



NORTHWEST ARCTIC BOROUGH INSTRUCTIONS FOR TITLE 9 PERMIT APPLICATION

The Northwest Arctic Borough (NAB) is a permitting agency at the local or borough level. The borough exercises land use planning and related zoning powers under the terms of state law and the borough home rule charter. This is codified under Title 9 and available for reference on the web at <http://codepublishing.com/ak/nwarccticborough.html>. Title 9 provides the NAB with the authority to guide, control, regulate and/or preclude future development of land within the borough in accordance with the land use policies stated in Title 9 and the NAB Comprehensive Plan.

Title 9 permit applications are due before any land use activity, and applications are available online at www.nwabor.org. Borough permits are required in addition to any applicable State of Alaska, U.S. Corp of Engineers, EPA, and other state/federal permits. The borough permitting process promotes and protects the public health, safety, morals and general welfare, as well as the historic, economic, social and cultural interests of the borough's residents, particularly as these are related to the subsistence way of life of the great majority of the borough residents.

The geographic scope is defined in borough code 9.04.030 and includes lands within the Borough/NANA Region including the areas surrounding the following communities: Ambler, Buckland, Candle, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, and Shungnak.

The borough uses a local application review system for processing land use/zoning permits. The land use/zoning implementation is coordinated by the Planning Department, and if you need assistance or have any questions on the permit process please contact:

Northwest Arctic Borough Planning Department

Permits/Applications for:

- Mining, Prospecting, Resource Development and Exploration: *Deputy Director of Planning*
- Commercial Transporter, Guide and/or Air Taxi permits/applications: *Land Specialist*
- Community Development and all other permits/applications including Gravel, Roads and Housing: *Community Development and Flood Program Specialist*

Mail: P.O. Box 1110, Kotzebue, Alaska 99752

Physical Address: 163 Lagoon Street, Kotzebue, Alaska 99752

Phone: (907) 442-2500 or Toll Free at 1-800-478-1110

Fax: (907) 442-2930

Internet/Web: www.nwabor.org

Title 9 exempts certain land uses from its requirements – please use the Title application for a determination including if an existing use is a “nonconformity” under Title 9. Determinations will be declared by the NAB in writing.

The following are uses not requiring a zoning permit:

- Subsistence - hunting, whaling, fishing, trapping, camping, food gathering, and other activities performed in support of the cultural or nutritional needs of the residents of the borough.
- Sale, lease, or transfer of title to land.
- Commercial fishing.
- General land management activities (surveying, property inspection, securing property, etc.).

The Six Districts

For purposes of Title 9, the borough land area is designated into six districts described below. Each district has different considerations based on the needs of the area within the district. The borough planning department maintains the official zoning district map, which is a part of Title 9.

Village (V) District includes each village in the borough except Kotzebue (note – the City of Kotzebue has been delegated planning powers for activities within the city limits). This district is intended to reinforce traditional values and lifestyles; are in accord with the borough and village comprehensive plans; are in accord with the desires of the residents of the village; protect or enhance the health and general well-being of village residents; and facilitate commercial development of gravel sources.

Subsistence Conservation (SC) District is intended to conserve the natural environment upon which the borough residents depend for subsistence. The district includes areas that are used regularly for subsistence harvest; are intended to conserve the natural ecosystem for all the various plants and animals upon which borough residents depend for subsistence; and promote access to those resources for subsistence purposes.

In addition to areas zoned as the SC district, the following sub-districts are established as priority subsistence resource areas due to the sensitivity of the area and/or high subsistence use. The boundaries of the sub-districts, other than the Pah River subsistence conservation sub-district, are depicted on the zoning district map.

1. Sisualik Spit subsistence conservation sub-district.
2. Cape Krusenstern subsistence conservation sub-district.
3. Kobuk-Selawik Lakes subsistence conservation sub-district.
4. Cape Espenberg/Goodhope River subsistence conservation sub-district.
5. Kobuk River Delta subsistence conservation sub-district.
6. Selawik River Delta subsistence conservation sub-district.

7. Salmon River subsistence conservation sub-district.
8. Selawik-Hunt-Redstone Rivers subsistence conservation sub-district.
9. Maniilaq River-Ambler Lowlands subsistence conservation sub-district.
10. Inmachuk River subsistence conservation sub-district.
11. Buckland River subsistence conservation sub-district.
12. North Fork-Squirrel-Omar River subsistence conservation sub-district.
13. Kivalina Coast subsistence conservation sub-district.
14. Onion Portage subsistence conservation sub-district.
15. Eschschoitz Bay subsistence conservation sub-district.
16. Elephant Point/Choris Peninsula subsistence conservation sub-district.
17. Upper Kivalina River subsistence conservation sub-district.
18. Pah River subsistence conservation sub-district includes all of Township 16 North, Range 13 East, Kateel River Meridian, including the confluence of the Pah and Kobuk Rivers and extending south to include the area where the Pah River and its tributaries flow to and including the Pah River Flats.

