purposes of enforcing MSB 2.85.020, MSB 19.12.015, and MSB 24.05.105, the Borough does not have jurisdiction over the following animals:

- (1) wild animals; and
- (2) game animals, the taking or possession of which is regulated by the state or federal government.

Section 4. Adoption of section. MSB 24.05.105 is hereby adopted as follows:

MSB 24.05.105 TRAPPING PROHIBITIONS AND RESTRICTIONS

(A) Except as provided in MSB 24.05.110, no person may engage in trapping, attempting to trap, or aiding and abetting any person in trapping any wild or domesticated animal:

(1) On the following Borough-owned recreation lands including the Crevasse Moraine system, Lazy Mountain Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park there shall be no trapping unless they are performing an educational demonstration, pursuant to a Borough issued permit, and the traps are removed at the end of the day the presentation began.

(2) On any part of public school property owned by the Borough, unless they are performing an educational demonstration pursuant to written permission from the School Administration, and the traps are removed at the end of the day the presentation began.

(B) The Borough will prepare and keep current a map showing areas where trapping is not allowed pursuant to this section. A copy of the map shall be provided to any person upon request.

(C) The Alaska Department of Fish and Game, Alaska Department of Public Safety, United States Fish and Wildlife Service, or their authorized agents or designees, may trap animals within the area in which trapping is expressly prohibited by the chapter.

(D) This section shall not apply to property owned by other entities. This section shall not apply to the trapping or capturing of rats, mice, shrews, or similar vermin. This section shall not apply to the possession or transportation of traps.

(E) Violation of this section shall be punishable as set forth in MSB 24.40.

Section 5. Amendment of section. MSB 24.40.050 is hereby amended as follows:

24.05.105 Trapping Prohibited

1st Offense \$150

2nd Offense \$300

3rd and Subsequent \$500

Section 6. Adoption of section. MSB 24.40.055, is hereby adopted as follows:

24.40.055 FORFEITURE OF TRAPS

Ownership rights of any trap found on public school property owned by the Borough, or within borough-owned recreation lands including the Crevasse Moraine system,

Lazy Mountain Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park are forfeited upon conviction of MSB 24.05.105.

Section 7. Amendment of section. MSB 2.85.020(D) is amended as follows:

(D) [THE MANAGER MAY CLOSE OR RESTRICT TRAILS BECAUSE OF ENVIRONMENTAL, SEASONAL, SAFETY CONCERNS, or OTHER VALID REASONS AND MAY RESTRICT CERTAIN USES TO AVOID TRAIL CONFLICTS OR SAFETY CONCERNS.] Except as provided in MSB 24.05.110, Borough-owned property which is part of the Crevasse Moraine system, Lazy Mountain Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park is closed to trapping, attempting to trap, or aiding and abetting in trapping any wild or domesticated animal to prevent conflicts and ensure safety. Trapping in this area is allowed if the individual is performing an educational demonstration, pursuant to a Borough issued permit, and the traps are removed at the end of the day the presentation began.

(1) The Borough will prepare and keep current a map of the borough-owned recreation lands including the the Crevasse Moraine system, Lazy Mountain

Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park showing the Borough-owned property areas where trapping is not allowed pursuant to this section. A copy of the map shall be provided to any person upon request.

(2) The Alaska Department of Fish and Game, Alaska Department of Public Safety, United States Fish and Wildlife Service, or their authorized agents or designees, may trap animals within the area.

(3) This section shall not apply to property owned by other entities within the Crevasse Moraine system, Lazy Mountain Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park. This section shall not apply to the trapping or capturing of rats, mice, shrews, or similar vermin. This section shall not apply to the possession or transportation of traps.

(4) Violation of this section shall be punishable as set forth in MSB 1.45.

(E) The Manager may close or restrict additional trails because of environmental, seasonal, safety concerns, or other valid reasons and may restrict certain uses to avoid trail conflicts or safety concerns.

Section 8. Adoption of Section. MSB 2.85.030 is adopted as follows:

2.85.030 DEFINITIONS

"Trap" means any device designed or used to capture or hold an animal and that operates without direct human control. This includes any device for catching and holding wild or domesticated animals including, but not limited to, snares, nets, pitfalls, or clamp-like devices that spring shut suddenly.

"Trapping" means the placing or setting of a trap. It does not include the possession or transportation of traps.

Section 9. Amendment of Chapter Title. The title of 19.12 is amended as follows:

19.12 [OPERATION OF MOTOR VEHICLES] SCHOOL PROPERTY

Section 10. Adoption of Section. MSB 19.12.015 is hereby adopted as follows:

19.12.015 TRAPPING PROHIBITED

(A) Except as provided in MSB 24.05.110, no person may engage in trapping, attempting to trap, or aiding and abetting any person in trapping any wild or domesticated animals on any part of public school property owned by the Borough unless they are performing an educational

demonstration pursuant to written permission from the School Administration, and the traps are removed at the end of the day the presentation began.

(B) The Borough will prepare and keep current a map showing areas where trapping is not allowed pursuant to this section. A copy of the map shall be provided to any person upon request.

(C) The School District, Alaska Department of Fish and Game, Alaska Department of Public Safety, United States Fish and Wildlife Service, or their authorized agents or designees, may trap animals within the area.

(D) Violation of this section shall be punishable as set forth in MSB 1.45.

Section 11. Adoption of Section. MSB 19.12.030 is hereby adopted as follows:

19.12.030 DEFINITIONS

"Trap" means any device designed or used to capture or hold an animal and that operates without direct human control. This includes any device for catching and holding wild or domesticated animals including, but not limited to, snares, nets, pitfalls, or clamp-like devices that spring shut suddenly.

"Trapping" means the placing or setting of a trap.
It does not include the possession or
transportation of traps.

Section 12. Amendment of Section. MSB 1.45.100(C) is hereby
amended as follows:

19.12.015 Trapping on School Property

1stOffense \$150

2nd Offense \$300

3rd and Subsequent \$500

24.05.105 Trapping Prohibited

1stOffense \$150

2nd Offense \$300

3rdand Subsequent \$500

Section 13. Adoption of section. MSB 1.45.105 is hereby
adopted as follows:

1.45.105 FORFEITURE OF TRAPS

Ownership rights of any trap found on public school
property owned by the Borough, or any trap found on
Borough-owned property which is part of the Crevasse
Moraine system, Lazy Mountain Recreation Area, Matanuska
River Park, Alcantra Athletic Complex, West Bodenbug
Butte, and Jordan Lake Park, forfeited upon conviction
of MSB 2.85.020 (D) or MSB 19.12.015.

Section 14. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 21 day of March, 2017.


VERN HALTER, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk
(SEAL)

03/07/17 Vote:

YES: Sykes, Beck, McKee, Mayfield, Doty, and Kowalke

NO: Colligan

Reconsideration Vote:

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Colligan, Mayfield, Doty, and Kowalke

03/21/17 VOTE:

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Mayfield, Doty, and Kowalke

Note: Assemblymember Colligan was not present for the final vote.

Municipality of Anchorage

8.55.040 - Trapping of animals.

- A. It is unlawful for any person, with criminal negligence, to use any type of trap, such as steel jaw traps, snares or spring traps that might physically harm an animal, to capture animals for noncommercial reasons.
 - 1. Any humane-type trap used for the purposes of capture of animals shall be monitored by the person using it at least once every 12 hours. Any animal captured shall be cared for in a humane manner and returned to the animal's owner, an animal control officer, or the animal care and control center.
 - 2. No person may use any trap for capture of domestic animals and noncommercial purposes of a type not approved by the chief animal control officer or designee.
 - 3. No person may offer false information to any peace officer or animal control authority concerning the identity or ownership of a trapped animal the person has trapped.
- B. Violation of this section is a class A misdemeanor.

(AO No. 96-134(S-2), §§ 19, 52, 7-1-97; AO No. 98-59(S), § 2, 5-19-98; AO No. 2003-77, § 1, 5-20-03; AO No. 2014-42, §§ 8, 54, 6-21-14)

City of Cordova

8.04.195 - Regulation of trapping.

- A. No person may engage in trapping, except as provided in this section, in the following areas: within the city limits as of February 1993, in the area annexed to the city on or after March 1993 that is directly south, south-west and west of the city limits as of February 1993, and not within the parks and open space zoning district established under Title 18. Within these areas, trapping is permitted:
1. Within an enclosed structure, by, or with the permission of, a person who owns or is in lawful possession of the structure, using traps of any size and type;
 2. By employees or governmental units or agencies who, using live-traps, in the course of their duties, are required to trap animals for authorized purposes or specific animal nuisance problems.
- B. No person may engage in trapping, except as provided in this section, within two hundred yards of the right of way of Power Creek Road which is in the area annexed to the city on and after March 1993. Trapping is permitted:
1. Within an enclosed structure, by, or with the permission of, a person who owns or is in lawful possession of the structure, using traps of any size and type;
 2. By employees or governmental units or agencies who, using live-traps, in the course of their duties, are required to trap animals for authorized purposes or specific animal nuisance problems.
- C. No person may engage in trapping, except as provided in this section, in the following areas: in the area annexed to the city on and after March 1993 which is north, north-east, east and south-east of the city limits as of February 1993, but not within two hundred yards of the right of way of Power Creek Road. Within these areas, trapping is permitted:
1. Within two hundred yards of the right-of-way of any publicly maintained road including without limitation the following roads: Copper River Highway, Sheridan Glacier Road, Cabin Lake Road, and the Ibeck Creek dike road, using boxed Conibears no larger than one hundred twenty, and completely submerged traps of any size and type.
 2. More than two hundred yards from the right-of-way of any publicly maintained road, using traps of any size and type.
- D. Any traps deemed unsafe or illegal by a city police officer may be removed by these officials. The officials shall attempt to notify the owner of the trap.

(Res. No. 03-14-16, 3-13-14)

Editor's note— Res. No. 03-14-16, adopted March 13, 2014, set out provisions for use herein. At the direction of the city those provisions have been treated as enacting a new § 8.04.195.

City of Fairbanks, Park Regulations

FAIRBANKS NORTH STAR BOROUGH PARKS & RECREATION DEPARTMENT GENERAL RULES AND REGULATIONS

**Revised and approved by the Parks and Recreation Commission on 03/19/2012.
Final approval by Fairbanks North Star Borough Assembly on 4/12/2012.**

The following Parks and Recreation Rules and Regulations are hereby established and promulgated in accordance with the Fairbanks North Star Borough Code of Ordinances, **Title 2.36.080 and Title 9.12.010** and shall become effective immediately. Regular review of these Rules and Regulations will be conducted, and updated as necessary.

GENERAL RULES GOVERNING ALL PARKS AND FACILITIES

1. The Parks and Recreation Director, or his/her designee, has the authority to:
 - Close all or any portion of any park or facility for public health or safety concerns or to preserve public order. The duration of such closures shall be at his/her discretion, as determined by the nature of the closure.
 - Require contracts or other legal instruments, proof of insurance and applicable fees for use of Parks and Recreation facilities.
 - Establish motorized vehicle speed limits, and regulate traffic flow within parks.
 - Have towed and/or impound vehicles parked in areas posted as restricted parking, fire lanes or designated handicap parking areas.
 - Establish hours of operation for borough parks and facilities.
2. Questions regarding, or interpretation of these rules shall be directed to the Parks and Recreation Director.
3. These Rules and Regulations shall apply to any Parks and Recreation controlled and borough-owned or leased amenity including facilities, parks, trails and landscaped areas.
4. Any person or group violating established Parks and Recreation rules, local, state or federal laws or any action that endangers public health and safety may be asked to leave a borough facility by the Parks and Recreation Director, his/her designee or any law enforcement officer.
5. No person may enter upon, occupy or use any borough park or recreation facility except in accordance with borough parks and recreation rules and regulations.
6. No person may put or throw any kind of garbage, rubbish or material, or any other discarded objects in, on or around any borough park or recreation facility.
7. Any special set-up requests for events, parties or other rentals must be included in the rental form. The setup and use of these special requests shall be pursuant to the time, location, duration and manner, as approved by the Parks and Recreation Director or his/her designee. These special set-ups may include, but are not limited to: large event tents, chairs, portable PA or amplifier systems, staging, etc.

8. No person or group shall discharge firearms or other weapons except in designated areas.
9. Abusive, profane, or indecent language, or any conduct or behavior that may threaten or endanger others, is strictly prohibited in all parks and facilities.
10. No person may consume, possess, or otherwise use alcoholic beverages of any sort in areas posted "no alcoholic beverages allowed" in any Fairbanks North Star Borough park. **(FNSBC 9.12.030)**
11. The use, distribution or consumption of alcoholic beverages for events or other organized activities will only be permitted with prior written consent of the Parks and Recreation Director. Additional insurance may be required, and must be pursuant to all local and state laws.
12. Smoking is prohibited within 20 feet of, and inside of any borough-owned or leased facilities.
13. Betting, gambling or gaming in any form, or maintaining any gambling or gaming equipment is prohibited in all parks and facilities, unless prior written consent is provided by the Parks and Recreation Director. If written permission is granted, any gambling or gaming must comply with State of Alaska requirements for these activities.
14. No person shall sell, offer or solicit for sale any goods or merchandise, nor shall any person post, paste, or affix any placard, notice or sign within any park without prior written permission from the borough.
15. No person, group or organization may hold, sponsor or promote any event in any park or facility that is available for exclusive rental without completing a reservation form, and paying the appropriate fee. This restriction applies when the event is larger than fifteen (15) people, the group wants exclusive use of the park or the event duration is longer than two (2) hours.
16. No non-borough owned permanent structures or amenities are allowed in any park or facility, except pursuant to a lease or other management agreement.
17. Unauthorized motorized vehicles are prohibited on any non-motorized trails. Further, only authorized vehicles are allowed on posted service roads, walking paths, sidewalks or other non-roadway areas.
18. The use of personal fireworks is prohibited. Any fireworks for any event require a facility use agreement, additional insurance and must comply with all local and state regulations.
19. Bounce houses or other inflatable party amenities are not allowed in any park or facility, unless additional insurance requirements are met, as determined by borough Risk Management.

PARK USE RULES

1. No person shall pick, cut, injure, deface, remove or disturb any tree, shrub, flower, building, fence, bench or other structure, apparatus or property; dig or disturb soil; or mark or write upon any building, fence, bench or other structure; damage any marker, sign or roadway of any park.
2. No person or organization may catch, injure, disturb, destroy or interfere in any way with any wild animals or birds except while legally hunting, trapping or fishing in designated areas.
3. Wading, swimming or sports activities shall be permitted only in those areas specifically designed and equipped for such use and prohibited in all other areas.
4. Except in designated off-leash areas, all pets must be on-leash and under the owner's control at all times. Pet waste must be picked up and disposed of in provided trash receptacles.
5. A person may not wash, clean, repair or perform routine maintenance on a vehicle in any park facility, except for emergency purposes.
6. Tent, RV and other overnight camping is only allowed at Chena Lake Recreation Area (CLRA). Only RV camping is allowed at Pioneer Park. Camping is restricted to designated, posted camping areas at these two sites. No person or organization shall set up tents, shacks or any other temporary shelter or structure for the purpose of overnight camping in any other area or park. Additionally, no person or organization shall leave in a park any storage container, movable structure or vehicle such as boxes, tents, house-trailers, camp-trailers or the like.
7. Camping will be allowed in designated areas between Memorial Day and Labor Day, unless otherwise posted. Camping in all designated areas shall be limited to five (5) consecutive nights duration and users may leave and return to the campgrounds after an absence of one (1) day for an additional stay of not more than five (5) consecutive nights. Users may not camp more than 15 nights in any consecutive 30 night period. Additional nights may be allowed for pre-approved special events or emergency purposes.
8. For large, multi-day tournaments or special events, camping may be allowed in non-designated areas for those purposes only, by prior written permission of the Parks and Recreation Director or his/her designee. Camping fees may apply.
9. No person shall make or kindle an open fire except in a fire pit, grill, or picnic stove provided for that purpose, or in private stoves or barbecue braziers in any picnic or camping area. Further, the use of any open flames may be prohibited if there are unsafe burning conditions in the area due to weather, wind, etc. This will be at the discretion of the Parks and Recreation Director or his/her designee, in coordination with fire, police or emergency officials.
10. Use of borough Parks and Recreation parks, picnic shelters and gazebos are on a first-come basis. If a person, group or organization wishes exclusive, temporary use of an area, a Use Permit must be completed and the appropriate fees paid.

11. No person may construct a clothesline or expose clothing to dry on bushes, trees, or other objects, except in designated camping areas.
12. Waste water tanks or fluids of any noxious, toxic or potentially harmful nature shall be discharged only at designated locations.
13. Any special set-up requests for events, parties or other rentals must be included in the rental form. The setup and use of these special requests shall be pursuant to the time, location, duration and manner, as approved by the Parks and Recreation Director or his/her designee. These special set-ups may include, but are not limited to: large event tents, chairs, portable PA or amplifier systems, staging, etc.
14. The borough Parks and Recreation department is not responsible for any lost or stolen items in or around the facility. It is strongly encouraged that all personal items be locked in a secure area.

FACILITY USE RULES

Violation or failure to comply with of any of these facility rules may result in restricted access to the facility or more serious action, up to and including police action.

BIG DIPPER ICE ARENA

1. Facility users are not allowed on the ice surface during Zamboni resurfacing or other maintenance operations. Users may return to the ice surface after the Zamboni has completed resurfacing and the gates are closed; or when other maintenance operations have been completed. Absolutely no puck shooting when a Big Dipper Staff person is on the ice.
2. Vandalism, or other misuse of any part of the Big Dipper facilities will result in either individual, team or organization suspension from the facilities. Personnel in charge of each user group (i.e. coaches) are responsible for the conduct of their participants while they are using the Big Dipper facilities both on and off the ice. Users prior to each use should inspect team rooms. Observation of any damages or other irregularities should be reported to a Parks and Recreation staff person immediately. The Big Dipper Parks & Recreation Manager will review each incident and determine appropriate and reasonable actions necessary to maintain proper use etiquette.
3. In order to ensure a punctual start for each user, it is mandatory you leave the ice immediately at the conclusion of your allotted time. Failure to comply will result in suspension of ice time until such time as the Parks & Recreation Manager is assured that the problem is corrected.
4. Facility users are responsible for individual, team, and in some cases, spectator control during their allotted ice time. (User will be informed if security officers are needed for spectator control).
5. No lessons (figure or hockey) for remuneration or not will be allowed during open recreational skating or recreational hockey.
6. Smoking is prohibited within 20 feet of, and inside of any borough-owned or leased facilities.
7. Alcoholic beverages are prohibited at all times from team rooms and from inside the arena unless purchased from a vendor inside the facility, and then consumed in an area approved by the Alcoholic Beverage Commission. Failure to comply will result in suspension from the arena for remainder of scheduled season.
8. Use of illegal drugs is prohibited and will result in immediate suspension of individuals and/or teams from the arena for the remainder of the scheduled season.
9. The use of headphones and cell phones are prohibited on the ice during any skating session(s).
10. The user agrees to hold harmless, defend and indemnify the Fairbanks North Star Borough from any claim whatsoever arising out of the use and occupation of the facility by the user.

11. Vehicle parking is in designated areas only. No parking in handicap, fire and ambulance zones, or in front of the arena and other areas as posted. Vehicles in violation are subject to towing and impound at owner's expense.
12. Team rooms can be secured for all events. Keys can be signed out at the skate room, and the person signing the key out will need to leave their car keys or driver's license. The team room user shall turn in their car keys or driver's license to obtain the key. Team room doors and keys are color coded for your convenience. It is the user's responsibility to use assigned team rooms. Using unassigned rooms is not permitted. Upon completion of the event, the room shall be cleaned by the user and inspected by an on duty supervisor. If the room is cleaned satisfactorily, the user's car keys or driver's license will be returned. The user will pay for any damages incurred. Payment or arrangements will be made within seventy-two (72) hours, or the user will be suspended from further facility use. User will be given (1) verbal warning if team rooms are not cleaned. User will be suspended from team rooms for up to three (3) games or practices after the second such offense. Be sure to lock the door if leaving valuables in the room, as borough Parks and Recreation is not responsible for lost or stolen items. Coin operated lockers are available for rental. Users may bring in their own lock to use, but it must be removed after each use. Personal locks will be cut off nightly.
13. The Parks and Recreation Department will specifically allocate all ice time. Inefficient use of scheduled time will result in revocation and reallocation of that time. A request for schedule changes between user groups must be coordinated through the Parks and Recreation Department at least twenty-four (24) hours in advance of the change. Changes made without Department approval can result in revocation of ice time. The Parks and Recreation Department reserves the right to alter any scheduling with reasonable notice.
14. The conference room can be used for meetings by non-profit organizations. Application for use must be made to the Parks and Recreation Department at least forty-eight (48) hours in advance. Misuse of the meeting room facilities can result in denial of future requests for use. Telephone 459-1070 for availability of conference room.
15. Hitting or throwing pucks, tape balls, etc., off the ice is prohibited and will result in confiscation of hockey sticks, pucks, etc.
16. Children under the age of 12 must have adult supervision while in the facility.
17. Children age five (5) and over must dress in their same sex locker room with the aid of a parent/guardian of the same sex.
18. Posting of any advertisements, posters or flyers that are directly related to recreational activities or programs must be approved by arena manager. Posting is limited to events which benefit or support the community.
19. Taping of posters, banners, decorations, etc., to the Plexiglas or any painted surface is prohibited.
20. Any special set-up requests for events, parties or other rentals must be included in the rental form. The setup and use of these special requests shall be pursuant to the time, location, duration and manner, as approved by the Parks and Recreation

Director or his/her designee. These special set-ups may include, but are not limited to: large event tents, chairs, portable PA or amplifier systems, staging, etc.

21. Spitting tobacco on the ice, walls, floor, water fountains, benches, corners and out of the way places is unsanitary and dangerous, it will not be tolerated and may result in suspension from use of the building.
22. After practice and Rec. Skate, skaters are to wait in the bleacher area for their parents. Food may be eaten in the bleachers provided there is no littering.
23. Parents must pick their children up within 15 minutes after the event is over.
24. Instructors, teams and users of the facility may not be the sole users. In consideration of the other patrons, everyone needs to act in an unobtrusive, professional manner.
25. All users are encouraged to wear proper protective equipment, and personal discretion should be used based on the individual's ability level. The following is required equipment for the following activities:
 - a. **Hockey.** All players in all classifications must wear standard safety equipment. All players in all classifications must wear a hockey helmet, with chinstraps properly fastened while on the ice, in the players boxes and penalty bench. Any coach under the age of 18 years of age must wear a helmet while on the ice or in the players box. All players and coaches must abide by USA Hockey Rules and Regulations.
 - b. **Broomball.** All players on the ice for broomball must wear helmets.
26. Shaking or grabbing on the Plexiglas is PROHIBITED and may result in expulsion from the facility.
27. The borough Parks and Recreation department is not responsible for any lost or stolen items in or around the facility. It is strongly encouraged that all personal items be locked in a secure area.