Habitat Conservation (HC) District is intended to encompass areas of the borough that provide habitat essential for the maintenance of subsistence species and have high importance to borough residents for subsistence resources. These areas are not appropriate for development activities. The HC district is intended to ensure that such areas are protected from development and to protect the health, social, and cultural well-being of borough residents. These areas may include denning, calving, feeding, molting, brooding, migrating, fish habitat, whale resting and feeding areas and other areas that are critical to subsistence resources. Subsistence activities may be conducted in the HC district without a permit. Uses and activities will only be allowed in these areas if it is determined they will not interfere or conflict with subsistence uses or the maintenance of the habitat functions related to the productivity of the habitat.

General Conservation (GC) District is intended to encompass the undeveloped areas of the borough outside the boundaries of the other districts. The general conservation district is intended to conserve the natural ecosystem for all the various plants and animals used for subsistence.

Resource Development (RD) District is intended to address the individual and cumulative effects of major developments and to offer developers efficient and predictable permit approvals. The purpose of the RD district is to accommodate major development projects and major resource extraction including mineral development, oil and gas development, and similar activities.

Transportation Corridor (TC) District is intended to provide a strip of land or body of water to accommodate linear transportation facilities such as roads, railroads, pipelines, and barge and ship activities. The TC district provides an area for development associated with the use of a transportation corridor, and within this corridor is intended to minimize the negative effects of the transportation corridor (such as increased access and effects on fish and wildlife), accommodate industrial development and enhance economic opportunities for residents of the borough, with provisions made for all necessary public and private facilities associated with the

proposed transportation corridor.

Four Types of NAB Permits

Consistent with the purposes of the particular zoning district, land use activities may be allowed under one of four types of NAB permits. Note: large scale projects may require rezoning and a master plan.

1. **Minor Use Approval** - Decided by the *Administrator* without public comment.
2. **Major Use Permit** - Decided by the *Administrator* only after notice *and* public comment.
3. **Conditional Use (CU) Permit** - Decided by the *Planning Commission* only after notice *and* public hearing.
4. **Master Plan (MP) Permit** – Generally for large scale projects in the Resource Development and Transportation Corridor Districts, a master plan is to be approved by the *Planning Commission* only after notice *and* public hearing.

Rezoning - For large scale projects located outside the Resource Development and Transportation Corridor Districts, rezoning must be approved by the *Planning Commission* as well as a master plan.

THE FOLLOWING CHART SHOWS THE TYPE OF PERMIT REQUIRED WITHIN EACH DISTRICT FOR VARIOUS USES.

Uses	Districts					
	V	SC	HC	GC	RD	TC
Airports – state maintained	MAJ	CU	N/A	MAJ	MP/ MAJ	MP/MIN
Airstrips – temporary use	MIN	MAJ	N/A	MAJ	MP/MIN	MP/MIN
Archaeological excavation	MAJ	MAJ	CU	MAJ	MP/ MAJ	MP/ MAJ
Archaeological surveys	MIN	MAJ	MAJ	MIN	MP/MIN	MP/MIN
Bulk fuel – movement for village needs	EX	MAJ	N/A	MIN	MP/MIN	MP/MIN
Bulk fuel – storage	MAJ	CU	N/A	CU	MP/ MIN	MP/ MIN
Child care facility	MIN	MIN	N/A	MIN	MP/MIN	N/A
Churches	MIN	MIN	N/A	MIN	MP/MIN	N/A
Commercial – miscellaneous	MIN	MIN	MIN	MIN	MP/ MIN	MP/ MIN
Commercial recreation	MIN	MIN	CU	MIN	MP/ MIN	MP/ MIN
Communication equipment placement	MIN	MIN	MAJ	MIN	MP/MIN	MP/MIN
Commercial transporter	MIN	MIN	MIN	MIN	MIN	MIN
Construction facilities – temporary	MIN	MAJ	MAJ	MIN	MP/MIN	MP/MIN