CHENA LAKE RECREATION AREA

Violation or failure to comply with of any of these facility rules may result in restricted access to the facility or more serious action, up to and including police action.

1. **Facility Hours:** The entrance station and Park are open 24 hours/7 days a week during the summer season (typically Memorial Day through Labor Day). Quiet Hours are observed from 10:00 p.m.-6:00 a.m. and the Swim Beach and Lake Park day use areas are closed for reservation or use during that time.
2. Please swim only in designated swimming areas because of extremely cold water conditions. Rules for the swimming beach are posted. Do not swim immediately after meals and do not become over-exerted while swimming. *There is no lifeguards' on-duty, - swimming is AT YOUR OWN RISK.*
3. No dogs are allowed in the swimming beach area. In other areas, dogs must be kept on a leash, not to exceed six feet.
4. No glass bottles are allowed in the swimming area. The Lake Park Day Use Area (Including the swim beach areas, Pavilion 1 & 2, playground, horseshoe pit, basketball and 3 volleyball courts) is closed to the public at 10:00 p.m.
5. Special use permits are coordinated through the Park Manager for special activities, group gatherings, spectator attractions, etc.
6. Visitors must leave the facility clean and orderly.
7. The Lake is closed to all aircraft, motorized boats and all other motorized watercraft.
8. Music can only be played at a moderate volume. If the volume of the music impacts the enjoyment of the park by others, you will be asked to turn the volume down.
9. Parking is allowed in designated spots only.
10. No boats are to be within the buoys marking the swimming beach area.
11. Everyone on board a watercraft within the recreation area must wear a personal flotation device at all times. PFD's are available for rent at the boat rental building by the lake boat ramp.
12. No person shall knowingly emit a false drowning alarm.
13. Fires are to be in designated sites only. Do not leave a fire unattended. Portable barbecue grills are allowed.
14. No fireworks are allowed in the Park.
15. The loading or discharge of firearms, bows or crossbows, are prohibited for public safety reasons anywhere within the recreation area south of the Chena River and west of the Moose Creek Dike. An Alaska Sport Fishing License is required to fish in the Park.

16. The setting of a steel trap or snare is prohibited for public safety reasons anywhere within 100 feet of a designated trail or roadway.
17. Motor-driven scooters and cycles must conform to state licensing laws and their use will be confined to developed roadways. ATV usage in the Park is not allowed from May 1st until October 1st.
18. Wood will be offered for sale at the entrance station. Cutting of timber or brush is prohibited at all times. Chain saws are not allowed in the Park.
19. All local, state and federal laws apply within the Park.
20. Police emergency services are provided by the Alaska State Troopers. In an emergency, dial '911'. No coin is necessary to dial an emergency number. For emergencies and/or for general Park information, call 488-1655.

BIRCH HILL RECREATION AREA RULES

Violation or failure to comply with of any of these facility rules may result in restricted access to the facility or more serious action, up to and including police action.

1. Children under 12 may not be left unattended in the Birch Hill Recreation area, including trails, facilities and all other areas.
2. No running or horseplay is allowed inside the building.
3. Alcoholic beverages are allowed only during private facility reservations, and only with prior approval from the department.
4. No throwing objects of any kind.
5. Smoking is prohibited within 20 feet of, and inside of any borough-owned or leased facilities.
6. Skis and poles are only allowed in the team room. Waxing skis is allowed only in the team room and warm-up hut, unless otherwise designated.
7. Any special set-up requests for events, parties or other rentals must be included in the rental form. The setup and use of these special requests shall be pursuant to the time, location, duration and manner, as approved by the Parks and Recreation Director or his/her designee. These special set-ups may include, but are not limited to: large event tents, chairs, portable PA or amplifier systems, staging, etc.
8. The borough Parks and Recreation department is not responsible for any lost or stolen items in or around the facility. It is strongly encouraged that all personal items be locked in a secure area.
9. All dogs must be secured and controlled by their owner on a leash at all times. Pet waste must be picked up and disposed of in provided trash receptacles.

PIONEER PARK RULES

Violation or failure to comply with of any of these facility rules may result in restricted access to the facility or more serious action, up to and including police action.

1. Bicycles, skateboards, roller blades and scooters are not allowed to be ridden in Gold Rush Town during summer season operation. There are other areas of the Park where this type of activity is permitted. However, if such activities are causing a threat to public safety, welfare, or property, the activity shall cease upon request of FNSB Staff or Park Security.
2. All dogs must be secured and controlled by their owner on a leash at all times. Pet waste must be picked up and disposed of in provided trash receptacles.
3. Littering is not allowed. Please clean up your area prior to leaving.
4. Smoking is prohibited within 20 feet of, and inside of any borough-owned or leased facilities.
5. The posted vehicle speed limit inside the Park is 5 miles per hour.
6. Public access to the Gold Dome roof is prohibited. Those in violation of this rule will be asked to get down by either FNSB Staff or Park Security. Names and addresses will be retained for Park records.
7. Public access of the Mining Valley Mountain is prohibited. Signs are posted and fences are in place for user's safety.
8. Public access of the railroad tracks is prohibited during train hours of operation.
9. Public access of the upper decks of the Riverboat Nenana is prohibited unless authorized by Park Management or other designated FNSB Employee.
10. Any special set-up requests for events, parties or other rentals must be included in the rental form. The setup and use of these special requests shall be pursuant to the time, location, duration and manner, as approved by the Parks and Recreation Director or his/her designee. These special set-ups may include, but are not limited to: large event tents, chairs, portable PA or amplifier systems, staging, etc.
11. Alcoholic beverages may be consumed on the premises, but only in: Salmon Bake area. The picnic shelters, Alaska Centennial Center for the Arts, dance hall, and pioneer hall must have a scheduled event; and the request for alcohol must be indicated on the reservation form. Patrons found possessing open alcoholic beverages in areas other than those designated are in violation of Borough Ordinances and State Laws.
12. The borough Parks and Recreation department is not responsible for any lost or stolen items in or around the facility. It is strongly encouraged that all personal items be locked in a secure area.

POOL RULES

Violation or failure to comply with of any of these facility rules may result in restricted access to the facility or more serious action, up to and including police action.

1. All facility users are required to check in with the reception desk before entering the locker room. All passes must be shown at each visit.
2. The Parks and Recreation department is not responsible for any lost or stolen items in or around the facility. Use a lock on your locker - you must bring your own lock. Any lock left on a locker overnight will be removed.
3. No food or beverages are allowed in locker rooms or on deck.
4. Loitering is not accepted; children may not be dropped off any earlier than 15 minutes prior to open or lap swims, or be picked up any later than 15 minutes after the program concludes.
5. Children 12 and under may not be left unattended in any area of the facility.
6. The use of photographic equipment or imaging devices is prohibited in the locker rooms and restrooms. Video recording or photography of any kind elsewhere within this facility must be approved by the Facility Manager or the Event Manager.
7. The FNSB Policy and Procedures on the Use of Aquatic Facilities by Minors and Aquatic Facilities Discipline Policy will apply when dealing with unsupervised and/or misbehaving children. (See Attached)
8. While in the facility, children under nine (9) years of age must be accompanied by a person sixteen (16) years or older. While in the pool, children six (6) years of age or younger must be accompanied by a person sixteen (16) years of age or older.
9. Children age five (5) and over must dress in their same sex locker room.
10. Children wearing flotation devices must be within arm's reach of a person sixteen (16) years of age or older at all times.
11. Patrons under the age of fourteen (14) must have approval of the Facility Supervisor to use the weight equipment. Approval for use is dependent on prior training on the equipment or direct supervision. Anyone found abusing the equipment or disturbing other patrons will be asked to leave. Shirts and shoes are required in the weight room.

City of Homer

(1 hits)

Chapter 5.30 HUNTING AND TRAPPING

Sections:

- 5.30.010 Definitions.
- 5.30.020 Hunting prohibited.
- 5.30.025 Trapping prohibited.
- 5.30.030 Exceptions.
- 5.30.040 Penalty.

5.30.010 Definitions.

In this chapter, unless the context requires otherwise:

“Game” means any species of bird and mammal, including a feral mammal, but excluding domestic birds and mammals.

“Hunting” means the stalking or other pursuit of game with the intention of capturing and/or killing same, with or without the use of bow and arrow or any other means, exclusive of firearms.

“Problem animal” means animals causing damage or creating the potential to cause damage to public health and safety, infrastructure, or private property.

“Take or taking” means taking, pursuing, hunting, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, trap, or in any manner capture or kill game.

“Trapping” means the taking of any bird or animal. [Ord. 05-09(A) § 1, 2005; Ord. 83-22 § 1, 1983].

5.30.020 Hunting prohibited.

Hunting game within the boundaries of the City of Homer with bow and arrow or by any other means is prohibited. [Ord. 83-22 § 1, 1983].

5.30.025 Trapping prohibited.

Trapping within the boundaries of the City of Homer using traps or any other method of taking defined herein or by State law as trapping is prohibited. [Ord. 05-09(A) § 1, 2005].

5.30.030 Exceptions.

- a. This chapter does not apply to the capture and disposal of game by authorized law enforcement of fish and game protection personnel, or to the protection of life or property.
- b. HCC 5.30.025, Trapping prohibited, does not apply to Animal Control Officers, Department of Fish and Game staff, members of the City Department of Public Safety, and City employees designated by the Chief of Police if they are trapping problem animals; provided, that the trapping is performed in accordance with State law. [Ord. 05-09(A) § 1, 2005; Ord. 83-22 § 1, 1983].

5.30.040 Penalty.

The violation of any provision contained in this chapter shall be punished by a fine not to exceed \$300.00 and/or confiscation of any game killed by the violator. [Ord. 83-22 § 1, 1983].

20.08.050 Cruelty or injury to animals.

- a. No person may intentionally injure, torment, poison, provoke, or otherwise abuse an animal, including without limitation through a violation of HCC [7.15.010](#), Transporting an animal.
- b. No person may intentionally kill an animal by injury, torment, poison, suffocation, decompression or other forms of abuse of the animal.
- c. No person may maintain an animal without providing food, water, and shelter adequate to preserve the animal's health, or abandon an animal where it will not be provided proper food, water, shelter, and care.
- d. No person may maintain an animal showing symptoms of infectious or contagious disease without keeping the animal confined in a building or secure enclosure and under proper care.
- e. No person may cause an animal to fight another animal or human being, whether for amusement or financial gain; or train, or keep for the purpose of training, an animal for exhibition in combat with an animal or human being. No person may permit property that the person owns or controls to be used for any of the purposes described in this subsection.
- f. No person may use a [trap](#) or snare within the City limits that can kill or injure a domestic animal except under the supervision of a state or federal wildlife agency addressing a specific nuisance wildlife issue, and with prior notice to the Animal Control Officer of the name and contact information of each person who will be working the [trap\(s\)](#), and the type of [trap\(s\)](#) and the location of [trap\(s\)](#) being used.
- g. No person may cause or permit an animal that the person owns or controls to molest or harass wild or domesticated animals.
- h. The driver of a vehicle involved in an accident resulting in injury to an animal shall stop the vehicle as close to the scene of the accident as safely possible and inform the owner of the animal of the accident and injury to the animal, if the animal's ownership is readily ascertainable. If the owner of the animal is not readily ascertainable, the driver shall inform the Animal Control Officer or Police Department as quickly as reasonably possible of the accident and injury to the animal.
- i. Notwithstanding any other provision of this section, the Animal Control Officer, a peace officer or a licensed veterinarian may humanely euthanize an animal that in that person's opinion is so seriously ill or injured that medical treatment would needlessly prolong the animal's suffering; provided, that if the animal bears identification of ownership, the Animal Control Officer, law enforcement officer or licensed veterinarian first shall make a reasonable effort to inform the owner of the animal's condition and obtain the owner's consent to euthanizing the animal.
- j. This section does not apply to: impounding, destruction, or other disposition of an animal in a humane manner as authorized by law; killing or injuring an animal where necessary to protect a human being or domesticated animal from death or bodily injury; or the humane destruction of an animal by its owner or the owner's authorized agent.
- k. A violation of subsections (a) through (h) of this section shall be punishable by a fine of not less than \$300.00 nor more than \$500.00, and the unsuspended portion of the fine shall not be less than \$300.00. [Ord. [16-38\(S\)\(A\)](#) § 4, 2016].

**City and Borough of
Juneau**

08.45.030 - Trapping prohibited.

Except if done by an agent or employee of the federal, state, or municipal government on official business, it is unlawful for any person to set traps within one-half mile of any public or private street, road, right-of-way, or highway within the City and Borough.

(Serial No. 2009-12(d), § 2, 10-12-2009)

City of Kodiak

Chapter 18.32 PARK AND WATERSHED REGULATIONS

Sections

- 18.32.010 Citation**
- 18.32.020 Definitions**
- 18.32.030 Defacing property**
- 18.32.040 Removal of soil, trees, or plants**
- 18.32.050 Building construction**
- 18.32.060 Injury to trees or plants**
- 18.32.070 Hunting or molesting animals or birds**
- 18.32.080 Intoxicating beverage**
- 18.32.090 Sanitation**
- 18.32.100 Refuse deposit**
- 18.32.105 Vehicles prohibited**
- 18.32.110 Camping restrictions**
- 18.32.115 Park closure**
- 18.32.120 Enforcement**
- 18.32.130 Violation—penalty**

For statutory provisions regarding extraterritorial jurisdiction on watersheds, see AS [29.35.020\(b\)\(1\)](#).

18.32.010 Citation

The ordinance codified in this chapter shall be known and may be cited as the “city of Kodiak ordinance regulating conduct in public parks and watershed.” [Ord. 399 §1, 1973]

18.32.020 Definitions

For the purposes of this chapter the following terms, phrases, words, and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word “shall” is always mandatory and not merely directory.

“City” is the city of Kodiak, Alaska.

“Park” is a park, reservation, playground, beach, recreation center, off-leash dog park or any other area in the city or outside of the city owned or used by the city, and devoted to active or passive recreation.

“Person” is any person, firm, partnership, association, corporation, company, or organization of any kind.

“Vehicle” is any wheeled conveyance, whether motor-powered or self-propelled, and shall include but is not limited to automobiles, motorcycles, motor scooters, all-terrain vehicles, and snow machines of all kinds.

“Watershed” is the whole region or area contributing to the Pillar Creek, Monashka Creek, and city reservoir system including the drainage area, catchment area, or basin. [Ord. 1337 §4, 2015; Ord. 1153 §1, 2003; Ord. 399 §2, 1973]

18.32.030 Defacing property

No person in a park or watershed shall willfully mar, deface, disfigure, injure, tamper with, or displace or remove any building, table, bench, fireplace, sign, notice or placard, monument, stake, post, or other boundary marker. [Ord. 399 §3(1), 1973]

18.32.040 Removal of soil, trees, or plants

No person in a park or watershed shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs, or plants, downed timber or other wood, or materials, or make any excavation by tool, equipment, blasting, or other means or agency. [Ord. 399 §3(2), 1973]

18.32.050 Building construction

No person in a park or watershed shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special, written permit issued therefor. [Ord. 399 §3(3), 1973]

18.32.060 Injury to trees or plants

No person in a park or watershed shall damage, cut, carve, transplant, or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire, or other contrivance to any tree or plant or in any way injure or impair the natural beauty or usefulness of any area. [Ord. 399 §3(4), 1973]

18.32.070 Hunting or molesting animals or birds

No person in a park or watershed shall hunt, molest, harm, frighten, kill, **trap**, chase, tease, shoot, or throw missiles at any animal or bird or discharge any firearms using live ammunition, whether at a target or otherwise, within the confines of a public park or watershed. [Ord. 399 §3(5), 1973]

18.32.080 Intoxicating beverage

(a) No person shall bring alcoholic beverages nor shall any person drink alcoholic beverages at any time within the confines of a park or watershed.

(b) No person under the influence of intoxicating liquor shall enter a public park or watershed. [Ord. 399 §3(6), 1973]

18.32.090 Sanitation

No person in a watershed shall throw, discharge, or otherwise place or cause to be placed in the waters or on the slopes constituting the watershed drainage of the watershed system of the city any substance, matter or thing, liquid, or solid which will or may result in pollution of the water. [Ord. 399 §4(1), 1973]

18.32.100 Refuse deposit

No person shall dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash in a public park or watershed. [Ord. 399 §4(2), 1973]

18.32.105 Vehicles prohibited

No person in a watershed shall operate or have in their possession a vehicle as defined by KCC 18.32.020. [Ord. 1153 §2, 2003]

18.32.110 Camping restrictions

(a) For the purposes of this section "camp" shall mean an open-air location with or without temporary shelter. For recreational vehicle temporary permits see KCC 14.20.030.

(b) No person shall camp in any part of the city.

(c) No person shall camp on lands comprising the city's watershed and/or which contribute to the municipal water supply. Said lands are generally described as:

A portion of land on Kodiak Island, state of Alaska, described with Alaska State Plane, Zone 5 courses as follows:

Beginning at corner A.P. 15 of Tract 37, State of Alaska Patent Number 50-87-0077 filed June 30, 1986, said point being on the northerly boundary of U.S. Survey 2539;

Thence the following courses along the westerly boundary of said Tract 37;

1. N 13°20'09" W, 2,706.66 feet;
2. N 01°39'51" E, 2,722.50 feet;
3. N 88°43'51" E, 1,050.06 feet;
4. N 01°20'09" W, 1,392.43 feet;

Thence the following courses along the natural watershed boundary:

5. N 43°32'46" W, 1,555.04 feet;
6. N 07°03'08" W, 977.39 feet;
7. N 84°53'32" W, 1,797.14 feet;
8. N 78°57'33" W, 1,670.93 feet;
9. N 11°18'36" W, 866.83 feet;
10. N 56°35'00" W, 4,648.44 feet;
11. N 01°00'18" E, 1,140.18 feet;
12. N 60°43'55" W, 1,043.17 feet;
13. N 35°41'15" E, 5,331.13 feet;
14. N 57°51'55" E, 2,350.02 feet;
15. N 44°14'34" W, 3,210.55 feet;
16. N 21°29'44" E, 2,783.61 feet;
17. S 68°55'07" E, 2,807.94 feet;
18. S 53°31'10" E, 3,532.08 feet;
19. N 79°05'42" E, 2,220.09 feet;
20. S 89°37'30" E, 6,110.13 feet;

21. S 32°32'06" E, 687.97 feet;
22. S 25°28'30" W, 2,115.70 feet;
23. S 28°24'46" E, 3,467.71 feet;
24. S 19°24'21" W, 1,866.01 feet to a point on the northerly boundary of said Tract 37;

Thence the following courses through said Tract 37:

25. S 04°31'56" E, 1,645.14 feet;
26. S 07°28'18" W, 2,460.89 feet;
27. S 59°31'31" E, 3,214.00 feet;
28. S 28°41'23" E, 1,960.02 feet to a point on the westerly right-of-way of Monashka Bay Road, state of Alaska right-of-way map S-0391(2), plat number 84-4;
29. Thence along a curve to the left, central angle 62°61'24", radius 481.73 feet, curve length 524.28 feet to the northwesterly corner of Lot 1, Tract C of BLM Tract D, plat number 91-31;

Thence the following courses along the northwesterly boundary of said Lot 1:

30. S 11°52'02" W, 72.74 feet;
31. S 04°58'38" W, 87.23 feet;
32. S 05°59'29" W, 27.89 feet;
33. S 06°26'12" W, 15.22 feet;
34. S 28°00'44" W, 29.40 feet;
35. S 60°15'23" W, 127.23 feet;
36. S 50°30'47" W, 91.64 feet;
37. S 33°33'10" W, 82.66 feet;
38. S 88°17'29" W, 69.22 feet;
39. S 35°21'27" W, 59.45 feet to range line 19 and 20 west;
40. Thence S 01°30'37" E, 989.94 feet along said range line to the northerly boundary of U.S. Survey 3945;

Thence the following courses through said U.S. Survey 3945:

41. S 58°27'21" E, 2,086.57 feet;
42. S 01°24'31" E, 610.18 feet;
43. S 48°16'14" W, 1,983.13 feet;

44. S 02°07'16" W, 1,080.74 feet;
45. S 65°57'09" W, 853.20 feet to a point on the westerly boundary of U.S. Survey 3945 common with the easterly boundary of said Tract 37;
46. Thence S 35°53'42" E, 947.07 feet to corner 1 of Lot 12, U.S. Survey 2539;
47. Thence S 88°41'51" W, 2,397.39 feet along the northerly boundary of said Lot 12;

Thence the following courses through said Lot 12:

48. S 65°57'09" W, 897.23 feet;
49. S 62°48'07" W, 3,091.33 feet to a point on the southwesterly boundary of said Lot 12 common with the northeasterly boundary of Lot 15, U.S. Survey 2539;

Thence the following courses through said Lot 15:

50. S 62°48'07" W, 551.45 feet;
51. S 82°55'28" W, 2,151.38 feet;
52. N 61°14'28" W, 2,341.63 feet to a point on the westerly boundary of said Lot 15 common with the easterly boundary of Lot 16, U.S. Survey 2539;
53. Thence N 33°51'14" W, 1,164.20 feet to a point on the northerly boundary of said Lot 16 common with the southerly boundary of said Tract 37;
54. Thence S 88°41'32" W, 1,134.72 feet along said boundary to the point of beginning.

Containing: 7,812 acres, more or less.

[Ord. 932, 1992; Ord. 736, 1984; Ord. 697 §3, 1983; Ord. 649 §1, 1982; Ord. 399 §4(3), 1973]

18.32.115 Park closure

(a) All city parks are closed to the public:

(1) Before 5:00 a.m. and after midnight from April 15 through September 15.

(2) Before 5:00 a.m. and after 10:00 p.m. from September 16 through April 14.

(b) No person may enter or remain in a park during the hours of closure prescribed by subsection (a) of this section. [Ord. 1313 §1, 2013]

18.32.120 Enforcement

(a) The police department shall, in connection with its duties imposed by law, diligently enforce the provisions of this chapter.

(b) The police department shall have the authority to seize and confiscate any property, thing, or device in a park or watershed used in violation of this chapter. [Ord. 399 §5, 1973]

18.32.130 Violation—penalty

The penalty for violations of this chapter shall be as prescribed in KCC 1.12.010. [Ord. 407 §2, 1973; Ord. 399 §6, 1973]

[Mobile Version](#)

Matanuska-Susitna Borough

CHAPTER 24.05: GENERAL PROVISIONS

Section

<u>24.05.010</u>	Definitions
<u>24.05.020</u>	Jurisdiction
<u>24.05.030</u>	Animal annoyance
<u>24.05.040</u>	Sanitary enclosures
<u>24.05.050</u>	Diseased animals
<u>24.05.060</u>	Animals in public places
<u>24.05.070</u>	Restraint of animals
<u>24.05.080</u>	Humane animal care
<u>24.05.090</u>	Cruelty to animals
<u>24.05.100</u>	Protective custody
<u>24.05.110</u>	Live animal traps
<u>24.05.115</u>	Accidents involving injury to animals
<u>24.05.120</u>	Severability

24.05.010 DEFINITIONS.

For the purposes of this title, the following definitions of terms used shall apply in all cases, unless otherwise stated:

- “Abandon an animal” means to leave an animal for an extended period of time without food, water, or shelter, or in conditions where the animal’s physical life, safety, or health is endangered. A rebuttable presumption of abandonment shall exist where an animal care and regulation officer receives no response in 24 hours after noticing the property where the animal is located.
- “Accidental bite” means a bite occurring under circumstances in which the animal was not acting aggressively.
- “Affirmative defense” means a defense to an alleged violation of borough code for which the burden is placed upon the defendant of establishing the defense by a preponderance of evidence.
- “Aggressive bite” means a bite that is accompanied by an attack.
- “Animal” means vertebrate domestic or domesticated members of the Animalia kingdom unless otherwise provided by this title.
- “Animal care and regulation office” means the agency having authority for enforcement of the animal care and regulation provisions of this title and of all animal shelters maintained at borough expense.
- “Animal care and regulation shelter” means any premises designated for the purpose of impounding and caring for animals impounded pursuant to this title.
- “Animal care manager” means the person appointed by the borough manager who has the responsibility for planning and directing animal care and regulation activities and through the chief animal care and regulation officer, enforcing the provisions of this title for the control of and care of animals within the borough.
- “Annoyance” means an actual unreasonable interference with the sleep, work, recreation, or reasonable right to peace, safety, or privacy of a person.
- “Attack” means an animal exhibiting overt aggressive behavior which may include, but is not limited to, snarling, baring teeth, chasing, growling, snapping, pouncing, or lunging.

- “Bite” means seizure of an animal or human with the teeth of an animal so that they puncture, tear, or grip.
- “Borough” means the Matanuska-Susitna Borough.
- “Cat” means a member of the genus and species *Felis catus*.
- “Cattery” means any premises used for breeding, buying, selling, keeping, or boarding five or more cats over the age of six months, whether for profit or not.
- “Chief animal care and regulation officer” means the person who has the responsibility for enforcing the provisions of this title governing the control of and care of animals within the borough, and who works under the supervision of the animal care manager.
- “Confine” means to keep an animal in a fence, pen, building, or other secure enclosure from which the animal cannot escape, and which keeps the animal from coming into contact with other animals or humans outside the area of confinement.
- “Control” means to simultaneously monitor, direct, and restrict an animal’s movements and activities.
- “Control by attachment” means that the animal is attached directly or indirectly to a person, or to an immovable object, with a harness or similar device and is controlled by means of a chain, leash, or similar item so that:
 - (1) when the animal is on private property, it cannot travel off the private property including onto any public easement on the property; or
 - (2) when the animal is attached to an immovable object on public property, it cannot be left unattended and its movements shall be limited to three feet from the object to which it is attached.
- “Control by command” means:
 - (1) the person exhibiting the voice control is present with the animal and monitors all of its activities;
 - (2) the person exhibiting the voice control is capable of directing all of the animal’s movements and activities by vocal commands; and
 - (3) the animal under voice control follows all of the vocal commands quickly and accurately.
- “Control by confinement” means to control an animal within any fully fenced pen, kennel, yard, or structure, which:
 - (1) prevents the exit of the confined animal on its own volition; or
 - (2) prevents the protrusion of the animal’s paws and teeth through the outer perimeter of the enclosure so as to stop the animal from physically injuring a person or another animal.
- “Control by harness” means to control an animal by a harness or other similar device attached directly or indirectly to a person or object.
- “Control by leash” means that a person, who is physically and mentally capable of monitoring, directing, and restricting the animal, controls the animal by means of a securely attached leash, chain, or other item, including an electronic collar.
- “Custodian” means a person entrusted by the owner with the full responsibility for an animal under this title.
- “Days” unless otherwise specified means calendar days.

- “Dog” means a member of the genus and species *Canis familiaris*, commonly known as domestic dog, but does not include other members of the family *Canidae*, such as a fox, coyote, wolf, or any other game species, the taking of which is regulated by the state.
- “Domesticated” means animals owned which are commonly or historically adapted to man’s use or pleasure.
- “Dwelling” means a building, operational vehicle, trailer, or other structure that is designed for use or is used as a person’s permanent or temporary home or place of lodging.
- “Ex parte” means a communication between a person and the animal care and regulation board, or a board member, regarding a matter pending before the board, when other parties are not present. This does not include communications with the animal care and regulation board clerk or the borough clerk’s office regarding procedural matters.
- “Identification” means a collar and tag, brand, tattoo, microchip, or other mark or means which makes ownership of the animal ascertainable.
- Intentionally. A person acts intentionally with respect to a result described by a provision of law defining an offense when the person’s conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person’s only objection.
- “Kennel” means any premises used for breeding, buying, selling, keeping, or boarding five or more dogs over the age of six months, whether for profit or not.
- Knowingly. A person acts knowingly with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance.
- “Livestock” includes, but is not limited to, domestic animals such as horses, cattle, sheep, goats, pigs, chickens, ducks, and other animals normally considered farm animals, whether kept for profit or not, as well as sled dogs housed at a licensed mushing facility, or sled dogs owned by the owner or licensee of a licensed mushing facility, whether kept for profit or not.
- “Mushing facility” means a facility in the borough where sled dogs are housed and maintained, which has been duly licensed by the borough as a mushing facility under MSB [24.07.040](#).
- “Neutered dog or cat” means any male dog or cat rendered incapable of reproduction by surgical operation.
- “Own” means to have, keep, possess, harbor, take care of, have custody of, or control over any animal for a period of 20 days.
- “Owner” means any person, group of persons, association, or corporation owning, keeping, taking care of, having custody of, having control over, or harboring any animal or animals for a period of 20 days or longer.
- “Physical injury” means an impairment of physical condition or pain that is accompanied by scrapes, cuts, punctures, or other evidence of similar injuries.
- “Provocation” means the teasing, tormenting, abusing, or assaulting of an animal to incite the animal to bite, attack, or cause an annoyance.

- Recklessly. A person acts recklessly with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of, and consciously disregards, a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk.
- “Restraint” means:
 - (1) actual physical control such as a leash, harness, chain, tether, fence, or building; or
 - (2) competent voice control while actively engaged in an organized activity, which requires that an animal not be physically restrained, or in a form of recognized hunting which requires the use of an animal such as a retriever, or while actively mushing with or training sled dogs originating from a currently licensed mushing facility; or
 - (3) the condition of an animal when on the property of its owner, in visual contact with the owner, and obedient to the owner’s command; or
 - (4) dogs harnessed and attached to a gangline in a dog team.
- “Running-at-large” means an animal is not under restraint.
- “Sanitary” means free from parasites, waste, filth, or other elements in amounts which would endanger the health or welfare of an animal.
- “Secure enclosure” means any fully enclosed fenced pen, kennel, yard, or structure, which must include a roof, walls, and a floor, or buried wall footing. Approval for a secure enclosure shall be obtained from the chief animal care and regulation officer. The secure enclosure shall:
 - (1) be located so as not to interfere with public access to the owner’s or custodian’s property; and
 - (2) prevent:
 - (a) the accidental release of any animal confined in the enclosure;
 - (b) the confined animal from leaving the enclosure by its own efforts;
 - (c) unauthorized persons from gaining entry to the enclosure;
 - (d) the entry into such enclosure by any animal other than the confined animal; and
 - (e) the confined animal from biting or clawing a person or animal through the enclosure.
- “Serious physical injury” means any physical injury which creates a risk of death, causes serious disfigurement, causes impairment of health, causes impairment of any bodily organ, or causes the loss or impairment of any bodily function.
- “Sled dog” means a member of the genus and species *Canis familiaris* that is domesticated, owned, and used to pull a sled or vehicle under the control of a musher, and that is owned and cared for by a licensed mushing facility as per MSB [24.07](#).
- “Spayed dog or cat” means any female which has had a surgical ovario-hysterectomy to prevent conception.
- “Tether” means to restrain an animal by a chain or cable line which is attached to a fixed object.

- “Trap” means any device designed or used to capture or hold an animal and that operates without direct human control. This includes any device for catching and holding wild or domesticated animals including, but not limited to, snares, nets, pitfalls, or clamp-like devices that spring shut suddenly.
- “Trapping” means the placing or setting of a trap.
- “Victim” means a human who is placed in fear, physically injured, or killed by an animal.
- “Victim animal” means an animal which is physically injured or killed by an animal.
- “Wild” refers to a type of animal which generally lives in its original and natural state and is not domesticated, or animals which are classified as wild under state law.

(Ord. 15-002, § 2 (part), 2015; Ord. 14-150, § 3, 2014; Ord. 10-066, § 3, 2010; Ord. 06-097, § 2, 2006; Ord. 04-103, § 2, 2004; Ord. 03-154(AM), § 2, 2003; Ord. 03-065(AM), §§ 2, 3, 4, 2003; Ord. 01-120, § 2, 2001; Ord. 94-120AM, §§ 3—10, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.020 JURISDICTION.

(A) The borough has jurisdiction over domestic and domesticated animals. The borough does not have jurisdiction over the following animals:

- (1) wild animals; and
- (2) game animals, the taking or possession of which is regulated by the state or federal government.

(Ord. 15-002, § 2 (part), 2015; Ord. 94-120AM, § 11, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.030 ANIMAL ANNOYANCE.

(A) It is unlawful for any animal owner to allow an animal to annoy any person. Violation of this provision is an infraction.

(B) A person who holds a current mushing facility license as per MSB 24.07, as well as persons who are handlers for, employees of, or agents of a specific licensed mushing facility, are exempt from subsection (A) of this section in regard to sled dogs housed at or originating from that mushing facility. Outside of the premises of the mushing facility the exemption only applies when sled dogs are actively engaged in mushing activity.

(C) It shall be an affirmative defense that the defendant was already operating an established farm or registered kennel before the complainant(s) moved into the neighborhood, if that farm or registered kennel is the cause of the complaint.

(D) It shall be an affirmative defense that a person provoked the animal and that the provocation caused the animal to commit the annoyance.

(Ord. 15-002, § 2 (part), 2015; Ord. 14-150, § 4, 2014; Ord. 94-120AM, § 12, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.040 SANITARY ENCLOSURES.

It is unlawful for any person to own any animal unless all structures, pens and yards, and areas in which the animal is kept, are maintained in a sanitary condition. Violation of this provision is an infraction.

(Ord. 15-002, § 2 (part), 2015; Ord. 94-120AM, § 12, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.050 DISEASED ANIMALS.

It is unlawful to own any animal infected with a contagious or pestilential disease, except when the animal is confined and isolated from other animals or under the care of a licensed veterinarian. Violation of this provision is an infraction.

(Ord. 15-002, § 2 (part), 2015; IM 95-006, pg. 3, presented 3-7-95; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.060 ANIMALS IN PUBLIC PLACES.

(A) It is unlawful to tie, stake, or fasten any animal within any highway, street, alley, or public place within the borough, or so that the animal has access to any portion of any highway, street, alley, or public place therein; provided, that the manager may make exceptions in the case of an organized animal activity and similar temporary sporting or festive events. Violation of this provision is an infraction.

(B) A person who holds a current mushing facility license as per MSB 24.07, as well as persons who are handlers for, employees of, or agents of a specific licensed mushing facility, are exempt from the provisions of this section in regard to sled dogs originating from that mushing facility when actively engaged in mushing activity.

(Ord. 15-002, § 2 (part), 2015; Ord. 14-150, § 5, 2014; Ord. 94-120AM, § 14, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.070 RESTRAINT OF ANIMALS.

(A) All animals shall be continuously under restraint.

(B) Livestock animals which are generally kept in a herd, flock, or other grouping are subject to a single failure-to-restrain violation for the group.

(C) No person shall release, without permission of the owner, any animal from restraint, except to preserve the animal's life.

(D) Violation of any provision of this section is an infraction.

(E) No person shall have an animal within, on, or attached to a motor vehicle under conditions that may endanger the health, safety, or welfare of the animal. An animal carried in the bed of a truck or in any open vehicle shall be crated or restrained so it cannot fall, jump, or reach out from the vehicle.

(Ord. 15-002, § 2 (part), 2015; Ord. 04-103, § 3, 2004; Ord. 94-120AM, § 15, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.080 HUMANE ANIMAL CARE.

(A) Humane animal care includes, but is not limited to, providing:

- (1) sufficient wholesome and nutritious food daily which will keep the animal in healthy physical condition;
- (2) sufficient daily quantities of fresh water which meet the hydration requirements for the animal;
- (3) adequate shelter and freedom of movement which provides adequate air, ventilation, and space which prevents the animal from being exposed to inclement or adverse weather conditions, overheating from sunlight, unsanitary conditions, and dirty, wet, and uncomfortable conditions which may endanger the health or welfare of the animal; and
- (4) veterinary care when needed to treat the animal for sickness, disease, injury, or to prevent suffering of the animal.

(B) No owner shall fail to provide humane animal care or place an animal in a situation where the animal's life, safety, or health is endangered.

(1) A rebuttable presumption of a violation shall exist where the animal is separated from basic needs such as food, water, shelter, or necessary medical attention or is placed in a situation where the animal's life, safety, and health are endangered and the regulation office receives no response in 24 hours after providing notice to the owner of the situation or posting notice at the property where the animal is located.

(C) Failure to provide humane care to animals is an infraction.

(Ord. 15-002, § 2 (part), 2015; Ord. 08-013(AM), § 2, 2008; Ord. 05-165, § 2, 2005; Ord. 03-065(AM), § 1, 2003; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.090 CRUELTY TO ANIMALS.

(A) No person shall intentionally or recklessly injure or kill an animal unless:

- (1) the act committed is done humanely in conformity with applicable federal, state, or borough law;
- (2) the act is necessary to defend a human being or an animal from immediate attack.

(B) No person shall intentionally or recklessly kill, wound, injure, torment, poison, provoke, cause to suffer, abandon, or otherwise abuse or unnecessarily overwork an animal, or procure, or attempt any such acts.

(C) *[Repealed by Ord. 08-013(AM), § 3, 2008]*

(D) No person shall intentionally, recklessly, or negligently throw or deposit any poisonous substance on any exposed public or private place where an animal could reasonably be expected to ingest the substance; provided, that it shall not be unlawful for a person to place common rat poison on the person's own property.

(E) No person shall:

- (1) cause or encourage an animal to fight with another animal or human being for sport, training, entertainment, or for financial gain; or
- (2) own, possess, train, or keep for the purpose of training an animal with the intent that it be engaged in an exhibition of fighting with an animal or human being; or
- (3) permit their premises to be used for any animal fighting exhibition or be present as a spectator at any animal fighting exhibition; or
- (4) attend, or have a pecuniary interest in, an exhibition of a fighting animal, or knowingly instigate or promote such an exhibition.

(F) *[Repealed by Ord. 15-002, § 2 (part), 2015]*

(G) *[Repealed by Ord. 15-002, § 2 (part), 2015]*

(H) *[Repealed by Ord. 15-002, § 2 (part), 2015]*

(I) No person shall intentionally, recklessly, or negligently fail to provide that person's animal with adequate food, water, shelter, or veterinary care to prevent physical suffering or causing severe dehydration, or the animal to be substantially underweight.

(J) It is an affirmative defense to a prosecution under this section if the act committed was done humanely in conformity with applicable federal, state, or borough law, and the conduct of the person:

- (1) was necessarily incident to lawful hunting or trapping activities; or

- (2) was in accordance with accepted veterinary practice; or
- (3) was in accordance with accepted farming or animal husbandry practices, which for this purpose are those approved and/or practiced by the majority of the members of the local farm bureau; or
- (4) was the humane destruction of a person's own animal; or
- (5) was the humane destruction of an animal by an animal control officer or state or local peace officer in accordance with this title; or
- (6) was the humane destruction of an animal in extreme pain due to illness or injury; or
- (7) was immediately necessary to defend the person, the person's animal, or another person, except that this defense does not apply to a person who injures an animal but does not make a reasonable effort to either track and dispatch the injured animal, seek veterinary care for the injured animal, notify the injured animal's owner, or notify the borough animal control office.

(Ord. 15-002, § 2 (part), 2015; Ord. 09-010, §§ 2, 3, 2009; Ord. 08-013(AM), § 3, 2008; Ord. 94-120AM, § 16, 1994; Ord. 92-109AM(sub), § 2, 1992; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.100 PROTECTIVE CUSTODY.

(A) The chief animal care and regulation officer may authorize taking an animal into borough protective custody when necessary to preserve the animal's health or safety including but not limited to circumstances where the animal is:

- (1) not humanely cared for by the owner;
- (2) being cruelly treated by any person; or
- (3) *[Repealed by Ord. 15-002, § 2 (part), 2015]*
- (4) abandoned by the owner.

(B) All animals taken into protective custody shall be examined by a licensed veterinarian to determine the animal's physical condition.

(C) The chief animal care and regulation officer may release an animal taken into protective custody to the owner and, if necessary, upon conditions in a written release order.

(1) If an owner refuses to redeem an animal under the conditions of a written release order or violates the conditions of a written release order, the animal is subject to forfeiture to the borough upon a hearing before the office of administrative hearings.

(2) The owner may appeal the forfeiture to the office of administrative hearings as set forth in MSB [2.29.090](#).

(D) A person whose animal is taken into protective custody shall be responsible for all reasonably incurred fees, costs, and expenses, including, but not limited to, impoundment fees and veterinary costs associated with the borough's custody, care, or maintenance of the animal. Violation of this provision is an infraction.

(E) The animal care manager may, for good cause, waive a portion of the fees, expenses, or costs and may enter into a payment schedule agreement with an owner.

(F) Animals taken into protective custody under this section shall remain in protective custody at the discretion of the chief animal care and regulation officer until:

- (1) forfeited to the borough pursuant to MSB 24.40.030; or
- (2) the animal is returned to its owner upon a written finding that the animal may be safely returned. If the animal is returned to the owner, it shall be subject to a written release order specifying conditions for caring for the animal.

(G) The chief animal care and regulation officer may authorize temporary placement of animals taken into borough protective custody into approved foster homes subject to a written agreement on care and protection of the animal.

(H) Upon recommendation of the chief animal care and regulation officer, an animal in borough protective custody may be forfeited pursuant to MSB 24.40.030.

(I) Violation of one or more terms of a protective custody written release order is an infraction.

(Ord. 15-002, § 2 (part), 2015; Ord. 04-103, § 4, 2004; Ord. 01-120, § 3, 2001; Ord. 94-120AM, §§ 17, 18, 1994; Ord. 92-013 (sub1), § 3 (part), 1992)

24.05.110 LIVE ANIMAL TRAPS.

(A) Intentional capture of domestic and domesticated animals by trap is prohibited, unless a borough-authorized live animal trap is used.

(B) A person who is issued a borough-authorized live animal trap for the purposes of capture and control of unrestrained domestic and domesticated animals shall check the trap at least twice every 12 hours to determine whether an animal has been trapped.

(C) A person shall provide humane animal care for any animal captured.

(D) A person shall release the animal without unreasonable delay to the animal care and regulation office or an animal care and regulation officer or the owner, as set forth in subsection (E) of this section.

(E) No person shall release an animal caught in the live animal trap to anyone other than an animal care and regulation officer or to an owner without first receiving permission from the animal care and regulation office.

(F) Violation of any provision of this section is an infraction.

(Ord. 15-002, § 2 (part), 2015; Ord. 01-120, § 3, 2001; Ord. 94-120AM, § 19, 1994; Ord. 92-013(sub1), § 3 (part), 1992)

24.05.115 ACCIDENTS INVOLVING INJURY TO ANIMALS.

(A) It is unlawful for the driver of any motorized vehicle involved in an accident that injures a domestic animal to fail to stop the vehicle and check on the condition of the animal if it is reasonably safe to do so.

(B) The driver involved in such an accident must inform a peace officer or the animal care and regulation office of the injury, the time and location of the accident, the description of the injured animal, and the apparent nature of the injury.

(C) It shall be an affirmative defense that the driver obtained veterinary care for the animal or that the driver returned the animal to the owner.

(D) Violation of this section is an infraction.

(Ord. 15-002, § 2 (part), 2015: Ord. 15-002, § 2 (part), 2015)

24.05.120 SEVERABILITY.

Should any provision of this title or its application be held invalid, the remainder of its provisions shall not be affected.

(Ord. 15-002, § 2 (part), 2015: Ord. 92-013(sub1), § 3 (part), 1992)

The Matanuska-Susitna Borough Code is current through Ordinance 16-136, passed January 10, 2017.

Disclaimer: The Borough Clerk's Office has the official version of the Matanuska-Susitna Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Borough Website: <http://www.matsugov.us/> (<http://www.matsugov.us/>)

Borough Telephone: (907) 745-4801

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City of Nome

10.30.170 Trapping.



(a) Except as provided by this chapter it is unlawful to attempt to capture any fur-bearing land animal, the taking of which is regulated by the state of Alaska Department of Fish and Game with any type of trap that physically harms the animal, including, but not limited to, steel jaw traps, snares and spring traps, within the following areas inside municipal boundaries:

- (1) South of the Nome Bypass Road and the Little Creek Road (FAS Route No. 1312) to Center Creek Road (FAS Route No. 1411);
- (2) Within fifty feet of any residence;
- (3) Within one hundred feet of the centerline of a platted right-of-way; and
- (4) Within fifty feet of the centerline of any: (i) road easement authorized under AS [19.10.010](#) or RS 2477; (ii) recorded public use easement, ANSCA 14(c)(3) trail or ANSCA 17(b) public use trail easement; or (iii) Omnibus Road easement for the Nome Council Road (FAS Route No. 130), Nome-Teller Road (FAS Route No. 131), Nome-Taylor Road (FAS Route No. 141), Snake River Road (FAS Route No. 1311), Osborne Road (FAS Route No. 1412) or Buster Road (FAS Route No. 1413), except an authorized city, state or federal employee or agent.