Uses	Districts					
	V	SC	HC	GC	RD	TC
Cultural camp	MIN	MIN	MIN	MIN	MP/MIN	MP/MIN
Emergency actions under NABC 9.16.040	EX	EX	EX	EX	EX	EX
Energy facilities	CU	CU	N/A	CU	MIN/MAJ	MP/CU
Existing uses – major alterations	MIN	MIN	MIN	MIN	MP/ MIN	MP/ MIN
Existing uses – minor alterations	MIN	MIN	MIN	MIN	MP/MIN	MP/MIN
General land management functions	EX	EX	EX	EX	EX	EX
Gravel extraction	MAJ	CU	N/A	MAJ	MP/MIN	MP/MIN
Health care facility	MIN	MIN	N/A	MIN	MP/MIN	N/A
Ice roads/ice pads	MAJ	MIN	MIN	MIN	MP/MIN	MP/MIN
Landfills	CU	CU	N/A	CU	MP/MAJ	MP/CU
Major development project	CU	N/A	N/A	N/A	CU	CU
Major resource extraction	CU	MP	N/A	CU	MP/MAJ	MP/CU
Energy facilities	MP/CU	MP/CU	N/A	MP/CU	MP/MAJ	MP/CU
Master plan – approved uses	N/A	N/A	N/A	N/A	MP	MP
Mineral development	MAJ	MP	N/A	MAJ	MP/ MAJ	MP/ CU
Mineral exploration	MAJ	MAJ	MAJ	MIN	MP/ MIN	MP/ MAJ
Minor resource extraction	MIN	MAJ	CU	MAJ	MP/MIN	MP/MIN
Nonconformities (grandfather rights)	EX	EX	EX	EX	EX	EX
Off road travel–existing/approved development	EX	EX	EX	EX	EX	EX
Off road travel–new development	MIN	MAJ	MAJ	MAJ	MP/MIN	MP/MIN
Oil and gas exploration	MAJ	MAJ	CU	MIN	MP/MIN	MP/MAJ
Oil and gas development	MAJ	N/A	N/A	N/A	MP/CU	MP/CU
Placer mining	CU	MAJ	CU	MAJ	MP/MIN	MP/MIN
Prospecting	MIN	MIN	MAJ	MIN	MP/MIN	MP/MIN
Public facilities	MAJ	MIN	N/A	MIN	MP/ MIN	MP/ MIN
Recreational (no permanent construction, 10 people or less)	EX	EX	EX	EX	EX	EX
Recreation mining	EX	EX	EX	EX	EX	EX
Roads	MAJ	CU	N/A	N/A	MIN	MIN

Uses	Districts					
	V	SC	HC	GC	RD	TC
Residential – multifamily	MIN	MIN	N/A	MAJ	MP/ CU	MP/ CU
Residential – single family	EX	MIN	N/A	MIN	N/A	N/A
Schools	MAJ	N/A	N/A	N/A	N/A	N/A
Snow disposal site	EX	EX	EX	EX	MP/MIN	MP/MIN
Subsistence	EX	EX	EX	EX	EX	EX
Transfer of title, sales, leases or exchanges of land	EX	EX	EX	EX	EX	EX
Utility substation/power plants	CU	CU	N/A	CU	MP/MAJ	MP/MAJ
Water or sewer utility	MAJ	CU	N/A	CU	MP/MAJ	MP/MAJ
Warehouse or shop	MIN	MIN	N/A	MIN	MP/MIN	MP/MIN
Watershed–structures within	MAJ	MAJ	MAJ	MAJ	MP/CU	MP/CU
Wetlands fill < one acre	MIN	MAJ	N/A	MAJ	MP/MIN	MP/MIN
Wetlands fill one acre or larger	MAJ	CU	N/A	CU	MP/MIN	MP/MIN
Any use elevated under NABC 9.16.030	MAJ/ CU	MAJ/ CU	MAJ/ CU	MAJ/ CU	MAJ/CU	MAJ/CU
Other uses defined in NABC 9.04.070 not identified as a MAJ or CU	MIN	MIN	MIN	MAJ	MP/MIN	MP/MIN
Key: EX = excluded from coverage under this title N/A = not an applicable use in that particular zone MIN = minor use permit MAJ = major use permit CU = conditional use MP = master plan MP/MIN = If use is not covered in a master plan, a minor permit is needed. MP/MAJ = If use is not covered in a master plan, a major permit is needed.			MP/CU = If use is not covered in a master plan, a conditional use permit is needed. V = village district SC = subsistence conservation district HC = habitat conservation district GC = general conservation district RD = resource development district TC = transportation corridor district			

Permit Review Process

Purpose of the Permit Review Process:

Determine the location, nature and extent of the proposed use;

Determine if the proposed use is consistent with the stated policies and standards of the NAB;

Determine if the proposed use is consistent with the stated policies and standards of the zoning district in which it is located.