(b) No person may place any type of trap anywhere within municipal boundaries that physically harms a fur-bearing land animal, the taking of which is regulated by the state of Alaska Department of Fish and Game, without first providing the city clerk with a trapping registration form. Forms may be obtained from the city clerk.

(c) The city will prepare and keep current a map showing areas where trapping is allowed and not allowed within municipal boundaries. A copy of the map shall be provided to each person completing the trapping registration form.

(d) Special permits to allow trapping in areas where trapping is prohibited may be issued by the city. Before any such special trapping permits are issued, the city council shall find by resolution that it is in the public interest to allow trapping in a prohibited area. Any such permits will describe the area where trapping will be allowed, will be for a limited duration not to exceed thirty days and will allow a specific number of traps to be placed in the permitted area. No person may place a trap within any specially permitted area without markings sufficient to allow members of the public to see where any such specially permitted traps are located.

(e) No person shall dispose of the remains of any fur-bearing animal, having been trapped or obtained otherwise, at any place within city limits except the Nome landfill. (Ord. O-14-01-01 § 2 (part), 2014)

City of Palmer

Chapter 6.08 ANIMAL REGULATIONS

Sections:

- 6.08.010 Cruelty to animals prohibited.**
- 6.08.020 Animal restrictions.**
- 6.08.025 *Repealed.***
- 6.08.030 Depositing poison prohibited.**
- 6.08.040 Keeping diseased animals prohibited.**
- 6.08.050 Noise from animals.**
- 6.08.060 Odors originating from animals.**
- 6.08.065 Animals at large.**
- 6.08.067 Animal annoyance.**
- 6.08.070 Leaving secured animal unattended prohibited.**
- 6.08.080 Dead animal disposal.**
- 6.08.090 Confinement requirements.**
- 6.08.100 Restrictions on carrying dogs on outside of vehicles.**

6.08.010 Cruelty to animals prohibited.

A. No person shall intentionally injure or kill an animal unless:

1. The act committed is done humanely in conformity with applicable federal or state law; or
2. The act is necessary to defend a human being or an animal from attack.

B. No person shall intentionally or recklessly wound, injure, torment, poison, provoke, otherwise abuse or unnecessarily overwork an animal, or procure or attempt any of such acts.

C. No person who owns, keeps or harbors an animal shall fail to provide humane animal care or abandon the animal by failing to provide humane animal care.

D. No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any animal.

E. No person shall intentionally abandon, harass, torture or kill an animal, or encourage an animal to fight with another animal for sport, training or entertainment.

F. A person shall not intentionally capture a domestic or domesticated animal with any type of **trap** that physically harms the animal, including, but not limited to, steel jaw **traps**, snares and spring **traps**, except an authorized city, state, or federal employee or agent. (Ord. 631 § 5, 2004; Ord. 538 § 5, 1999; Ord. 277 § 4, 1983)

6.08.020 Animal restrictions.

A. The following animals shall be permitted to be kept, owned, harbored or be in the custody of a person:

1. In a zoned agricultural district;
2. At a fairgrounds for a fair with an annual attendance of over 50,000 people;
3. At a circus permitted by the city;
4. On a lot exceeding one acre in size, provided the animal is never closer than 25 feet from an exterior lot line; and
5. For a period not to exceed 72 hours, on the premises of a permitted slaughterhouse:
 - a. Pigs;
 - b. Cattle;
 - c. Horses;
 - d. Mules;
 - e. Sheep;
 - f. Goats;
 - g. Llamas;
 - h. Alpacas;
 - i. Any other animal weighing over 250 pounds.

In addition, the animals may be ridden or tended during a parade permitted by the city and in immediate preparation for the parade and immediately after the parade.

B. No more than a total of three of each type of the following animals, up to a cumulative total of six animals, may be kept, owned, or harbored or be in the custody of a person on any lot, tract, or parcel of land in the city. An adult who has the right to possession of the lot, tract, or parcel of land will be responsible for the failure to comply with this subsection.

1. Dogs over six months of age;
2. Cats over six months of age;
3. Adult rabbits;
4. Rodents;
5. Any type of nonaggressive, nonpoisonous reptile.

C. No more than a total of five domestic birds as defined in PMC [6.04.010](#) may be kept, owned, or harbored or be in the custody of a person on any lot, tract, or parcel of land in the city. An adult who has the right to possession of the lot, tract, or parcel of land will be responsible for the failure to comply with this subsection.

D. The restrictions set out in subsections (B) and (C) of this section do not apply if the animals are kept or harbored in an area:

1. Zoned agricultural district;
2. Fairgrounds for a fair with an annual attendance over 50,000 people;
3. A circus permitted by the city;
4. On a lot exceeding one acre in size or on contiguous lots owned by the same person, the total area of which exceeds one acre in size, provided the animal is never closer than 25 feet from an exterior lot line;
5. For a period not to exceed 72 hours on the premises of a permitted slaughterhouse.

In addition, the animals may be carefully ridden or carefully tended during a parade permitted by the city and in immediate preparation for the parade and immediately after the parade.

E. No person shall tie, stake or fasten any animal within the traveled portion of any street, alley or public place, or in a manner that the animal has access to the traveled portion of any street, alley or public place.

F. No person shall keep or harbor any exotic animal in the city, except that such animal may be kept or harbored in an area constituting the fairgrounds for a fair with annual attendance over 50,000 people or at a circus duly permitted by the city. (Ord. 11-020 § 3, 2012; Ord. 631 § 5, 2004; Ord. 538 § 6, 1999; Ord. 277 § 4, 1983)

6.08.025 Dogs/cats allowed.

Repealed by Ord. 631. (Ord. 432 § 4, 1991)

6.08.030 Depositing poison prohibited.

No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any animal. (Ord. 631 § 5, 2004; Ord. 277 § 4, 1983)

6.08.040 Keeping diseased animals prohibited.

No person shall keep, own or harbor animals affected with a contagious or pestilential disease. (Ord. 631 § 5, 2004; Ord. 277 § 4, 1983)

6.08.050 Noise from animals.

A. It is unlawful for any person to permit any animal which the person owns, keeps or harbors, or of which the person is the custodian, to cause annoyance to any person by barking, howling or making other sounds common to its species. For the purpose of this subsection, "annoyance" shall be defined as an actual interference with the sleep, work, or reasonable right to peace or privacy of one or more persons resulting from the animal's repeated or continued noise.

B. In addition to the prohibitions set out in subsection (A) of this section, it is unlawful for any person to permit any animal which the person owns, keeps or harbors, or of which the person is the custodian, to repeatedly or continuously bark, howl or make other sounds common to its species that can be heard from off the person's premises between the hours of 10:00 p.m. to 7:00 a.m. (Ord. 631 § 5, 2004; Ord. 538 § 7, 1999; Ord. 277 § 4, 1983)

6.08.060 Odors originating from animals.

No person shall allow the premises on which the person keeps, harbors, owns, or is the custodian of an animal to be the source of offensive or objectionable odors originating from the animal which odors are not confined to the premises. The prohibited odors include, but are not limited to, odors originating directly from the animal as well as odors originating from animal urine or excrement. (Ord. 631 § 5, 2004; Ord. 538 § 8, 1999; Ord. 277 § 4, 1983)

6.08.065 Animals at large.

A. It is unlawful for an animal to be at large.

B. It is unlawful for a person who owns, keeps, or harbors an animal to fail to keep the animal under restraint as described in PMC 6.04.010 at all times. (Ord. 07-014 § 3, 2007; Ord. 631 § 5, 2004; Ord. 538 § 9, 1999; Ord. 298 § 4, 1984)

6.08.067 Animal annoyance.

A. A person owning or responsible for an animal shall not permit the animal to defecate on any public property or right-of-way or on any private property other than property owned or leased by the person owning or responsible for the animal;

B. It is a specific defense to a charge of violating this section that the person charged immediately removed the excrement and properly disposed of it in a sanitary manner;

C. It is a specific defense to a charge of violating this section that the dog involved is a certified working dog trained to assist disabled individuals and that the person charged has a disability which prevents the individual from removing the excrement and properly disposing of it in a sanitary manner;

D. An owner or custodian of an animal shall not permit it to upset garbage on public or private property. (Ord. 07-014 § 4, 2007)

6.08.070 Leaving secured animal unattended prohibited.

Except as provided by the city camper park regulations, no person shall tie, stake or secure any animal and leave it unattended on public property, including public buildings, streets, parks and parking areas. (Ord. 631 § 5, 2004; Ord. 277 § 4, 1983)

6.08.080 Dead animal disposal.

Bodies of dead animals shall be transported, buried or otherwise disposed of in accordance with regulations promulgated by the city manager. (Ord. 631 § 5, 2004; Ord. 277 § 4, 1983)

6.08.090 Confinement requirements.

A. The owner, keeper, harborer, and custodian of a vicious animal shall confine it within a building or secure enclosure and shall not remove the animal from the building or secure enclosure unless the animal is leashed and securely muzzled.

B. Every female dog or cat in season shall be confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in a manner that the female dog or cat cannot come in contact with another animal except for planned breeding purposes.

C. No wild animal may be kept within the city limits; provided, however, wild animals may be kept for exhibition purposes by circuses, zoos and educational institutions in accordance with regulations established by the city manager.

D. The board may order the humane disposal of any vicious animal found at large. (Ord. 631 § 5, 2004; Ord. 277 § 4, 1983)

6.08.100 Restrictions on carrying dogs on outside of vehicles.

It is unlawful for any person to carry or transport any dog on the running board, fenders, hood, cargo bed, or other outside part of any vehicle, unless the dog is restrained or confined by a leash, harness, cage, enclosure, or other restrictive device designed, installed, maintained and employed in a manner adequate:

A. To protect the dog from falling or being thrown from the vehicle; and

B. To permit the safe operation of the vehicle; and

C. When the vehicle is in a parking lot open to the public or is parked on a street or road, to prevent the dog's head from approaching within one foot of the tailgate, side rail, or other outside part of the vehicle. (Ord. 631 § 5, 2004; Ord. 538 § 10, 1999)

[Mobile Version](#)

Petersburg Borough

Chapter 7.08 - TRAPPING PROHIBITED

Sections:

7.08.010 - Purpose.

This chapter is enacted for the purpose of regulating the trapping of animals within the corporate boundaries of the city.

(Ord. 592 § 3 (part), 1987)

7.08.020 - Definitions.

As used in this chapter:

- A. "Animal" means fur bearer as defined in 5 AAC 92.990 of the Alaska Administrative Code.
- B. "Trap" means a contrivance used for catching game or other animals such as a mechanical device that springs shut suddenly, a pitfall, or a snare.

(Ord. 592 § 3 (part), 1987)

7.08.030 - Exceptions.

For the protection of the health and safety of the residents of the city, the Alaska Department of Fish and Game, Alaska Department of Public Safety, U.S. Fish and Wildlife Service or their authorized agents or designees, may, upon notice to the city, trap animals within the area in which trapping is expressly prohibited by this chapter.

(Ord. 592 § 3 (part), 1987)

7.08.040 - Prohibited area boundaries.

- A. Trapping of animals is prohibited within the area of the corporate boundaries of the city described as follows:

Beginning at the point of intersection of the east boundary of Section 31 of T585 and R80E and the seaward corporate boundaries of the City of Petersburg; thence in a southerly direction along the east boundary of Section 31 until a point of intersection with the east boundary of the Frederick Point North Subdivision; thence following the boundary of the Frederick Point North Subdivision until a point of intersection with the Sandy Beach Alaska Subdivision; thence following the boundaries of the Sandy Beach Alaska Subdivision in a westerly direction until a point of intersection with the landfill haul road; thence in a northerly direction along the landfill site haul road to a point of intersection with Sandy

Beach Road and Haugen Drive; thence in an westerly direction along Haugen Drive to the intersection of Haugen Drive and the quarry access road; thence west along the quarry access road and a linear extension thereof to the intersection of said linear extension and the Scow Bay Substation-Lumber Street electric power line; thence in a southerly direction along the power line to an intersection at a point one fourth mile from the easterly boundary of the Mitkof Highway right-of-way; thence following a line one fourth mile from the easterly boundary of the Mitkof Highway right-of-way in a southerly direction to the corporate boundary of the City of Petersburg; thence in westerly direction following the corporate boundary of the City of Petersburg into Wrangell Narrows; thence in a northerly direction following the corporate boundary of the City of Petersburg through Wrangell Narrows and Frederick Sound to the point of the beginning.

- B. Trapping of animals is prohibited upon privately owned property without the express permission of the owner of record.

(Ord. 592 § 3 (part), 1987)

7.08.050 - Violation—Penalty.

Violations of this chapter shall be punishable as provided in Chapter 1.16 of the Municipal Code and all the provisions therein shall apply.

(Ord. 592 § 3 (part), 1987)

City of Seward

9.05.310 - Trapping of animals prohibited.

It shall be a violation of this chapter for any person to trap, attempt to trap or aid and abet any person in trapping any animal, wild or domestic, within the City of Seward, provided, that this section shall not apply to the following persons or activities:

- (a) Hunting, trapping, or capturing of animals or birds by city, state or federal law enforcement, game department or animal control personnel while engaged in the performance of their official duties or any person authorized by the city manager or his designee for purposes of animal control or research;
- (b) Hunting, trapping or capturing of rats, mice, shrews, or similar vermin; or
- (c) The nonlethal live capturing of loose domesticated animals or birds by means designed to ensure the safety and well-being of the animals. Any animal captured shall be cared for in a humane manner and returned without unreasonable delay to the animal's owner or an animal control officer.

(Ord. 99-11)

City and Borough of Sitka

Chapter 8.08 CRUELTY TO ANIMALS

Sections:

- [8.08.010](#) Cruelty to animals.
- [8.08.020](#) Abandonment.
- [8.08.030](#) Striking animal, livestock, with vehicle.
- [8.08.040](#) Use of live bird for target practice.
- [8.08.050](#) Fighting or baiting of animals.
- [8.08.060](#) Poison and traps.
- [8.08.070](#) Investigation.
- [8.08.080](#) Disposition of animals.
- [8.08.090](#) Recovery of costs.

8.08.010 Cruelty to animals.



It is unlawful for a person to:

- A. Neglect an animal by failing to give the animal that degree of care which a person of ordinary prudence would give under the same circumstances. The care must include sufficient food and clean water, adequate shelter and protection from the weather, health care and clean living conditions in accordance with accepted veterinary practice;
- B. Wound, injure, torment, poison, provoke or otherwise physically abuse an animal;
- C. Kill or injure any animal, unless such act is necessary to defend a human being or other animal from immediate attack, provided this subsection does not prohibit humane euthanasia of animals or the harvest of livestock;
- D. Abandon an animal which is owned by or in the custody of such person;
- E. Own, possess, keep or train an animal with the intent that it be engaged in an exhibition of fighting; or
- F. Instigate, promote, attend or have a pecuniary interest in an exhibition of fighting animals.

(Ord. 02-1656 § 4(B), 2002; Ord. 72-32 § 3(a), 1972.)

8.08.020 Abandonment.



No person shall intentionally abandon a domestic creature, or livestock, whether or not it is sick, maimed, infirm, or disabled, except where there is a caretaker who has assumed responsibility for proper food, water and other needs of such creature.

(Ord. 72-32 § 3(b), 1972.)

8.08.030 Striking animal, livestock, with vehicle.



No person, while driving any vehicle, shall strike any domestic creature, or livestock, with the vehicle and knowingly abandon the creature at the scene of the occurrence or thereafter. (Ord. 72-32 § 3(c), 1972.)

8.08.040 Use of live bird for target practice.



No person shall use a live bird or fowl as a target, or to shoot at, or for any other inhumane purposes, either for amusement, marksmanship, or be a party to acts. This section shall not apply to the lawful shooting of game. (Ord. 72-32 § 3(d), 1972.)

8.08.050 Fighting or baiting of animals.



No person shall procure or be a party or witness to the fighting or baiting of live creatures for amusement or profit. (Ord. 72-32 § 3(e), 1972.)

8.08.060 Poison and traps.

A. No person shall set any animal trap, nor utilize any poisonous substance (except for rodent control within his own building, house or other structure), except that this section shall not apply to federal, state or municipal officials exercising lawful functions delegated to them by statute, ordinance, rule or regulation. This section shall not apply to trapping as defined in AS Section [16.05.940](#) where such trapping is done in accordance with applicable fish and game regulations.

B. Citizens may use live traps for the purpose of capturing animals. However animals captured in such traps, may not be killed but must be delivered to a veterinarian for determination of whether such animals are domestic or feral. If the animal captured is domestic it must be kept for a minimum of seventy-two hours at the animal shelter. Others may be destroyed.

C. The police may use traps and bait to catch dogs, or any other reasonable method. If a dog, running at large, cannot be readily apprehended otherwise, it may be shot by the police.

(Ord. 89-875 § 4(J), 1989; Ord. 79-405 § 4(15), 1979; Ord. 72-32 § 3(f), 1972.)

8.08.070 Investigation.

For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the canine control officer may enter, upon formal complaint, the premises where any animal is kept in a reportedly cruel or inhumane manner, examine such animal, and take possession of such animal when, in his opinion, the welfare of the animal requires its removal from the premises. (Ord. 72-32 § 3(g), 1972.)

8.08.080 Disposition of animals.

A. A person cited for cruelty to animals may:

1. Forfeit bail and relinquish the animal to the animal control officer; or
2. Request the animal hearing board to set a date for a hearing within fourteen days or as soon as possible thereafter so that it may issue an advisory opinion prior to the mandatory court appearance.

B. Any person who has been convicted of any offense under this chapter shall not be entitled to the return or possession of any animal(s) seized subject to the original investigation. The chief of police or his or her designee may take possession of such animal(s) and determine the disposition of the animal.

C. No person having been convicted of any violation under this chapter two or more times shall be allowed to own or have care, custody or control of any domestic animal or livestock. The chief of police or his or her designee may take possession of any such animal(s) and determine the disposition of the animal at any such time such animal is observed in such person's care, custody or control.

D. Ten years after the second conviction under subsection C of this section, the person may make application to the animal hearing board for an advisory opinion on the rehabilitation of that person and his or her suitability to own an animal. The person may then apply to the court to issue an order declaring that person rehabilitated with respect to subsection 8.08.080C and this chapter.

(Ord. 02-1656 § 4(C), 2002.)

8.08.090 Recovery of costs.

The owner and/or person who had care, custody or control of any animal described in subsection 8.08.080A or from whom such animal was seized subject to an investigation for a violation of this chapter shall be financially responsible to the city and borough for all reasonable costs incurred for providing for or caring for the needs of such animal, including but not limited to:

A. Veterinary fees;

- B. Food;
- C. Shelter;
- D. Licensing and registration;
- E. Adoption fees; and
- F. Disposal and/or euthanasia fees.

(Ord. 02-1656 § 4(D), 2002.)

City of Skagway

Chapter 9.04 TRAPPING

Sections:

- [9.04.010](#) Purpose.
- [9.04.015](#) Applicability.
- [9.04.020](#) Definitions.
- [9.04.025](#) Tree trap regulations.
- [9.04.030](#) Leg-hold trap regulations.
- [9.04.035](#) Areas in which trapping is prohibited.
- [9.04.040](#) Private property.
- [9.04.050](#) Other exceptions.
- [9.04.060](#) Fines for trapping violations.

9.04.010 Purpose.



The purpose of this chapter is to protect the safety and welfare of the public, domesticated animals and pets by designating areas where trapping is a prohibited land use activity.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014)

9.04.015 Applicability.



- A. This chapter shall apply to lands within the Skagway Borough as determined by Sections [9.04.025](#) through [9.04.035](#).
- B. For the purposes of this chapter, the assembly shall establish a list of "established trails" by resolution. These established trails will require adequate signage at the trailhead detailing each respective trail map, and signage shall be affixed along each trail route indicating the correct path.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014)

9.04.020 Definitions.



The following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Trap" means any device designated or identified by the state of Alaska in any statute or regulation as a "trap," or otherwise commonly referred to as a "trap" by the state of Alaska. "Trap" does not apply to the capturing of sea creatures through use of shrimp and crab pots.
- B. "Trapping" means the definition of "trapping" used by the state of Alaska. "Trapping" does not apply to live traps, mouse traps or to the catching of animals within a dwelling place, garage, shed, greenhouse, barn, or the ocean.
- C. "Trails" are primary and are marked and/or published as "established trails."
1. For the purposes of this chapter, "trails" exclude current and future secondary off-shoot trails.
- D. "Off-shoot trails" are secondary and unmarked and/or unpublished trails, and are not considered to be "established trails."

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014)

9.04.025 Tree trap regulations.



Tree traps must be at least five feet (5') above the ground and/or fifty (50) yards from any public street, road or right-of-way, highway or marked/established trail within the boundaries of the Skagway Borough.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014)

9.04.030 Leg-hold trap regulations.

Leg-hold traps and other ground traps are prohibited within one-eighth (1/8) mile of any public street, road or right-of-way or highway or established/marked trail within the boundaries of the Skagway Borough.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014)

9.04.035 Areas in which trapping is prohibited.

- A. Trapping is prohibited within fifty (50) yards of any public street, road, right-of-way or highway, or established/marked trail within the boundaries of the Skagway Borough, unless the area is a designated rural trapping area per subsection (B) of this section.
- B. Rural Trapping Areas. Trapping is prohibited within twenty-five (25) yards of any public street, road, right-of-way or highway, or established trail within the designated rural trapping areas designated as follows:
1. Beginning one-half (1/2) mile north of Mile Marker 3 on the Klondike Highway and extending to the north boundary of the Skagway Borough;
 2. Beginning one-half (1/2) mile north of the Gold Rush Cemetery on the railroad tracks on the east side of the Skagway River and extending to the north boundary of the Skagway Borough;
 3. Beginning at the West Creek Bridge and extending north and west (Dyea side) to the Borough boundaries;
 4. Alaska State Land Survey No. 97-36, which is the location of the municipal incinerator.
- C. In addition to the areas designated in subsections (A) and (B) of this section, trapping is prohibited on properties within the following parks and common use areas: Mollie Walsh Park, Pullen Creek Park, Yakutania Point and Smugglers Cove, Seven Pastures, Dyea Point, Dyea Campground and Flats and community cemeteries.

(Ord. 15-13, Added, 04/16/2015)

9.04.040 Private property.

- A. When trapping occurs on private property, "Active Trapping" signage must be prominently posted.
- B. Trappers must have permission from landowners to trap on private property.

(Ord. 15-13, Added, 04/16/2015)

9.04.050 Other exceptions.

Exceptions to this section shall be authorized by the chief of police in writing as deemed necessary to protect the public health and safety. Examples of exceptions include, but are not limited to, the following:

- A. Employees or agents of governmental units or agencies who use live traps in the course of their duties, or are required to trap animals or birds for authorized purposes.
- B. Scientists in their work identifying and studying wildlife, animals, and birds for scientific purposes.
- C. Persons who have documented in writing specific animal nuisance problems and establish to the chief of police in writing how the safety of persons shall be protected.

No employee, representative, assembly, mayor nor the chief of police has any actual or apparent authority to grant any verbal exceptions to this chapter.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014. Formerly 9.04.060)

9.04.060 Fines for trapping violations.



For violations of this chapter, refer to Chapter [1.20](#), General Penalty. Violations of this chapter are subject to civil fines established by resolution.

(Ord. 15-13, Amended, 04/16/2015; Ord. 14-03, Added, 06/05/2014. Formerly 9.04.070)

City of Soldotna

6.04.200 - Cruelty or injury to animals.

- A. No person may intentionally injure, torment, poison, provoke, or otherwise abuse an animal.
- B. No person may intentionally kill an animal by injury, torment, poison, suffocation, decompression or other forms of abuse of the animal.
- C. No person shall maintain an animal without providing food, water, and shelter adequate to preserve the animal's health, or abandon an animal where it will not be provided proper food, water, shelter, and care.
- D. No person shall maintain an animal showing symptoms of infectious or contagious disease without keeping the animal confined in a building or secure enclosure and under proper care.
- E. No person may cause an animal to fight another animal or human being, whether for amusement of themselves or others, or for financial gain; or train, or keep for the purpose of training, an animal for exhibition in combat with an animal or human being. Nor shall any person permit his premises to be used for the purposes described in this subsection.
- F. No person may use a trap or snare within the city limits that can kill, or injure a domestic animal except under the supervision of a state or federal wildlife agency addressing a specific nuisance wildlife issue. In addition, the animal control officer must be notified prior to any trap(s) being set and provided with the name and contact information of any person who will be working the trap(s), the type of trap(s) and the location of trap(s) being used.
- G. No person may allow any animal which he owns to molest or harass wild or domesticated animals or fowl.
- H. The driver of a vehicle involved in an accident resulting in injury to an animal shall stop the vehicle as close to the scene of the accident as safely possible and inform the owner of the animal of the accident and injury to the animal, if the animal's ownership is readily ascertainable. In the event the animal owner is not readily ascertainable, the driver shall inform the animal control officer or police department as quickly as reasonably possible of the accident and injury to the animal.
- I. Live animals that, in the opinion of the animal control officer, a law enforcement officer, or a licensed veterinarian, are so seriously ill or injured that medical treatment would needlessly prolong the animal's suffering, may be put to death immediately, provided that the animal bears no identification of ownership. If the animal bears identification, an attempt will be made to reach the owner, but if that is unsuccessful and the opinion of the animal control officer, a law enforcement officer, or a licensed veterinarian is that the animal is suffering and too seriously ill or injured to recover, that animal may be humanly euthanized.
- J. This section does not apply to: Impounding, destruction, or other disposition of an animal in a humane manner as authorized by law; killing or injuring an animal where necessary to protect a human being or domesticated animal from death or bodily injury; or the humane destruction of an animal by its owner or the owner's authorized agent.

(Ord. No. 2010-040, §§ 1, 2, 1-12-2011)

12.28.040 - Injury to animals—Prohibited acts.

- A. Hunting. No person in a park shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any bird.
- B. Feeding. No person in a park shall give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

(Ord. 73 § 3(C), 1975: prior code § 27.01.020(C))

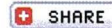
City of Valdez

Chapter 9.38 TRAPPING

Sections:

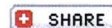
- 9.38.010 Purpose of chapter.**
- 9.38.020 Definitions.**
- 9.38.030 Trapping allowed.**
- 9.38.040 Qualifications to trap.**
- 9.38.050 Identification of traps.**
- 9.38.060 Registration.**
- 9.38.070 Unsafe traps.**
- 9.38.080 Other exceptions.**

9.38.010 Purpose of chapter.



It is the purpose of this chapter to protect the citizens from hazardous devices and to protect domesticated animals and pets from damage and destruction which may result from uncontrolled trapping. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

9.38.020 Definitions.

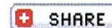


The following words and phrases shall have the meanings respectively ascribed to them by this section:

“Trap” means any device used for the purpose of catching, capturing, snaring, holding or killing animals.

“Trapping” means the placing or setting of traps with the intent to catch animals. This definition does not apply to the catching of animals within a dwelling place or garage, shed or barn. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

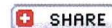
9.38.030 Trapping allowed.



Trapping for both recreational and for subsistence purposes is allowed within the Valdez city limits except that:

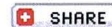
- A. Trapping shall not be allowed within one-half mile in any direction of an occupied subdivision.
- B. Trapping shall not be allowed within five hundred feet of any road, excluding bridges and culverts outside the downtown area and past the duck flats. No trapping is allowed within the area known as the Valdez duck flats, which is defined as that area bounded on the east by Mineral Creek Loop Road, on the west by the Richardson Highway, on the south by a line extending from the Valdez Container Terminal to and including Dock Point and on the north by elevation of one thousand feet.
- C. Snare-only trapping areas shall include portions of Mineral Creek Canyon and all areas northeast of the Richardson Highway from Airport Road to the Glacier Stream Bridge. No trapping is allowed within five hundred feet of the Mineral Creek trails, located in Mineral Creek Canyon as designated on Exhibits A and B to Section 12.08.010.
- D. No trapping is allowed within the area known as Mineral Creek State Park, which is defined as a fifty-acre parcel known as Tract A-2, ASLS 99-21; and a 91.68-acre portion of U.S. Survey 5113 bounded on the north by Raven Subdivision and Tract A-1, ASLA 79-117, on the east by Tract A-1, ASLA 79-117, on the south by Blueberry Subdivision and Port Valdez, and on the west by Tract A-2, ASLA 99-21. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

9.38.040 Qualifications to trap.



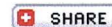
All persons who trap within the Valdez city limits shall show proof of completion of an approved trapping safety class and valid trapper's license. Copies of trapping licenses shall be provided to the city clerk. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

9.38.050 Identification of traps.



- A. All traps shall include a permanent metal tag on which is stamped or etched the trapper's name and phone number.
- B. All traps and all trap lines shall be marked with a legible warning sign appropriately set and height-adjusted (i.e., for snow level). Said signs shall be clearly visible on a weather-resistant surface and with the numbers and letters, at least one inch high, in a bright fluorescent color that contrasts with the color of the sign. Each trapper is responsible for placement and maintenance of proper signage. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

9.38.060 Registration.



All trappers shall register the exact locations of their trap lines with the city of Valdez police department. If requested, this information will be made available to the public. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

SHARE

9.38.070 Unsafe traps.

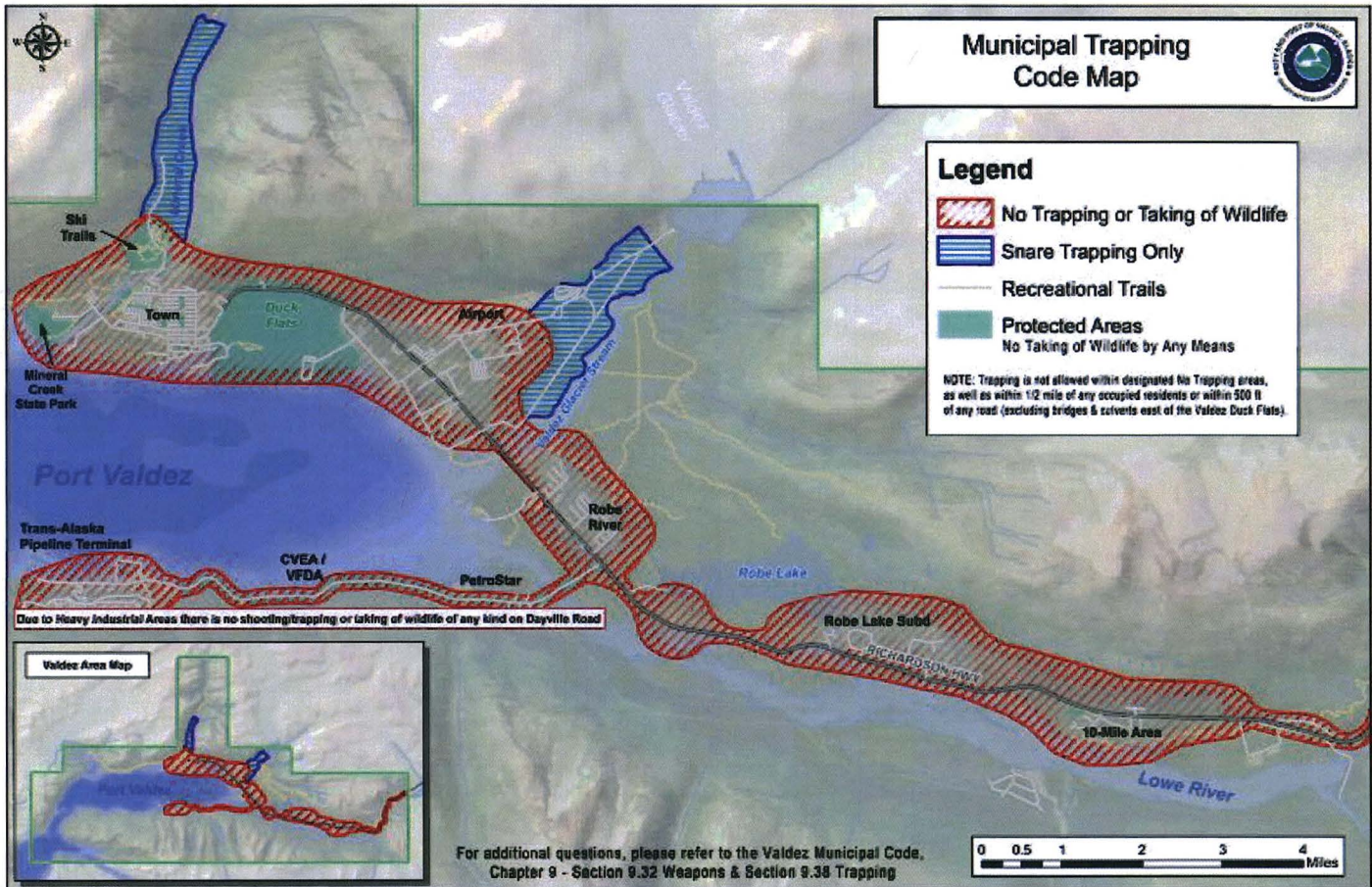
Any traps deemed unsafe by a law officer will be removed immediately. The law officer shall attempt to notify the owner of the trap. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))

9.38.080 Other exceptions.

SHARE

The chief of police or the chief's designee shall have the absolute authority to authorize trapping within a restricted area within the Valdez city limits as is deemed necessary to protect public health and safety. Examples of exceptions include, but are not limited to, the following:

- A. Employees or agents of governmental units or agencies who, using live traps, in the course of their duties, are required to trap animals or birds for authorized purposes.
- B. Scientists in their work of identifying and studying wildlife, animals and birds for scientific purposes.
- C. Persons who have specific animal nuisance problems. (Ord. 14-06 § 1 (part): Ord. 05-10 § 1 (part))



(Ord. 14-06 § 1 (part))

City of Wasilla

7.04.090 Cruelty to animals.

- A. No person shall intentionally injure or kill an animal unless:
1. The act committed is done humanely in conformity with applicable federal, state, borough, and city law;
 2. The act is necessary to defend a human being or an animal from attack.
- B. No person shall intentionally or recklessly wound, injure, torment, poison, provoke, otherwise abuse or unnecessarily overwork an animal, or procure, or attempt any such acts.
- C. No owner shall fail to provide humane animal care or abandon an animal by failing to provide humane animal care.
- D. No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any animal.
- E. No person shall intentionally abandon, harass, molest, torture or kill an animal, or encourage an animal to fight with another animal for sport, training or entertainment.
- F. A person shall not intentionally capture a domestic or domesticated animal with any type of **trap** that physically harms the animal, including, but not limited to, steel jaw **traps**, snares and spring **traps**, except an authorized city, borough, state or federal employee or agent.
- G. Acts in violation of this section constitute cruelty to animals. Cruelty to animals is an infraction.
- H. Persons convicted of cruelty to animals shall forfeit all rights and interests, if any, in the animal(s). (Ord. 09-69(AM) § 3 (part), 2009: prior code § 12.05.090)

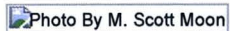
'A real bad deal': Dog survives being caught in trap

Posted: Wednesday, December 02, 2009

By JOSEPH ROBERTIA

For many mushers, having a dog caught in a snare or trap is a constant concern. For mushers Jane Faulkner and Mindee Morning, this fear became a reality late last month while running a dog team in the Gaswell Road area, not far from Faulkner's home.

- Photos

 Photo By M. Scott Moon

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Photo By M. Scott Moon

Mindee Morning sits with Jane Faulkner's dog Lucy last week. The dog was caught in a trap while running free with Morning during a sled dog training run. "I have been going up there for seven years and never had something like this happen," Faulkner said.

Faulkner is signed up to run the Iditarod Trail Sled Dog Race in March. Morning is her kennel partner and has been helping Faulkner by training a second dog team.

On Nov. 21, just after dusk, Morning had left the yard with her dog team pulling a four-wheeler, when she noticed Lucy -- a retired sled dog that had gone to Nome with Faulkner during the Serum Run a few years ago -- had broken her chain and was following the team.

"We don't normally take loose dogs," Morning said. "She appeared out of nowhere and was running along."

Stopping and turning around a team of fresh, energetic huskies is difficult to potentially dangerous, so Morning decided to keep going with the run. She traveled several miles on her regular training loop and was heading home when Lucy got into trouble.

"We were about 1 3/4-miles from civilization with houses and cars," Morning said. "Lucy was only about 10 feet off the road when I heard her start screaming. I thought she must have hit a porcupine."

Morning brought the team to a halt. She called for Lucy, and with her headlamp she began scanning the darkness in the area where the frantic yelps were coming from. Lucy never came and Morning could see nothing, but with 12 dogs still hammering their harnesses, she couldn't step away from the team to search for the downed dog.

"It was a real bad deal," Morning said. "I had to balance what was best for the 12 over what was best for the one, so I made the decision to try and get the dogs home as quickly as I could and then come back."

On the way, Morning passed Faulkner, who by this time had hooked up another team and was heading out for her own training run. Morning explained to Faulkner where Lucy was and that something bad had happened to her.

Faulkner found the location, quickly tied her team to a tree, and found Lucy roughly seven feet off the road. The dog was laying on her side still screaming, having stumbled into a trap set in the crook of a tree root. Slammed on her neck was a large conibear trap -- a device not meant to hold, but to kill whatever it closes on.

Faulkner, fearing a dog could one day get caught in a trap, was educated on this particular device. So, rather than attempting to pry the jaws of the trap open, she attempted to compress the side-springs to release Lucy.

"I tried to remove it without success," Faulkner said. "It was rusted and didn't move easily."

Faulkner used her cell phone to call a neighbor, Gordon Orth, in the hope of getting more muscle to save the dog's life. Back at Faulkner's, Morning had safely secured her dog team and headed back with a pair of bolt-cutters.

"You can imagine my 11 dogs waiting for me for over an hour," Faulkner said. "I couldn't leave my Lucy alive, though. She is my constant companion, and she cried when I would walk away to check the sled dogs."

Orth and Morning arrived together. Morning took Faulkner's team home, while Orth and Faulkner tried to release the dog, but the two of them still couldn't budge the trap and their attempts caused Lucy more pain.

"The bolt cutters were the ticket," Faulkner said. Orth was able to cut the bar across Lucy's neck.

"It was a miracle," Morning said. "That trap could have shattered the vertebrae in her neck."

Instead, the dog was able to move once released.

"She was in shock and had a swollen neck for days," Morning said. "But she lived, that's the important thing. I was so grateful she made it."

Morning said she learned a lot from the experience.

"I will never take a loose dog again," she said. "I'd abort the run. It's just not worth the risk."

Morning also said she held no ill will toward trappers as a whole, despite this recent event.

"I'm not down on them," she said. "But I wish there had been something like a 'set traps ahead' sign to warn people. I would never have gone down there with a loose dog if I'd known."

Faulkner echoed similar sentiments.

"I am glad to get this out because I want people to know that there are traps on Gaswell Road," she said. "I see a lot of other people walking their dogs off-line up there."

Larry Lewis, a wildlife technician with the Alaska Department of Fish and Game, said trapping season opened Nov. 10 and -- species dependent -- could run as late as the end of May or beginning of April.

He said it is legal for trappers to attempt to catch furbearers on public land where trapping is legal, as well as on their own property, and private property if they have the landowner's permission.

Faulkner, Morning and Lewis were uncertain of the ownership of the land where Lucy was caught, but Lewis said that if legal, the area seemed like an adequate distance from nearby residences for a trap to be set.

"Even when legal, I advise trappers to avoid setting traps in areas where there's an increased risk to catch a dog," he said. "But in that area, it seemed reasonable if there were no obvious signs of the location being publicly used by people or pets."

That being said, Lewis said from the description of the trap type, as well as the location it was set, he questioned the experience of the person who set it.

"It doesn't sound like it was somebody who knew what they were doing," he said. "Setting in a crook of a tree would be good for marten or wolverine, but I can't imagine anyone thinking either of those species would be there."

Lewis added trappers aren't the only ones who should act responsibly during trapping season. Pet owners, even those living outside the leash law areas of city limits, should be aware of the potential danger of traps in remote and semi-rural areas at this time of year.

Lewis said even in residential areas, he frequently gets requests from people seeking the assistance of a professional trapper after coyote has harmed or killed a family pet.

"We all need to be aware and considerate of each other," he said. "I would advise pet owners to keep their dogs under control during trapping season."

As to Morning's request that areas with traps have some form of sign or marker to warn people, Lewis said that's not an option most trapper would favor.

"Then you run the risk of people taking the fur from the trap, or anti-trapping people fouling the trap or taking the trap itself, both of which are illegal," he said. "It's a real catch-22."

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Posted January 30, 2014 03:43 pm - Updated January 30, 2014 03:44 pm

By Tim Mowry (/authors/tim-mowry)

Fairbanks Daily News-Miner

Alaska officials show how to release trapped pets

Comments 0 Share



Bob Hunter demonstrates releasing a pet from a trap at the Alaska Department of Fish and Game Wednesday, Jan. 22, 2014, in Fairbanks, Alaska. A recently released brochure, titled "Trap Safety for Pet Owners," is part of a concerted effort by ADFG and the Alaska Trappers Association to increase public

education about trapping and reduce conflicts with pet owners. (AP Photo/Fairbanks Daily News-Miner, Eric Engman)

FAIRBANKS (AP) — Anyone who doesn't believe a normal person with no knowledge of trapping can open a body-gripping Conibear trap should talk to Sarah DeGennaro.

A wildlife technician at the Alaska Department of Fish and Game in Fairbanks at the time, DeGennaro, who is also an artist, was asked to draw some illustrations to accompany a brochure the department was putting together for pet owners about how to release their pets from traps and snares.

As part of her research, DeGennaro tried out the different release techniques for herself. She was able to open all the different types of traps, including leg-hold traps, body-gripping traps and snares.

"That leash one is pretty difficult," DeGennaro admitted, referring to a technique in which a dog leash is used to pull open the springs on a Conibear 330 body-gripping trap. "It's strenuous to try to do that."

But DeGennaro, who knew nothing about trapping when she started the project, was able to do it.

"I had to do that to try and figure out how the illustrations should look," she said.

In that sense, DeGennaro served as a guinea pig for the project. The newly released brochure, titled "Trap Safety for Pet Owners," is part of a concerted effort by ADFG and the Alaska Trappers Association to increase public education about trapping and reduce conflicts with pet owners.

The pocket-sized, fold-up, brochure describes in detail the three kinds of traps that pet owners may encounter — foot-hold, body-grip and snares — and step-by-step instructions, complete with drawings by DeGennaro, on how to remove them.

"It came out awesome," said Mike Taras, a wildlife education specialist for ADFG in Fairbanks who worked on the brochure.

The brochure includes suggestions for a "trap removal tool kit" that pet owners can carry with them in the event an animal is caught in a trap. The kit includes things like a stout rope or strong leash that's eight feet long, something to use for a muzzle to avoid getting bit, bailing wire or zip ties to hold open trap springs and a piece of wood to put under a trap to keep it from sinking in the snow.

The brochure also contains general information about trapping that pet owners should know, such as keeping dogs on leashes when walking in the woods, never trying to release a wild animal, and being aware that it is illegal to tamper with legally set traps or snares.

Joe Letarte, president of the Alaska Trappers Association in Fairbanks, was happy the way the brochure turned out. Given the sensitivity of the topic involved, the brochure received considerable critical review, he said.

"There were a lot of people involved in it," he said. "It was a lot of work and I think the end result is pretty good. I think it's going to benefit everybody."

Letarte said the brochure was tested out on other non-trappers like DeGennaro.

"We had people who knew nothing about trapping or traps do it," he said. "They were able to read the brochure and open the Conibear."

The department printed 5,000 of the brochures, which are available free from ADFG offices. The brochure may also be viewed and downloaded on ADFG's website at www.adfg.alaska.gov.

The department also recently produced a series of five videos showing pet owners how to open the different traps featured in the brochure, including body-grip, coil-spring, jump, long-spring, and snares. The videos are posted on ADFG's website (www.adfg.alaska.gov).

"They really show you how these traps work," said Taras, who produced the videos. Bob Hunter, hunter education coordinator for ADFG in Fairbanks, starred in the videos. Hunter used his daughter's stuffed husky as a dummy in the videos and the traps he used were painted blaze orange for better visibility.

"It worked out pretty well," said Hunter, who joked that he's hoping his role will earn him an invitation to the Cannes Film Festival.

Granted, if a body-grip trap works the way it's supposed to, there's a good chance it will kill a dog before it can be released, Hunter said. Body-gripping traps like Conibears are designed to kill animals quickly by breaking their necks, he said.