Potential Participants In The Permit Review Process Include:

1. You, the applicant;
2. Title 9 Administrator and Planning Department Staff;
3. Borough Planning Commission;
4. Affected local village governing body (-ies); and
5. Affected owners of more than 200 acres of land.

Project Review

The borough strives to consider all aspects of a proposed activity or project in a single permit review. To the greatest extent possible, your answers to the questions on the attached questionnaire should reflect all elements of the proposed use. **All applications for the entire project must be submitted together.**

Pre-Application Meetings

Before you settle on your final project plans and submit your application, the Borough can arrange pre-application meetings among village governing bodies, affected landowners and you to review your completed project questionnaire and/or draft plans. Pre-application meetings **can** help identify concerns, provide information, and promote a mutual understanding of your project. To arrange a pre-application meeting, please call or write the borough planning department.

Application Contents

To start the formal review process you must complete the *Title 9 Permit Application*. The permit review officially begins upon acceptance of your complete application packet by the borough. A complete application packet includes:

1. A completed and signed project questionnaire;
2. All attachments as noted in the questionnaire, including topographic maps and plan drawings;
3. Copies of any state and federal permits and/or permit applications needed for the project; and
4. Payment of fees, payable to the Northwest Arctic Borough. The fee may be reduced or waived if the applicant is a federal, state, borough or local government, or if the applicant is a natural person for whom the fee would pose an economic hardship.

Steps In The Permit Review Process

Below is an estimated timeline for the permit review process. **The deadlines listed here are approximations, you should not rely on this list but should refer to the appropriate sections of Title 9.** Deadlines may be extended upon mutual agreement between the Administrator and the applicant, or if the Administrator requests additional information from the applicant. Processing may also be delayed if there is a need for a state or federal permit. All days referred to are business days.

Steps	Minor Use	Major Use	Conditional Use	Master Plan
Filing of Application	Day 1	Day 1	Day 1	Day 1
Application Acceptance – determination by NAB if complete	Day 10	Day 15	Day 15	Day 20
Public comment period	N/A	20 Days	15-20 Days prior to a commission meeting	15-20 Days prior to a commission meeting
Public hearing	N/A	N/A	Within 5 Days of the Public Hearing	Within 5 Days of the Public Hearing
Deadline for notification of elevation	Day 10	Day 15	Day 15	N/A
Appeal period	Within 15 Days of receipt of decision	Within 15 Days of receipt of decision	Within 15 Days of receipt of decision	Within 15 Days of receipt of decision

Application Acceptance: You will be notified when your application is accepted. You will receive your project's application tracking reference number and other information. If the application is not accepted, you will be notified by the Administrator with a listing of additional information to make your application complete.

Minor Use Approvals: Within 10 business days of application acceptance, a permit application for a minor use approval will be approved or denied, and a permit may be issued. The Administrator may place reasonable conditions on the permit. Alternatively, the Administrator may elevate the review of the application to that of a Major Use Permit or Conditional Use Permit, such action must also be done within 10 business days of acceptance.

Proposed Determination for Major Use or Conditional Use Applications: For applications requesting a Major Use Permit or Conditional Use Permit, the Administrator will develop a proposed determination that will be presented to you, affected village governing bodies and landowners for review and public comments. The proposed or draft permit determination will be distributed within 10 business days of acceptance.

Comment Deadline Major Use Applications: For Major Use Permit applications, reviewing parties must return their comments to the Administrator within 20 business days of notice of the proposed determination. For Conditional Use Permit applications, comments must be received 10 business days prior to the scheduled public hearing or presented at the time of the public hearing held by the planning commission.

Public Hearing: For Conditional Use Permit applications, a public hearing will be scheduled with the Planning Commission. The public hearing must take place no sooner than 15 business days and no later than 30 business days from the date the proposed determination was distributed by the Administrator.

Elevation of Major Use Permit Application: The Administrator may elevate the review of a Major Use Permit application to that of a Conditional Use Permit. Such action must be taken within 5 business days of the close of the comment period.

Permit Decisions: Minor Use Approvals will be approved or denied within 10 days of acceptance of the application. Major Use Permits will be approved or denied within 5 business days after the close of the comment period. Conditional Use Permits will be approved or denied by the Planning Commission within 5 business days of the public hearing.

Appeal Process: If you or any aggrieved party do not agree with the permitting decision of the Administrator, you or the aggrieved party may appeal that decision to the Planning Commission, as provided in Title 9. The appeal must be made within 15 business days of the permitting decision. A decision by the Planning Commission may be appealed to the Assembly within 15 business days of the decision. The Assembly's appeal decision shall be the final determination of the borough. A decision by the Assembly may be appealed within 30 **calendar** days to the Superior Court for the State of Alaska in Kotzebue.