"It depends on the size of the dog, the size of the trap, how it gets caught and its initial reaction to the trap," Hunter said of freeing a dog from a large, body-grip trap. "It's not like you can just squeeze it here and you're done. You have to know how it works and use the leash properly to get leverage."

In the video, it's obvious that Hunter has to use considerable effort to get the trap open.

"We tried not to downplay it," he said. "It's not easy but it can be done."

To that end, Hunters offers tips in the video such as using a round leash instead of a flat leash because flat leashes can get caught on the gap in the springs and bind up. He also emphasizes quick action and warns pet owners to be careful about injuring their dogs when trying to release them from traps.

Overall, Hunter said the videos turned out "very well."

"They're very brief and they go through the different positions to get better leverage," he said.

Granted, most dogs probably won't be nearly as cooperative as his daughter's stuffed husky, Hunter said, but the videos "give people a better idea of how the traps work."

The idea for the brochure and videos came as a result of increased demand from the public for workshops on how to release pets from traps, mainly in the Southcentral region, Taras said.

After searching the Internet for other videos on releasing pets from traps, Taras said the department decided to make their own.

"It was hard to find good, quick videos that show you exactly how to get your pet out in the proper way," he said. "The stuff we have right now it the best out there."

Like the brochure, the videos received considerable scrutiny. In fact, some last-minute editing was required after it was noted that Hunter used the term leg-hold instead of foot-hold twice in the video, even though the term leg-hold has been used for more than 100 years.

DeGennaro was happy to help with the project and said she hopes it will help reduce conflicts between trappers and pet owners.

"I think it's great to have pet owners know traps might be out on trails and they need to be aware and ready if anything happens," she said. "Hopefully it can save some dogs' lives."



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Mat-Su

As suburbia replaces frontier, Mat-Su considers restricting trapping for the first time

✍ Author: **Zaz Hollander** ⌚ Updated: January 9 📅 Published January 8



On Friday, Jan. 6, 2017, a sign at the Crevasse Moraine Trailhead in Palmer reminds pet owners to leash their pets while using the trails. The trails are adjacent to areas used by trappers, and occasionally dogs can be caught in a trap or snare. (Loren Holmes / Alaska Dispatch News)

PALMER — Matanuska-Susitna Borough officials are considering a historic ban on traps and snares at schools and along trails popular with dog owners.

The conflict between trailside trapping and pets is on the rise in this growing municipality with frontier roots that's given way to expanding suburbia. The population of Mat-Su topped 100,000 last year, making it the second largest municipality in the state behind Anchorage.

Progress on the proposed borough law comes as winter's trapping season gets well underway and residents report several dogs caught in snares or traps since December in the Knik River Valley and off Archangel Road in Hatcher Pass.

A draft ordinance proposed by borough Assembly member Dan Mayfield of Big Lake and co-sponsored by Matthew Beck from Palmer would ban all trapping on school grounds except for educational demonstrations. It would also bar traps or snares on borough property within 100 feet of the sinuous, hilly trails at the 360-acre Crevasse Moraine trail system near Palmer.

The proposal calls for \$150 fines for a first offense, \$300 for the second offense and \$500 for the third and any subsequent offenses. Violators forfeit their traps.

Numerous Alaska towns and cities already restrict trapping in some way including Anchorage, Valdez, Fairbanks and Juneau. But efforts to address trail conflicts outside city limits have run into **opposition around the state**.

If Mat-Su does adopt some form of the proposed law, it would mark the first time the borough restricts trapping.

Right now, if a loose dog gets caught in a trap or snare on borough property, the dog owner is breaking the law. The trapper isn't.

Not popular with anybody

The proposed Mat-Su legislation has roots in a **petition presented to Mayfield** last year by a nonprofit called Alaska Safe Trails Inc. More than 3,500 signers urged the borough to ban trapping on school grounds, at Crevasse Moraine and at Government Peak Recreation Area near Hatcher Pass.

Government Peak isn't included in the proposed draft because of what Mayfield described as "convoluted" land management questions because the area includes state land that the borough manages.

The proposed ordinance that emerged a few months ago isn't supported by either trails advocates or trappers.

"Trappers are kind of giving some pushback because they think this ordinance may be the first step in several steps of outlawing trapping," Mayfield said. "And the folks who are really engaged in providing safe trails in the borough are against it because they don't think it goes far enough."

The ordinance is expected to be introduced for a public hearing at the end of the month, with hearings to begin in February or March.

It's already gone before several borough boards: the Mat-Su School Board; the animal control board; and the Parks, Recreation and Trails Advisory Board, which took public testimony at three meetings and will hold another later this month.

Mayfield said he expects the legislation to change as it moves through the process.

"The idea here is to get it in front of the Assembly and to get the people of the Mat-Su to provide us with testimony ... and make good, sound decisions on what we have to do, taken in light of the fact that we've got an immense amount of growth happening in our area," he said.

Time to share?

Alaska Safe Trails founder Lynn Mitchell said in an email that the group is "withholding support" for the proposed ordinance because it was "gutted under pressure from the trapping community."

The ordinance at this point only serves to sanction trapping with setbacks rather than an outright ban at Crevasse Moraine, Mitchell said.

Potential exemptions for underwater sets or tree sets for marten further erode the intent of the ordinance and make for confusing, hard-to-enforce provisions, critics say.

Bill Mohrwinkel, a Knik River resident who works as a wilderness guide in summer and concert promoter in winter, signed the petition and now is working with Mitchell.

Mohrwinkel said his 30-pound husky mix got caught in a leg-hold trap in December at a popular walking area near the river but he managed to free her without injury. He's equally concerned about an old trap he found behind Swanson Elementary School just 2 feet off a well-used Matanuska River trail.

Mohrwinkel wants high-use recreation areas in the borough totally off-limits to trapping: Crevasse Moraine, Government Peak, the Matanuska Lakes system, Matanuska River Park and Wasilla and Palmer city limits. He's asking for quarter-mile setbacks on borough- and state-maintained trails including Lazy Mountain, Pioneer Peak, Archangel Road and Mint Glacier trail at Hatcher Pass, Mohrwinkel said in the email and during an interview.

It's "disingenuous for trappers to use leash laws as an excuse" when several Assembly members have agreed most people don't keep their dogs on leash at all times, especially in parks and on trails, Mohrwinkel wrote in an email to Mayfield, Beck and Lazy Mountain Assembly member Jim Sykes.

"This borough has grown considerably since I moved here 24 years ago and continues to grow," he wrote. "We have a problem now with dogs getting trapped. It's going to get worse and it's time to be proactive. It's time for the trapping community to share."

Unintended consequences

Trappers say they're able to police themselves.

The Alaska Department of Fish and Game posts signs at trailheads warning trappers to abide by the **Code of Ethics** found on the back of Alaska's trapping regulations. Among other things, the code recommends trappers "(p)romote trapping methods that will reduce the possibility of catching nontarget animals" and get landowner permission before trapping on private property.

When the Mat-Su ordinance first surfaced, the Alaska Trappers Association met with Mayfield to push voluntary measures — like avoiding popular trails — that "worked so well in Fairbanks, before we enshrine something in borough ordinance," said Pete Buist, a hunting guide and former state Game Board member who represents the statewide association.

Buist agrees that most trappers don't make sets close to busy trails, so it's the less ethical ones who can ruin it for everyone else.

"That's fair," he said. "It's also fair to assume they're not going to be very impressed with a borough ordinance any more than dog people are impressed with a borough ordinance that includes a leash law. Everybody ignores the part they don't like."

Trappers don't want to catch dogs, he said: It's bad for the trap, bad for the dog and bad publicity overall.

"Smart trappers don't set traps where they're going to catch a dog," he said. "Then again, if somebody's just letting a dog run it's really difficult to make sure those two things don't come together."

Asked about the 100-foot setback at Crevasse Moraine, Buist shared an anecdote. A friend was skiing with his dog off-leash in Fairbanks. He got back to his car at dark but the dog wasn't with him. It had been caught in a trap more than 100 feet off the trail and the skier struggled to find the animal, Buist said.

"The dog ended up dying because it was set back," he said. "If it had been closer to the trail, then he might have been able to find it."

Not Fairbanks

There's no comparison between Fairbanks and Mat-Su, according to Todd Estey, who moved to the Valley from the northern community nearly six years ago.

His wife, Julie Estey, traveled thousands of miles on area trails training for the 2008 Yukon Quest sled dog race, Estey said. Any traplines were marked with flags. The couple attended trappers' events.

"She never had one issue," he said Friday.

Then the Estey's bought 26 acres on the Knik River and moved down with 12 dogs, mostly Alaska huskies.

Since then, six dogs have been caught in six traps including one last month. All survived, though one nearly died and cost thousands in vet bills. Estey wonders if traps had anything to do with two other dogs that disappeared completely.

Two of the traps were on the Esteys' own property. Two more were illegally set on private property next door. Two sat near trails.

"I just can't believe what the trappers are getting away with out here," he said, blaming a few unethical trappers making the whole community look bad. "They roll in with their \$50,000 pickups and their \$30,000 side-by-sides and I can see their tracks in the snow. You can see where they just literally put one foot down and set their trap. It really is about laziness in my view."

Leash law overlays debate

Trappers say pet owners who keep their dogs restrained don't have to worry about traps — ethically set or otherwise.

Dog owners in the Mat-Su are required to keep dogs on leash at all times on borough land unless the dogs are participating in an organized activity like dog sledding or hunting dog trials. Owners are allowed to keep animals under voice control, but only on their own property.

The law can be hard to enforce along the Valley's increasingly popular trails.

Matt Hardwig, the borough's chief animal control officer, said his "hand would fall off" if he wrote tickets for off-leash dogs at Crevasse Moraine.

Animal control has four officers to patrol a borough the size of Ireland. They don't have the time — or the desire — to patrol trails for loose pooches, Hardwig said.

"We're trying to enforce the intent of the law, not the letter," he said.

Hardwig said he's received no reports of leashed dogs caught in traps. He knows of only one incident where the owner was near the dog, and that was at least 40 yards away.

Loose dogs accounted for 180 aggressive dog cases in 2016, according to animal control statistics. The department fielded nearly 1,000 reports involving some degree of "danger of life and safety," Hardwig said.

Asked what the borough does to enforce leash laws on popular trails like Crevasse Moraine, he said the department mostly assumes people police themselves.

The Crevasse Moraine trails have become "an unofficial dog park area" where Hardwig said traps haven't historically been a problem.

"But I think people want to make it a safe haven for their animals," he said.

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Zaz Hollander is based in Wasilla and covers the Mat-Su region for the ADN.



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Alaska News

Dog owners beware, it's trapping season in Alaska

✎ Author: **Craig Medred** ⓘ Updated: September 27, 2016 📅 Published January 19, 2013

Trapping season is open in Alaska and once again, some loose dogs are getting caught.

Attitudes on dogs in traps seem to track attitudes on free-running dogs. Owners of free-running dogs that get caught in traps are shocked and appalled that it could happen. Skiers, hikers, snowshoers and others unhappy by being accosted by other people's loose dogs don't seem at all upset.

Either way, according to Irene Lindquist of the **U.S. Forest Service** in Seward, everyone should stay alert to the risks.

Keep dogs on leash

"Quite a few dogs have been caught in traps in Seward Ranger District," Lindquist reported this week. "A dog was caught in a trap directly off West Juneau Road on Monday. There are traps on Snug Harbor Road that are also catching dogs. One dog had to have his foot amputated."

Both West Juneau Road and Snug Harbor Road are in the Cooper Landing area, but Lindquist said that is not the only area in Chugach National Forest with dog-versus trapping conflicts.

"Many areas and locations used for winter recreation have active trap lines that are directly off a road or trail," she said. "There are some trap lines where the trapper is a fair distance off a road or trail, but these are also a hazard to a loose dog who is lured by strong scents to the trap. Our current (hard-packed snow) conditions allow for easy and fast travel off trail for a critter to get into trouble quick."

Dog owners are advised to keep their animals on a leash, or in sight and under voice control. To help dog owners unfamiliar with trapping or traps, Lindquist said, the **Alaska Trappers Association** is offering a shared-trails presentation at Cooper Landing Community Hall at 7 p.m. Friday. The association has put together a DVD that explains how to recognize traplines, the various kinds of traps used in Alaska, and what to do if your dog gets caught in one.

The DVD covers the specifics of how various traps work, and how to open them to release a dog. Lindquist said trappers will attend the Cooper Landing meeting to demonstrate. Dog owners who act promptly can usually free dogs unharmed.

Lindquist said the purpose of the meeting "is educational and not to debate individual views of trapping." She also said she can provide loaner copies of the DVD to people who might not be able to attend the meeting but want to know how to free a dog caught in a trap. Hands-on training is better than anything viewed on a computer screen, but the DVD could help dog owners.

Learn how to open traps

How to open a leg-hold trap is obvious to most people, but Conibear traps -- designed to trap and kill wild animals -- can be confusing to the those unfamiliar. There is a good explainer on how to free dogs from Conibear traps [here](#). Another video on how to free dogs from cable-lock snares is [here](#).

A leash or rope can be a vital aid in opening a Conibear, another reason to always carry a leash. Both Conibear traps and snares are used regularly in Alaska. People venturing into the backcountry during trapping season are likely to encounter them.

If you want to borrow a copy of the trapper association DVD, Lindquist can be reached online at ilindquist@fs.fed.us or by phone at 907-288-7748.

Contact Craig Medred at [craig\(at\)alaskadispatch.com](mailto:craig(at)alaskadispatch.com)

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Craig Medred

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Posted March 18, 2015 02:47 pm - Updated March 19, 2015 10:26 am

By Rashah McChesney (/authors/rashah-mcchesney)

Peninsula Clarion

Game board spikes Kenai Peninsula trapping restrictions

Comments 1 Share



Several types of traps sit on display for trapping hopefuls during a class for people seeking permits to trap on the Kenai National Wildlife Refuge on Saturday Oct. 25, 2014 in Soldotna, Alaska.

After facing a series of restrictions that could have virtually eliminated trapping in certain areas of the central Kenai Peninsula, trappers were told by the Alaska Board of Game to trap responsibly, but freely.

On Wednesday, board members briefly discussed the proposals — which would have restricted trapping near trails and campgrounds in Cooper Landing, Seward and Moose Pass — before voting them down unanimously.

While supporters of the proposal testified that trapping near trails was a threat to children, dogs and others on the trail, Alaska Department of Fish and Game Area Management Biologist Jeff Selinger said his office does not often hear about accidents with traps.

“Historically there have been user conflicts in this area with local residents and trappers and pets getting caught in traps,” he said. “It’s an issue that’s talked about a lot, but the reality is that we do not hear about a lot of animals getting caught in traps directly and the department level.”

Several board members said that though they were dog owners, they could not support the restrictions to trapping that did not also place an onus on dog owners to be responsible with their pets.

“The trappers do have some rights on their part,” said Board Chairman Ted Spraker, who traps on some areas of the Kenai Peninsula. “We hear the same thing in the (Mat-Su Valley) where there have been some problems ... the people with dogs, some of them very vociferously think that there should be no containment of their dogs.”

The Cooper Landing based group that submitted the proposals, the Committee for Safe Public Lands and Trails, testified to board members that it was primarily interested in developing a working relationship with the Alaska Trappers Association.

Board members chided the group for failing to come to an agreement with the trappers before approaching the board with a regulatory proposal.

During public testimony Ken Green, who spoke for the committee, told board members that he had been unable to get the trapper’s association to cooperate in negotiations after he refused to withdraw his proposal from the Board of Game agenda.

In February, Green said, the trapper’s association posted several signs in Cooper Landing. The signs caution trappers to avoid conflict by not trapping near trails, turnouts and other populated areas. The signs also caution pet owners to be responsible for their pets and avoid going off-leash.

Alaska Trappers Association President Randall Zarnke disagreed with Green's characterization of the negotiations and said the signs were an effort to resolve the issue without regulatory involvement.

"I was disappointed ... to see what I saw was a good faith effort by the trapping community to find a way to compromise and work with people, really seemed to end in an impasse," said vice-chairman Nate Turner, who traps near Nenana. "I think this could have been resolved at a more local level and that's something that we always encourage."

Both Spraker and Turner cited other places in the state near Juneau and in Fairbanks, when trappers and recreational users came to agreements about trail use without going through the regulatory process.

"This is an important issue to the authors," Turner said. "I would just encourage them to continue to take the hand that's been offered and ... find some ways to resolve local concerns."

Reach Rashah McChesney at rashah.mcchesney@peninsulaclarion.com or follow her on Twitter @litmuslens.

Trapping and recreation collide in Cooper Landing (<http://bit.ly/1BH0rSg>)



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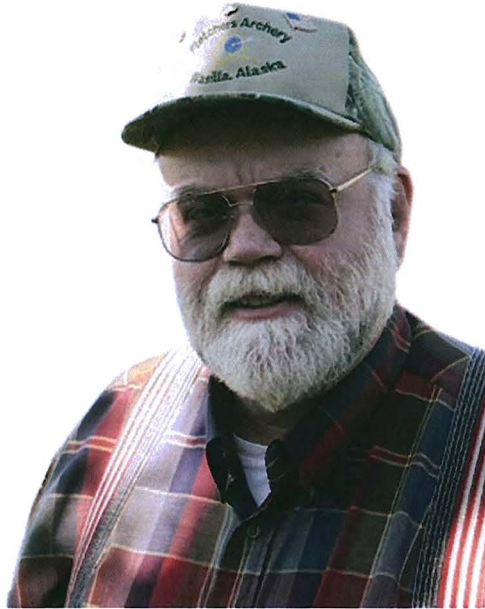
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http://www.frontiersman.com/sports/outdoors/getting-trapped-in-the-controversy-over-trapping/article_96b713bc-8f48-11e5-90b0-9f6d0397bbf3.html

Getting trapped in the controversy over trapping

By Howard Delo Nov 19, 2015



Let's talk about a controversial subject here in the Valley – trapping!

Most of the trapping seasons opened on Nov. 10, but a few were already going and a couple of others won't open until mid-December. Be sure to pick up a copy of the 2015-2016 Alaska trapping regulations booklet if you plan to do some trapping or if you intend to recreate in known trapping areas.

That's the controversy — non-trappers using the same areas where one or more trappers have made sets to harvest the various species of animals allowed under the trapping regulations. We are all familiar with the annual media story of somebody's dog being caught in a trap or snare set in an area popularly used by the public.

Usually, when the facts are made known in these situations, both parties are at fault. The story generally goes something like this.

Joe and Jill Public and their kids were out skiing a local trail and Fido, who was running loose and unleashed, suddenly seemed to just disappear. After an hour of frantic searching, the dog was found caught in a trap or snare. If the owner is lucky, the dog is released basically unharmed. We all know the other alternatives which are too often the actual outcome. Either way, another family is turned against the management tool of trapping.

OK, who's at fault here?

First, the recreating family failed to control their pet by having it on a leash. I know, everybody claims the dog was under voice command, but really, how many of us own pets that instantaneously respond to voice commands while out "playing" on a family trip?

If we're truly honest, very few can answer affirmatively here.

How about the trapper? In my opinion, the trapper should never have made sets in or near a known, popular, developed, and frequently used recreation site. The trapper should concentrate their efforts in more remote and difficult to access locations which would generally not be used by non-trappers.

This last statement, however, doesn't mean only wilderness locations. I can think of several specific spots within a mile of my house where traps could be set with little concern about interfering with someone's outdoor recreational plans. Some of these locations involve water sets for beaver, otter, or mink. Done properly, specific types of water sets target only the intended species and usually are undetectable to the untrained eye. For that reason, the trapping I have done since moving to the Valley has all involved water sets.

When I lived on Afognak Island, I was the only person who trapped the surrounding few miles around the fish hatchery where I worked. Everybody kept their dogs under control (foxes and bears eat dogs), so I didn't have that concern. I also didn't have to worry about trap thieves, a common problem here in the Valley as I understand things!

I trapped beaver, otter, marten, and fox with an occasional muskrat just for good measure. I almost always made water sets for both beaver and otter. All my marten sets, eventually, were at least 5 feet off the ground in a box and I used the Conibear-style trap (a killer trap) to be sure the three aforementioned species were quickly dispatched. I lost one marten from a ground set to a fox and another, hanging almost six-feet off the ground, to a brown bear in mid-December.

Who'd of thunk!

I learned to conceal my trap sets, not because of human thieves, but because of the fox and bear episodes and a rather slow-to-learn bald eagle working an elevated marten set one day. My fox sets were normally ground sets using leghold traps, but I was very careful where these were placed in relation to the trails commonly used by folks and their dogs living at the hatchery. I would also tell the other folks if I had a set in a general area so they were aware if they decided to wander out that direction.

Wildlife management is a complex science/art. Any time species numbers are manipulated by man, the effects will ripple into the other species in the area. Oftentimes, that ripple requires regulation of predatory as well as prey species. Other species can cause damage with their activities (beaver) or destruction of important fish numbers (otter and mink). Most of the species involved in trapping are not easily hunted. Done ethically and humanely, trapping is a valuable management tool.

Trappers need to practice ethical and humane trapping techniques.

Opinions

Irresponsibility to blame for Cordova dogs killed by traps

 Author: **Annette Janka**  Updated: September 29, 2016  Published January 20, 2013

CORDOVA -- I was heart-broken to hear of the two dog deaths recently, caused by traps within the city limits of Cordova. For me, it is especially upsetting, because just five years ago, in 2007, I put so much time and energy attempting, and failing, to establish a city ordinance that would protect our pets and families from irresponsibly set traps. When my dog was caught in a large leghold trap, I began to learn more than I ever wanted to know about traps

This issue is not necessarily whether you are for or against trapping. It is about controlling irresponsible trapping that conflicts with other land users.

If every trapper would willingly follow the guidelines written in the Alaska Trapping Regulations pamphlet, we would have fewer conflicts and we might not need to discuss this. The pamphlet says, "Act responsibly as a trapper and conservationist by trapping in ways to minimize conflict between trapping and other users, e.g., avoid high recreational use areas. Avoid situations where you might catch a domestic dog or cat, such as near homes or trails frequently used by hikers, skijorers, dog mushers, or other people."

Cordova ordinance a joke

But as in any law, there are those who use their freedom in irresponsible and selfish ways that endanger others. It is these people that require laws to protect the rest of us. It is to the advantage of the "responsible" trappers of Cordova to support laws that will clearly define for the "irresponsible" trappers what behavior is allowable. If you are a trapper, be honest with yourself. Which are you?

I was on the City Council appointed task force that created the present city ordinance on trapping. The final product was a joke. There is no location in Cordova where a trap cannot be placed, except the Parks and Open space zoning district which includes the ski hill. (That doesn't help dog owners, since dogs are not allowed on the ski hill.) The trappers on the trapping task force who were the most vocal were uncompromising and obstructionist. They refused to mark their traps in any fashion, or choose even a small geographic area that could be designated as trap free where dogs could run off leash, or provide the smallest trapless corridor along even one road way. They even refused to prohibit traps in the downtown area while admitting that it wasn't good trapping. So we are still left with the problem now.

Outdoor recreational activities in Cordova, and the entire nation, have become more and more popular in recent years. Cordova is a wonderland for non-consumptive sports like snowshoeing, skiing, snowboarding, ice skating, hiking, biking, photography and snowmobiling. There is no location within Cordova's city limits that is not used by people enjoying the great outdoors. Dogs are often companions who enjoy these activities, and they are legally allowed to be off leash in the post-1993 annexed city limits. It is legal for dogs to be leash-free beyond Skater's Cabin on Power Creek, beyond Eccles Creek on Whitshed Road, and across the lake from Skater's Cabin out the highway.

Cordova's trappers are also recreational users, but they are different in that their use of the land becomes exclusive, because leaving dangerous metal objects hidden under moss and snow or up in tree branches unattended makes it unsafe for the other users. So this becomes a recreational user issue. No one recreational user should prohibit all other users safe access to the land.

Traps and more traps

Besides the trap that killed the two dogs, a trap was reported last week on the trail out to the Eccles Lagoon homes. I have personally seen traps 25 feet off of the beginning of the Hartney Bay Trail, a large Conibear on the shoulder of the highway past the 6 Mile houses (80 percent out of the water), a trap 10 feet off the Old Ski Hill snowshoe trail, off of the Eyak River Forest Service trail (illegally still set in June), on the hill behind the houses on Lake Avenue, and under the bridges by the Forest Service informational kiosk near the airport. Trappers on the task force admitted to the presence of traps in the culverts out Orca Road, Power Creek and the flats between the 6 mile homes and the airport. The Cordova Times reported in the police report a cat being caught in a trap in the Lake Avenue area. I have two personal Cordova friends whose dogs have been caught in often fatal-sized Conibear traps set just feet off of car parking areas, and one friend who saw an eagle caught in a trap on a Forest Service trail. Another friend talked about trying to eat at the Reluctant while a land otter screamed outside the window caught for days in a leghold trap. There was a deer caught and then killed by coyotes in a snare at the Old Ski Hill chimney. Unbelievably, there was a trap set underneath a picnic table at the Sheridan Lake trailhead! One of my friends was on a walk on the breakwater with her small children when one said, "Look, Mommy. What's this?" and before she had time to react, had picked up a Conibear trap, long forgotten and thankfully already sprung.

Even if it is obvious that a trap is set in a highly public use area, not even city and agency officials in Cordova can remove it, because of the history of Alaskan trapper's lobbying forces that years ago created laws protecting their interests. Individual municipalities now have the jurisdiction to define trapping laws within their boundaries. The cities of Juneau, Anchorage, Fairbanks, Valdez, Homer, Gustavus, Nome and probably others, all have major trapping restriction ordinances.

The other problem specific to traps and dogs is that traps are not just powerfully snapping metal jaws, some of which can jump 10 feet when sprung, but they are baited with extremely powerful scents. The trappers on the ordinance task force said that commercial scents could carry over a two mile distance. Even if trappers would agree to mark their traps with survey tape, your dog is going to be into it before you will be aware of its existence. What self-respecting dog could pass up a bucket of bones? Sadly, not Shadow and Holmes.

So now it is up to us as fellow Cordovans to come up with a solution to this issue. We must do better than we did five years ago. I really believe that we, as mature adults, should be able to have differing opinions without

losing sight of how we are all neighbors, connected by mutual friends and family and our love of our Alaskan home. Most of us share more in common than differ. I am remaining open to intellectual conversation, with the purpose of defining an improved plan.

I just overheard a character on my children's video game say "There is no puzzle without a solution." I believe it. Do you?

*The commentary first appeared in **The Cordova Times**. The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch, which welcomes a broad range of viewpoints. To submit a piece for consideration, e-mail [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com).*

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Annette Janka

Annette Janka is a resident of Cordova, Alaska.

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Posted October 13, 2015 10:49 pm

By Emily Russo Miller (/authors/emily-russo-miller)

Morris News Service-Alaska/Juneau Empire

Juneau woman who freed eagle from trap back in court

Comments 9 Share

In John Forrest's eyes, anti-trappers have been springing his traps, stealing his catch, destroying his equipment and generally hindering his livelihood for years. The offenders have always remained faceless, and they've always gotten away with it.

"It's an ongoing issue," Forrest said of such incidents from the witness stand Monday in Juneau District Court.

Last winter, that changed. Forrest finally found out, through "a number of coincidences" as his attorney put it, who had sprung several of his traps on Davies Creek trail in December 2014: Kathleen K. Turley, whom he sued last month seeking \$5,000 worth of damages.

Except Turley — who rescued an eagle ensnared in one of Forrest's traps that day — isn't who Forrest thinks she is, her attorney Nicholas Polasky argued before Judge Thomas Nave during a small claims trial Monday. Polasky described his client as a born-and-raised Alaskan who hunts grouse, deer and brown bear, has animal skins and hides on the walls of her house, and raises meat rabbits to butcher and eat.

"She's a hunter," Polasky said in opening statements. "She's a person who's not against trapping and is not the type of person that we think Mr. Forrest probably thinks that she is."

During testimony Monday, which will conclude in a Thursday hearing, Turley fully admitted to springing two of Forrest's traps on Dec. 24 and another on the 27th.

The reason? There was a bald eagle, still alive, in one of the traps on Dec. 24. As she worked for about an hour freeing the bird from the twisted metal chains and leg clamps, she tied up her dogs to a nearby bush and set off a marten box trap to keep them from getting in the same sort of trouble.

The second trap she released, she said, was as she hiked back down the trail that evening with the injured eagle in her backpack. She said she stuck a stick in a trap on the trail, again, to prevent her dogs from sniffing it and getting their noses clamped.

"That was not my intent," she said on direct examination from Polasky, who asked if she was purposefully trying to hinder Forrest's trapping. "My intent was to keep the dogs out of the trap."

The third time was on Dec. 27 as she was leading a group of 10 Juneau Alpine Club hikers on the trail. It was getting dark and someone had gotten separated from the group earlier in the hike, she said. There was a trap close to the trail and she was nervous someone behind her wouldn't see it. She said she released it "to make sure no one was injured."

Zane Wilson, Forrest's attorney, emphasized that the lawsuit is not about any of the traps that Turner sprung in her efforts to save the bald eagle on Dec. 24, which was later euthanized. He said it was about the other three traps Turley described.

"Just to make it perfectly clear, we're not asking for anything with Ms. Turley (related to the eagle)," he said to Judge Nave. "It's not up to Ms. Turley to decide where Mr. Forrest traps. That's up to Mr. Forrest and the State of Alaska. Ms. Turley needs to be told that what she did was wrong, and she needs to have some consequences for her actions. That is why we are before the court today."

Turley said she usually hikes past traps in the woods on her hikes, and she only sprung these traps because she deemed them a hazard to dogs and people. Unlike major hiking trails in Juneau, there aren't any requirements for trappers on Davies Creek to keep traps a certain distance off the trail.

Polasky told the judge, who will issue a decision in the case on Thursday, that the statute in question requires the plaintiff to prove that Turley had the specific intent to obstruct or hinder Forrest's traps. Turley had no such intent, her attorney said, saying his client intended "to make sure the traps don't hurt her dog, or have to deal with another situation like the eagle."

She's not "a person who is out to get in the way of trapping at all," Polasky stressed.

Some 20 people packed the courthouse Monday to lend Turley support. Polasky said she is being held up as a champion of the anti-trapping movement, which is a role she doesn't want.

"I'm not opposed to trapping," she said on the witness stand Monday.

Turley testified she actually kept the incident with the eagle from the public eye because she thought it would be "bad PR" for trappers. It was kept under wraps until early January — when Alaska Wildlife Troopers cited her for hindering lawful trapping, a misdemeanor criminal offense. Like Forrest and his attorney in this lawsuit, Troopers said the citation did not relate to the traps she sprang while releasing the eagle.

In response to the citation, Turner posted a picture of the eagle on a popular Juneau Facebook page. The picture shows the eagle lying on the ground, both its legs ensnared. It stared straight at the camera.

Almost instantly, community members rallied by her side, and the case against her was dropped. Juneau District Attorney James Scott dismissed the case at her January arraignment.

"When she's hiking and she comes across an eagle in a snare, I encourage her to rescue that eagle again, and I will screen that case out as well," Scott added at the time.

Sue Walker, one of Turley's supporters, called the case "completely inappropriate."

"I believe the fact that she sprung the traps while carrying the injured eagle, ... trying to keep her other dogs out of the trap is entirely reasonable."

Mike Weber, a Palmer resident and part of the group Alaska Safe Trails, used the photo of the trapped eagle in half-page advertisement in the Juneau Empire on Sunday. "How does the law view this?" the ad reads. "If you're a trapper, you can 'incidentally' kill as many of these as land in your trap. By its inaction, USFWS in Alaska gives its implicit approval. However, the Bald Eagle Protection Act does not exempt 'incidental' kill. If you're anyone else, a feather could cost you \$5,000. Selective enforcement IS discrimination."

Alaska Wildlife Troopers in Juneau said previously that Forrest would not be in trouble for killing the eagle.

"Not by us, no," Trooper Aaron Frenzel said in a January interview, adding that the traps were set lawfully. "It's an incidental catch."

When Forrest's attorney asked what he thought of the photograph while on the witness stand Monday, Forrest responded, "I thought it was a great photograph, and if I hadn't personally caught the eagle, I'd say the guy knew what he was doing. The eagle had a trap on both feet."

That statement caused everyone in the courtroom to pause, and Forrest quickly continued, "But, that is — if there's an ugly side to trapping, that's what it is. That particular photo. But it's no different than going fishing, and bringing a fish up ... and throwing it back in that ain't going to make it. It's just the way it is."

Forrest said it takes a lot of time and effort to trap for a living. He clears the trail at the beginning of trapping season, obtains the bait and sets the traps. It takes five to eight hours to check his trap line once a week. He has 20 traps in a three-mile line on Davies Creek trail. On average, he traps a marten, a mink, a couple beavers and maybe a wolverine each week.

"You put all this time and effort into something, and somebody comes along and fools around with it," he said, describing his frustration. "It's kind of like going out and setting ... crab pots and going out a week later and two pots are gone, and the crabs have been taken out of the rest. It's like what the heck am I doing out here? It leaves a bad taste in my mouth.

He added, "I want her to realize she did something wrong that was against the law, and ... if the prosecutor had done his job on the first go-around, we wouldn't be here wasting our time and more money. What she did was wrong."



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Trap inside city limits kills family dog

✎ Author: **dogblog** ⓘ Updated: April 29, 2016 📅 Published August 7, 2008

[img_assist|nid=135075|title=Grizzly|desc=Tony and Natalie Lazenby's Rottweiler died when it was caught in a neighbor's Conibear 220 trap in Anchorage.|link=none|align=left|width=350|height=262]

Here's a sad story that appears in the Saturday, Nov. 29, paper.

By DEBRA MCKINNEY

dmckinney@adn.com

One minute a family dog named Grizzly was playing in front of the house, the next he was shrieking and thrashing wildly, a trap locked in a death grip around his head, his face distorted by the pressure and pain.

The 4-year-old Rottweiler, pet of Tony and Natalie Lazenby and loved by others in the neighborhood, died a couple of hours later, his throat crushed, the Lazenbys said.

It took four people to get the trap off the dead dog's head.

The Conibear 220 spring-loaded trap that killed the dog Wednesday is now in the hands of authorities. It's designed to kill foxes, beavers and coyotes. Dogs occasionally die in them, too, but typically while on hikes with their owners in wild places, and typically in areas open to trapping.

Not in a neighborhood full of dogs, cats and kids, where this trap was set. The Lazenbys think one of their neighbors set and baited it, but no charges have been filed against anyone.

Enforcement supervisor Bradley Larson said Animal Control will be turning the case over to Det. Jackie Conn, who handles animal cruelty crimes for the Anchorage Police Department.

It's against the law to negligently set a trap in city limits — punishable by a fine of up to \$10,000 and a year in jail.

It's also a crime for any person, with criminal negligence, to maim, mutilate, torture, kill or do any number of horrible things to animals.

The Lazenbys are devastated by Grizzly's death, and driven to see the person who killed him held responsible.

"We want to make sure it's properly prosecuted and properly handled, so the law does what it's designed to do," Natalie Lazenby said Friday. "We're going to fight this until we don't have any breath left."

THE DOG SCREAMED

The Lazenbys bought their house three years ago in this old, tucked-away neighborhood just east of the Old Seward Highway and south of Dimond, an area with an eclectic mix of trailers, houses and combinations of the two.

"All the neighbors know each other," Tony Lazenby said. "We congregate. We have barbecues in the summer."

Grizzly's best dog friend was a 6-month-old black German shepherd named Mid who lives nearby. On Wednesday morning, the Lazenbys got a call asking if Mid could come play.

Tony Lazenby was shoveling his driveway about 8:30 that morning as the two dogs romped, trying to catch snow flying off his shovel. He got distracted for a couple of minutes, the dogs wandered off, and then he heard his dog scream.

Grizzly came running back with his head in the trap, all bloody and crazed with pain — "Hideously so," Natalie said.

"There's nothing I could have done to get it off of him," said Tony.

It wasn't easy but the Lazenbys were able to get the dog into the house and secured in their room.

"Our bedroom looked like a crime scene," Natalie said.

Frantic and unsure what to do, they made a flurry of frustrating phone calls before finally getting some help.

Grizzly was still alive when two animal control officers arrived. They wrapped the dog in a blanket and took him to Pet Emergency on Lake Otis. By the time the dog got into the emergency room he was dead.

Afterward, the officers returned to the house, and the police showed up. They followed the dogs' tracks through the snow to a neighbor's house, where they found a bucket on the porch baited with meat, Tony Lazenby said.

It was a plastic bucket with some grooves cut into it," he said. "That would hold the trap open with the bait inside. When an animal would put its head in to get the bait, it would trigger the trap.

"It was fresh snow so you could see the area where Grizzly was spinning around trying to shake it off."

The neighbor was not home at the time, and the Lazenbys have not contacted him.

"It's been tempting," Natalie Lazenby said. "But we're respecting the investigation."

"What if it had been a kid?" Tony Lazenby said. "It's just perplexing to me."

SAD AND MAD

The Lazenbys got Grizzly four years ago as an unexpected Christmas present from Tony's mother.

"They get such a bad rap, the breed," Natalie said. "We really wrestled with whether to keep him.

"We're so glad we did because he was such an exceptional animal. I don't think he even knew he was a dog, let alone a Rottweiler. He was just a perfectly little child in a doggie suit. I could leave a side of beef thawing in the kitchen and he wouldn't dream of touching it.

"My mom called him her grand pup. He was just so dearly loved."

Grizzly's gruesome death has stunned the neighborhood.

"I just can't get over it," said Ruby Stratton, owner of Grizzly's playmate Mid. "He didn't bother anybody. Not at all.

"It could have been my dog," she said. "They were together that morning."

Yes, the Lazenbys admit: Grizzly was off leash.

"But he wasn't unsupervised," Natalie Lazenby said. "He wasn't running amok."

"I'm thinking he wouldn't have gone to the neighbor's if he hadn't smelled the bait," Tony Lazenby said.

Neighbor Lily Doss-Puder called the Lazenbys "highly responsible" dog owners.

"Tony always took care of that dog," she said. "He was always watching him. That dog was on his radar 24-7."

Doss-Puder loved Grizzly and so did her 3-year-old son. The two played together a lot.

"You'd walk up to the dog and he would just start jumping on you and kissing your face," she said. "Dog-licks all the time. Just the friendliest dog ever. My son just fell in love with him. I mean, I loved that dog myself, but he grew up with that dog practically.

"We're all shocked about it and saddened and mad. We're going to all miss Grizzly."

Find Debra McKinney online at adn.com/contact/dmckinney or call 257-4465.

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Trappers, dogs clash on trails

Brian O'Connor Jan 17, 2015



PALMER — Despite years of review, borough animal ordinances amended Jan. 6 have left

unresolved what users of local trails see as a major issue: dogs that become entangled in traps set for wild fur-bearing animals.

Proposed amendments to Chapter 24 of borough code had included sections pertaining to dogs and traps. However, those were removed after borough attorney Nick Spiropoulos expressed concerns about potentially infringing on state authority, according to several people familiar with the issue.

On one side, fur trappers worry that what they say are the unethical actions of a minority of trappers who trespass or place traps close to hiking trails will give their pastime a public black eye. Dog owners who say their best friends have lost limbs and lives in snares placed on private property and too close to hiking trails say regulation is necessary to prevent further dog injuries.

Officials with the Alaska Department of Fish and Game say they aren't sure how many times and under what circumstances dogs encounter snares. That's in part because the agencies they report to can range from Alaska Wildlife Troopers to local police to none at all, according to Todd Rinaldi, an Area Wildlife Biologist with Fish and Game.

"In the excitement and anxiousness of the moment, people are putting their pet as the big priority, and not knowing who to turn to to report these issues," he said.

A booklet containing regulations handed out by the state contains guidelines for minimizing the effects of traps on other users, Rinaldi said. Guidelines include avoiding high-use recreational areas, homes or trails frequently used by hikers, Rinaldi said.

"The interesting conundrum here is trapping is legal in these areas right now, however, off-leash dogs are illegal," he said.

Trappers who set foot on private property without permission are trespassing, and should be referred to law enforcement, Rinaldi said.

Trappers say their particular form of public use is controversial, but equally legitimate to other forms of popular public land use. No trapper is trying to catch a dog, said Earl Bragg, an officer with the Alaska Frontier Trappers Association, a local chapter of the statewide

Alaska Trappers Association.

“If somebody’s dog gets caught in a snare, we look bad,” he said. “It’s automatically our fault.”

The Association’s position, which contributed to the removal of the trapping section from the amendment to borough ordinance, is aggressively pro-trapping in part because trappers face a lack of understanding from a minority of people, Bragg said.

“The way we look at it, 10 percent of the people are anti-trapping,” he said. “It doesn’t matter whether it’s wildlife management or recreation.”

Bragg said trapping is a necessary part of responsible wildlife stewardship.

“It maintains a healthy ecosystem,” he said. “On a winter like this, nothing’s going to freeze to death.”

Both associations try to educate people about responsible trapping, and responsible users adhere to the ethical guidelines, Bragg added. That includes placing traps 25 yards or more from trailheads, and educating the public on how to open traps in the event that limbs — dog or human — become trapped or ensnared, Bragg said.

“That’s how we do it,” he said. “We don’t need regulations saying you can’t do this. We’re doing wildlife management.”

In addition, irresponsible dog owners who let their dogs roam bear at least some portion of the responsibility for their dogs’ injuries, Bragg added.

“We’re legal, you’re not,” he said.

Those words likely come as little comfort to some local residents. A flurry of incidents early in 2013 document at least two dogs becoming ensnared in and around the Settler’s Bay neighborhood, and one dog was reportedly shot and dumped in a lake after becoming entangled in a snare set on private property, according to letters sent to the Frontiersman at the time.

More recent reports are hard to come by, in part because dog owners are afraid to speak up, said Lynn Mitchell, co-founder of the Alaska Safe Trails group, which intends to address the issue.

“It’s really a public safety issue,” she said. “These traps, they’re like little landmines hidden on our property.”

The disparate locations where unethical traps are found, including incidents on the property of Houston High School, point to endemic abuses on the part of trappers requiring regulation, Mitchell said. She’s seen animals left in traps for weeks at a time, starving to the point where birds were pecking at them, and passersby have had to step in and perform mercy killings. Animals are sometimes left to starve in plain view of children and the elderly, Mitchell said.

“I know I’m being provocative here, but somebody has to,” she said.

Mitchell also disputes the borough’s interpretation of state code, and says the borough assembly could address the issue, if it had the political will to do so.

“Kenai borough and Fairbanks borough regulate this activity,” she said. “It’s not like we’re trying to ban trapping. We’re just trying to get them to do what they’re telling each other they should do.”

The Willow Dog Musher’s Association is also seeking opinions on the issue, according to secretary Jamie Wright. Dog mushers out practicing often encounter pet owners frantic about dogs who have become ensnared, though it usually doesn’t become a problem for the teams themselves, unless one of the dogs breaks free, Wright said.

“I’m trying to be part of the educational process as far as forwarding the warnings to people I know,” she said. “It’s really beyond most people to recognize that there may be a trap in that vacant lot across the street. It doesn’t have to be tagged. It’s just silently there and the potential is there.”

Specific stories about dogs suspected to have been snared can be found at alaskasafetrails.org (<http://alaskasafetrails.org>). Educational materials about responsible trapping can be found online at akfrontiertrappers.com (<http://akfrontiertrappers.com>), alaskatrappers.org (<http://alaskatrappers.org>) or adfg.alaska.gov (<http://adfg.alaska.gov>).

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Oct 6, 2015

Trapping case concludes in court, sparks legislative effort

Mar 29, 2014

PALMER — A high-profile lawsuit over trapping in the Mat-Su's core area has reached a conclusion, but possible legislative changes to trespassing rules are still underway.

According to court documents, the story begins Nov. 10, 2013, with Nicolene Jordan, who for 21 years has operated a gravel pit with her husband, Mark Loomison, on a homestead that was once a potato farm near Colony High School.

That day, she spotted a vehicle near the pit's entrance. Loomis later investigated and found at least 38 traps with associated bait, including a moose calf carcass and severed moose heads.

Turns out, the traps belonged to two men, Rick Craig Ellis and John Cyr. Ellis is active in the trapping community and a member of the Alaska Frontier Trappers Association. Cyr is an Alaska Wildlife Trooper.

Though they were on private property, authorities said they weren't breaking the law, which allows for trapping on private land unless no trespassing notices are clearly posted at every possible entrance to a property.

So, the case wound up in Superior Court in Palmer, where on March 10, it was officially closed.

"The defendants, by and through their attorneys, ... hereby offer in settlement of all legal claims and remedies to allow entry of an order trespassing defendants from subject property and an order that defendants be enjoined from trapping activities on subject property," court documents state.

In other words, as long as Cyr and Ellis don't set foot on the property again or trap there, Jordan and Loomis are satisfied. They also handed over a \$250 check to reimburse Loomis and Jordan for the cost of the court case, a photocopy of which was included in the court file.

Meanwhile, in Juneau, Sen. Bert Stedman, R-Sitka, has sponsored a bill changing state trespassing laws.

The bill is a relatively short one, just two sentences long. It cuts out a piece of Alaska statutes that carved out a right for people to remain on "apparently unused land" that isn't fenced or enclosed or posted with notices 144 square inches or larger, written in English at each access point to the property.

Stedman has said his bill was in reaction to this Valley case.

"As a landowner, you have the right to regulate activities on your property. However, in Alaska, current state law gives a person the privilege to enter and remain on unimproved or apparently unused land that isn't posted with 'no trespassing' signs," Stedman writes in his sponsor's statement of the bill. "Furthermore, a sign must be placed at each roadway or access point onto the property. Many Alaskans own private property in remote locations with inclement weather. No trespassing signs can be blown down, removed by vandals or covered by snow. The lack of visible signage should not absolve trespassers of guilt."

The bill has a counterpart in the House of Representatives and, as of late last week, had made it out of the Senate Judiciary Committee.

Contact Andrew Wellner at 352-2270 or andrew.wellner@frontiersman.com (<mailto:andrew.wellner@frontiersman.com>).

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Posted March 14, 2015 10:05 pm - Updated March 15, 2015 10:30 am

By Rashah McChesney (/authors/rashah-mcchesney)

Peninsula Clarion

Trapping, recreation collide in Cooper Landing

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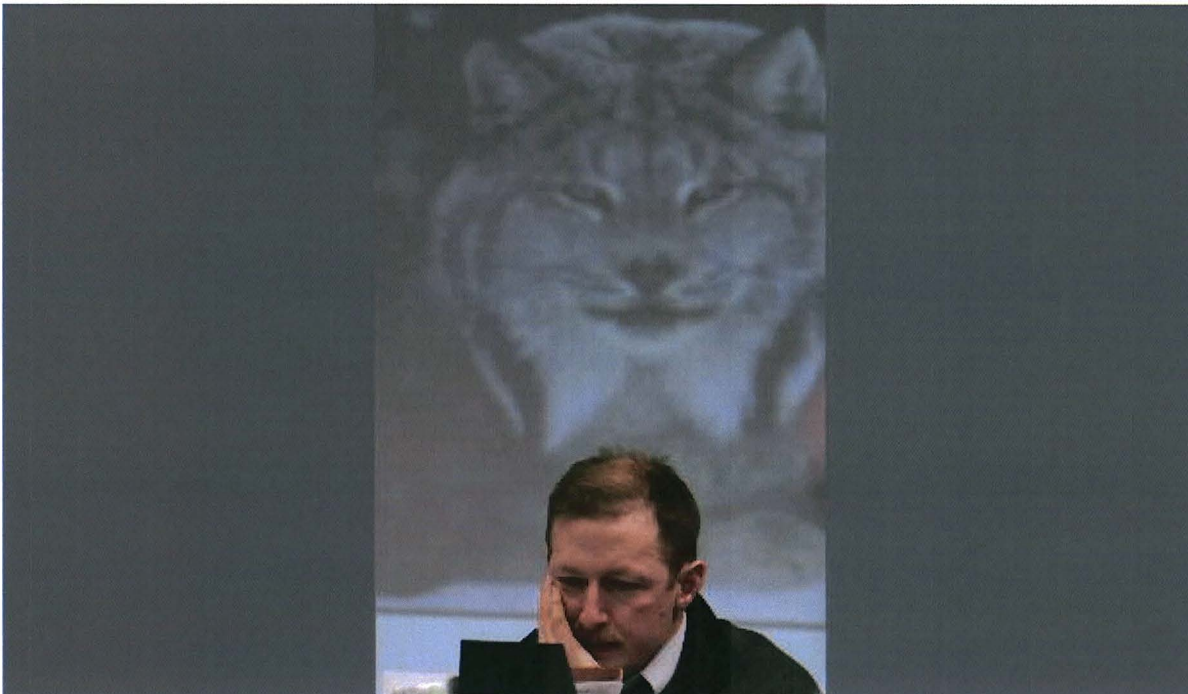


Photo by Rashah McChesney/Peninsula Clarion Nate Turner, vice-chairman of the Board of Game, listens to a presentation on lynx tracking in Southcentral Alaska on Friday, March 13, 2015 in Anchorage, Alaska.

Three communities on the Kenai Peninsula have become the center of a battle between residents who want their dogs to be able to roam free on trails and roads and others who want to spend a few months in the winter trapping for fur and food.

During the second day of the Alaska Board of Game meeting on game issues in the Southcentral Region of the state, the board heard testimony on two proposals would restrict trapping near trails and campgrounds in Cooper Landing, Seward and Moose Pass. The restrictions would include a prohibition on most trapping within 250 feet of any road that leads to a public or private property and the boundaries of all the private properties. This would include trapping near high-volume campgrounds and trails such as the Resurrection Pass Trail, the Lower Russian Lake Trail, Crescent Creek Campground, the Russian River Campground, Kenai Lake beaches and a slew of trails near Seward.

During public testimony, advocates of the proposals said they fear that their animals will be injured and they want legal restrictions on where traps can be set. Opponents testified that legal restrictions were unnecessary and that trappers shouldn't entirely bear the burden of restriction as some irresponsible dog owners contributed the problem.

"So many of our members are dog owners that we understand their side of it," said Alaska Trappers Association President Randall Zarnke. "We don't want to catch dogs for a lot of reasons, most of which is that we don't want to hurt the dogs. (But) we also don't want to create a black eye (for ourselves)."

Zarnke said both dog walkers and trappers have a right to use the land and in many areas of the states, it's common knowledge that traps will be out during the winter months.

"We're not saying that people shouldn't walk their dogs in the winter, but they have 8 months of the year when we cannot trap, so there are no traps out in the woods and (they) can't give us the time that we've traditionally had to do our activity?" he said.

Ken Green, who spoke for a group called the Committee for Safe Public Lands and Trails in Cooper Landing, submitted both proposals to the Board of Game. Green said his group was primarily interested in developing a working relationship with the Alaska Trappers Association and putting regulations in place that would require all user groups to work together.

"None of us really have the authority to make these kinds of informal, almost under-the-table type of agreements because nobody knows who is going to be around," Green said. "What we need is a structure ... some kind of a framework. Then we can bargain with what are going to be the best areas to close for trapping in certain areas like campgrounds."

Green and Zarnke have met before — but the discrepancy between their characterization of those meetings, and subsequent events, indicates a breakdown in communications between the two groups.

Green told board members during his testimony that his group has tried unsuccessfully to negotiate with the Alaska Trapper's Association.

"They decided that if we don't withdraw our proposal completely, just withdraw it, they had nothing to talk to us about," Green said.

Zarnke disagreed with Green's assertion. He said the Alaska Trappers Association had tried several times to propose a solution that would require mutual cooperation between dog owners and trappers. One that, he said, has worked well in Fairbanks.

"We developed a program ... we've designated a couple of areas outside of the city limits, on opposite sides of the city and on that there are signs posted that say 'We the Alaska Trappers Association recommend that there be no trapping in this area.' As you leave the area there's a sign — not from us — that says 'We hope you enjoyed your time with your pet, we remind you of the borough's leash law and recommend that you adhere to it outside of the boundaries of this area.' It's mutual because both sides are recommending things to their own users."

Despite the breakdown in communication, the Alaska Trappers Association in February posted several signs along highly trafficked areas in Cooper Landing, warning trappers to avoid conflict by not trapping near trails, turnouts and other populated areas. The signs also caution pet owners to be responsible for their pets and avoid going off-leash.

Green said those signs were appreciated, but didn't do enough to resolve the issue.

For residents on both sides, the issue is deeply personal.

Green said two of his three dogs have been caught in traps as he walked with them on a beach in Cooper Landing.

"I was lucky because I was there at the moment to step in and pull them out," he said. "The first one was a small trap, the second one was a snare and that was really worrying because the dog was under a tree ... right on the beach and it had pulled the snare so tight that I could barely get it off."

Cooper Landing musher, Robert Bear, told the Alaska Dispatch News that he had been mushing a team when one of his dogs got wind of a scented trap, veered toward it and got caught. Two others of his dogs chewed through their lines on Snug Harbor Road — a road

along the south shore of Kenai Lake — and got caught in the traps. One lost a foot and the other a leg.

Green said the number of reports that he has heard of dogs getting caught in traps has risen in the last five years. As the population grows, Green said there will likely be more recreational usage of the trails on the Kenai Peninsula.

“We know, and most everyone else knows, that things on the Kenai Peninsula are changing a little bit and Cooper Landing is a really hot spot for that change,” he said. “We have to have regulations, whether we want them or not.”

Dianne MacLean, President of the Kenai Peninsula Trapper’s Association, she felt the proposals would cover a broad area of land on the central Kenai Peninsula and make trapping burdensome for all but the most fit trappers.

“(The trapper’s association) feel that this seeks to impact much more than just those local community areas,” she said during her testimony. “It just goes far beyond what we would have expected... the area that they’re talking about — 250 feet on either side of the trail — is almost 2 football fields for unleashed dogs to run. We’re not sure that’s really a reasonable thing to expect. That, with some of the restrictions that we already have on the peninsula ... it’s just getting harder and harder for people to really spend much time trapping and that runs the risk of trapping disappearing one day.”

Reach Rashah McChesney at rashah.mcchesney@peninsulaclarion.com.

Alaska’s Board of Game will meet through March 17 to consider proposals on areas in the Southcentral region of the state. For more information on proposals and to listen in on the meeting vist: bit.ly/BoardofGame (bit.ly/BoardofGame)



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Traps and pets don't mix

By Angie Lewis Mar 28, 2015

There are endless horror stories of dogs being caught in traps as they are out for a walk with their guardians on public lands in the Mat-Su Borough or at local schools. It seems that trappers are more highly regarded by our borough officials than are walkers, people harvesting plant life, people training dogs, dog mushers, skiers, joggers, or cyclists. This one user group — trappers — is effectively controlling how our public lands are used.

These proponents of trapping on the trail systems of the Mat-Su Borough are quick to refer to the leash laws and how dog guardians are breaking the law when their dogs are off leash. Many responsible dog guardians only allow their dogs to be off leash when they are in the middle of the woods, allowing their dogs to enjoy the freedom that is in the nature of a dog. Other dog guardians are involved in training their dogs to hunt or to take part in search and rescue trainings. Why is it that the rights of the trappers supersede the rights of all the other residents who enjoy our public trails?

Trappers who set their traps close to the trails or near schools need to be stopped. There should be no trapping allowed on public trails. Alaska has ample land available to individuals who wish to trap — areas that are frequented for recreational use should be safe for all participants.

A couple of years ago, I was walking my dog on a trail quite close to a residential area, when I heard the jaws of a trap shut loudly. I had never heard a trap before, but there was no doubt in my mind that it was in fact a trap. Its jaws had closed on my dog's pad, luckily missing the remainder of his foot. He was less than 10 feet off the trail. That is how close the trap was set.

On a walk in the woods today, with my dog, I realized how many times I walked off the designated trail. There were so many huge water puddles, that I needed to go into the woods to walk safely. But I really wasn't safe, nor was my dog. I spent so much time worrying about

traps that my walk was no longer enjoyable or relaxing. Trapping on heavily used trails needs to be eliminated.

These public trails and school grounds should be safe for all users and not just to provide convenience to trappers. It is only a matter of time before a child, frolicking in the woods, is injured by a trap. Let's not wait until then!

Angie Lewis is president of Alaska Animal Advocates.

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Sep 28, 2015

Outdoors/Adventure

Traps or snares that injure, kill off-leash pets concern Mat-Su dog owners

✍ Author: **Lisa Maloney** ⌚ Updated: June 30, 2016 📅 Published February 3, 2015

In late November of last year, Jim Maddry and a training partner, both members of the Matanuska Valley's MAT+SAR K9 search and rescue dog unit, had their dogs out on an exercise in one of their frequent training areas: the woods near the Menard Sports Center in Wasilla. As they turned off the trail on a shortcut back to their vehicles, they noticed one of Maddry's dogs, Piper, was missing.

"We called out and heard a yap," Maddry said later over the phone. Only with the help of the other dogs could they find Piper, who is pitch black, trapped in the shadows under a spruce tree with a snare around her neck. "She couldn't bark anymore, she couldn't yap," Maddry said. "I tried to undo the snare but it was so tight -- you have to tighten down to release it, and I was afraid of breaking her neck."

Maddry carries cable cutters for just such a situation. With them, he was able to cut the snare off Piper. When his other dog, Yukon, got several toes caught in a spring trap near where Piper had been snared, Maddry was able to set him free too. Both dogs were ultimately okay. "I was amazed -- they were like, no big deal," Maddry said. "I was the one that was traumatized."

Not all dog-trap encounters in the Mat-Su area end so well. When I called area veterinarians, estimates of how frequently they see dogs with injuries from traps ranged from one every few years to five or six a year at Big Lake-Susitna Veterinary Hospital.

Dr. Adriana Fisher of Big Lake-Susitna Veterinary Hospital described the injuries that can result. "The Conibear [body hold] traps are pretty much fatal," she said. Even a short stay in a leg-hold trap can result in what Fisher described as "pretty intense flesh wounds" down to the bone, requiring weeks of sedation-assisted bandage changes to heal properly. If a dog is caught in a leg-hold trap for long, the loss of circulation to the trapped limb can result in amputation. A snare around a limb can result in amputation for the same reason -- or death if it's around the neck.

Conflict as population booms

The Alaska Safe Trails website is peppered with a handful of stories about dogs caught in traps that, while technically legal like the traps that caught Maddry's dogs, were set near areas frequented by walkers, skiers

and cyclists with their dogs and children. In one of the reported cases, a retired sled dog lost a leg to a snare near the Houston school trails.

"It truly is incompatible to have that kind of activity right next to the trails. It isn't what the trails were designed for," said Lynn Mitchell, the Mat-Su accountant who founded Alaska Safe Trails in response to reports like those featured on the website.

Alaska Safe Trails just began circulating a petition in hopes of generating public support to prohibit trapping in a few specific areas: The Crevasse-Moraine trail system, the Government Peak recreational trail system, and Borough core area schools. Mitchell said the petition had about 100 signatures in two or three days, and that people were uniformly surprised to find that there are currently no rules against trapping in those areas.

Legal traps, illegal dogs

Separating trapping from high-use recreational areas might seem like an easy fix, but there are a few tangles just below the surface. The first is that the borough has a leash law just as Anchorage does, even if it's not frequently enforced. So while the traps that dogs are getting caught in may be legal, the dogs getting caught in them aren't -- with the exception of those participating in an organized activity like Maddry's training exercise.

"Just as a trapper being questioned of their ethics, one could think the same of the owner who allows their dogs to run off leash or get out of their enclosures (which is illegal)," wrote Al Spencer, president of the Southcentral-based Alaska Frontier Trappers Association, in an email.

But legal or not, many dog owners love giving their pets freedom, just as trappers love having the freedom to place their traps. "The combination of new or young trappers and people ignoring the leash law is a recipe for problems," said Pete Buist, past president and spokesman of the statewide Alaska Trappers Association, in a phone interview. "Occasionally you get older or more-experienced folks that trap close to town, but usually that's not the case."

Policing their own?

The second tangle is determining who actually has the authority to ban traps set on borough lands, and how. Trapping falls under the legal purview of Alaska's Board of Game, but municipal governments do have some indirect control -- if they can walk the tightrope of exercising their power in a way that's not pre-empted by state law. The Mat-Su Borough attorney's office recommended against a proposed 2013 ordinance to limit trapping for exactly that reason.

In several cases, the Alaska Trappers Association has stepped in to negotiate a resolution between trappers and other user groups. "We feel it's better to work out a cooperative agreement, rather than to force the issue through via ordinance," said Buist in an email. "We realize that a municipality can close lands OWNED by said municipality to some activities, but the normal tendency of municipal governments in the heat of public outcry is to try and restrict trapping on all sorts of land."

But Alaska Safe Trails isn't asking, and the Alaska Trappers Association isn't offering to broker a solution in this case. "We're not even saying we're trying to ban trapping. Why should we even have to ask for [these restrictions]? It's so logical," said Mitchell in a phone call.

Mitchell says that Alaska Safe Trails is trying to work through local government because the organization is asking for very narrow, specific restrictions. But in a phone call Ken Marsh, information officer with the state's Division of Wildlife Conservation, pointed out that anybody can present a proposal to the Board of Game to adjust trapping regulations in the Mat-Su Borough or anywhere else in the state.

The Game Board will be holding its Central/Southwest Region meeting at Wasilla's Lake Lucille Inn Feb. 13-Feb. 20. The deadline for lodging a comment has already passed, but they will be accepting public testimony and trapping is expected to come up as an issue.

Protecting your dog

What about protecting your dog now? Keeping him on a leash is definitely the best bet for his safety and yours. "[The leash law] is not to keep your dog out of a trap, although it will," said Hugh Leslie, recreation and library services manager for the borough. He and Marsh pointed out that the leash law also protects dogs from a number of other hazards: Being hit by a cyclist or snowmachiner, stalked by coyotes or wolves, or charging back to you with an angry mama moose or bear in tow -- all of which have happened in Southcentral Alaska.

If you do run your dogs off-leash or let them explore off-trail on a long leash, you can take a page out of Maddy's book and carry cable cutters to increase your chances of quickly rescuing them from a trap or snare. You can also watch a series of videos on the Alaska Department of Fish and Game website that show how to release your dog from several types of traps, along with common signs that you might be on a trapline. Search for "sharing the trails" to find this information, along with a downloadable brochure.

Finally, I contacted the Alaska State Troopers to find out if releasing your own pet from a trap could incur any sort of legal liability. Capt. Bernard Chastain, operations commander for the Alaska Wildlife Troopers, said that it does not. But springing other traps can expose you to legal action. If you see a trap that you believe is illegally set or poses a public safety hazard, the best thing to do is call the troopers.

"We get phone calls all the time," Chastain said over the phone. "We'd be glad to go out and check to make sure those [traps] are set in a legal location and not something that's going to cause a public safety hazard for everybody."

Anchorage freelance writer Lisa Maloney reported on *Alaska Search and Rescue dogs* in October. Reach her at lisa@maloneywrites.com.

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Untrapping can save a pet's life: Opening trap can mean life or death

Posted: Friday, December 04, 2009

By Story by Joseph Robertia

As was illustrated by the recent incident involving musher Jane Faulkner's dog being caught in a trap (Peninsula Clarion, Dec. 2), it is important for more than just those pursuing furbearers to know how to operate the tools of the trade.

- Photos

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Using a Conibear brand trap and a coyote pelt, Rob Massengill of the Alaska Department of Fish and Game demonstrates one technique for getting a pet out of a trap:

The Soldotna Community Schools Program, Alaska Department of Fish and Game, and the Kenai Peninsula Trapper's Association will host a trapping and snaring clinic from 9 a.m. to 3 p.m. Saturday at the Soldotna Sports Center.

Reduction of user group conflicts and instruction in safe and ethical trapping methods are the primary goals of this clinic.

"The non-trapping public and youth interested in trapping are encouraged to attend," said Larry Lewis, a wildlife technician with Fish and Game. "Morning sessions are geared towards instruction for those with little or no trapping experience."

Lewis said these sessions will focus on an introduction to trapping, understanding the regulations, how to release your pet from a trap or snare if accidentally caught, and ways to recognize and avoid a trap line while engaged in other recreational activities.

There will also be emphasis on mentoring youth and making trapping a family activity, and tips from the experts on trapping methods for furbearers, fur handling and sewing. Afternoon sessions will include more advanced snaring and trapping topics, such as lynx trapping methods and break-away snare building.

Lewis said for pet owners, being prepared for the unthinkable could be the best way to save a pet's life, which is why this class is invaluable.

"It's good to practice this before you need to do it," he said.

Faulkner's case illustrated this point. She was well-versed on how to open the body-gripper type trap -- a Conibear 330 -- that her dog was caught in, but still ended up having to use bolt cutters to free her pet.

Lewis said the key is not to try to free a caught pet by trying to pry open the jaws of the trap -- which slam shut with 90 pounds of pressure and typically crush the spinal cord, vertebrae or trachea of the animal inside.

"Prying on the jaws is worthless," he said. "The key is to compress the springs, and secure them with the safety catch."

Those with incredibly strong hands may be able to do this by themselves or with a partner, but Lewis said the best way to compress the springs is to always carry a length of rope that can be used to cinch the springs down.

"It's a leverage device to help hold the springs while compressing them," he said. Lewis used a length of roughly pencil-thin rope, roughly 6 to 7 feet long, with a loop on the end from an overhand bow knot. He said a dog leash, shoelace or belt could also serve as a leverage device in an emergency situation.

The rope is run through the top loop, or eyes, of the spring, where it meets the jaws on the side of the trap. This rope is then run through the bottom loop, then back through the top loop again.

"It doesn't take much to pull up the line," Lewis said. "You pull and take up the rope until the sides of the springs meet or are close enough to secure the safety catch. Then you do the same thing with the spring on the other side."

Another option, which can be even quicker, but doesn't stabilize the injured animal's neck as well, involves putting the looped end of the rope around the pet owner's foot as an anchor.

Then, the rope is run through both loops of the spring, then back through the loop closest to the foot. The pet owners can then, while standing on the chain of the trap, pull up on the rope to compress the springs (see photos).

Lewis said pet owners who find their dog in the situation of being caught in a trap should also remember to do their best to make sure the pet has an open airway, and stabilize the dog before, and while, attempting to open the trap.

"You don't want to add to the situation or complicate it by having it get a worse neck injury," he said.

This may mean holding the animal down or even sitting on it to restrain it, and covering its muzzle with a jacket or tying its jaws closed to ensure it doesn't bite since the animal will be scared and in pain if still alive.

Lewis also recommended that those who doubt they could effectively open a trap by hand or in the manner described could purchase a tool called a trap setter/opener -- a large pliers-like device.

"They're good to have on hand," Lewis said, "and they typically only cost around \$10."

Regardless of the tactics and tools available, freeing a trapped pet before it suffocates is still a tall task Lewis said, but one most pet owners would agree is still worth attempting.

"It's kind of like CPR," he said. "The basic premise is the victim is going to die anyway, so you just do what you can do."

Admission is free to this weekend's clinic and no registration is necessary. For more information, call the Alaska Department of Fish and Game at 262-9368.

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