

Submitted by: ASSEMBLY MEMBER STARR
Assembly Vice Chair Traini
Prepared by: Assembly Counsel
For reading: May 20, 2014

**ANCHORAGE, ALASKA
AO NO. 2014-40(S)**

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY ESTABLISHING
THE EKLUTNA VILLAGE OVERLAY DISTRICT, AMENDING ANCHORAGE
MUNICIPAL CODE CHAPTER 21.10 AND THE ZONING MAP OF THE
MUNICIPALITY OF ANCHORAGE.**

WHEREAS, overlay zoning districts are provided for under Title 21;

WHEREAS, this is a zoning ordinance amendment and a rezoning action and has been referred to the Planning and Zoning Commission prior to public hearing and final action by the Assembly;

WHEREAS, the history of Eklutna Village and purpose of this ordinance allow for an overlay district recognizing the special circumstances of a federally-recognized tribal entity located within the boundaries of the Municipality of Anchorage;

WHEREAS, Dena'ina literally means "The People" interpreted as "the original people", an indigenous Athabascan population and descendants, and not all people from everywhere;

WHEREAS, the Eklutna area has significant cultural and longstanding historical value;

WHEREAS, Eklutna, Inc. is the corporate entity holding title to Alaska Native Claims Settlement Act (ANCSA) lands within the Municipality of Anchorage;

WHEREAS, the Anchorage Assembly finds Eklutna, Inc. to have an exemplary record of land stewardship and accommodation in making Eklutna land available for municipal and public purpose, including these representative examples:

- These school sites are leased to the Anchorage School District at the annual fee of \$10.00 per site:
 - Birchwood ABC
 - Chugiak High School
 - Eagle River Elementary
 - Gruening Middle School
- Significant utility, road right-of-way corridors, and land for related infrastructure have been accommodated by Eklutna, Inc. including:
 - Eklutna water pipeline corridor;
 - MEA, ML&P, CEA Consortium power transmission corridor;
 - DOT right-of-way for improvements to the Old Glenn Highway and Eagle River Road;

- Collaboration with the Municipality in making industrial land available through rezoning;

WHEREAS, Eklutna, Inc. has promoted, accommodated, and helped to create public greenbelts, parks and park access, and protective conservation easements including these examples:

- Eagle River Greenbelt;
- Mt. Baldy land trade to support trails and public access to Chugach State Park;
- Coastal conservation areas stretching from Eklutna Village past Birchwood Airport;

WHEREAS, Eklutna, Inc.'s exercise of self-determination over its ANCSA land holdings has been stable, productive, and beneficial to all Anchorage residents;

WHEREAS, when Eklutna, Inc. was approached three years ago to transfer title to certain historical lands to the Native Village of Eklutna and support restoring the culture of place for the benefit of present and future residents, Eklutna, Inc. shareholders approved the vision and committed Eklutna Inc. support;

WHEREAS, the Anchorage Assembly joins Eklutna, Inc. in identifying and promoting preservation measures in municipal code helpful to the Native Village of Eklutna;

WHEREAS, this ordinance establishes and applies the Eklutna Village Overlay District, currently reserved for this purpose under Chapter 21.10 of the "new" Title 21 as adopted by the Anchorage Assembly on February 26, 2013 (AO 2012-124(S), effective January 1, 2014), and identified within Chapter 21.10 as the CE-EVO: Eklutna Village Overlay District;

WHEREAS, since introduction of AO 2014-40 on March 11, 2014, additional redrafting and reformatting have been undertaken with assistance from the Community Development Department to conform and update overlay provisions consistent with the formatting of Chapter 21.10 of the "new" Title 21 and other considerations; now therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1: Anchorage Municipal Code Title 21, Land Use Planning, is hereby amended to add new text to section 21.10.040G., CE-EVO: Eklutna Village Overlay District.

4. CE-EVO: Eklutna Village Overlay District

a. Purpose

- i. The original Eklutna Village, located 26 miles northeast of downtown Anchorage, Alaska, is a Dena'ina Athabascan village

1 with a subsistence lifestyle. The Eklutna tribe is one of several
2 tribes that have historically lived in this part of southcentral Alaska,
3 tied to the land, the river, and the inlet. The original Eklutna Village
4 was established at the time of glacial melt, according to Dena'ina
5 creation story, and is considered to be the oldest continually
6 inhabited Athabascan site in the region. Although Athabascan
7 Indians had lived in the area for almost a thousand years, Eklutna's
8 present-day residents are descendants of the Dena'ina tribe who
9 set up a permanent village in 1650, demonstrating that the land has
10 been occupied and used by Dena'ina long before Anchorage came
11 to be.

12
13 ii. Eklutna, Inc. (EI) is an Alaska Native Claims Settlement Act
14 (ANCSA) Village Corporation representing its shareholders and the
15 indigenous peoples of Eklutna, Dena'ina. EI is the corporate entity
16 that owns the majority of the vacant lands in the area of Eklutna
17 Village. There are approximately 65 EI shareholders currently living
18 in the area, with over 175 EI shareholders living elsewhere. Eklutna
19 Village is considered "home" to all EI shareholders and Native
20 Village of Eklutna (NVE) Tribal Members, regardless of residence
21 elsewhere. The village area is connected to their culture, traditions,
22 history, and heritage, making it especially significant to Dena'ina. EI
23 and NVE believe the village deserves recognition as a unique and
24 sacred place to Dena'ina people deserving preservation with
25 continued use and protections.

26
27 iii. Native Village of Eklutna is the only federally recognized tribal entity
28 within the Municipality of Anchorage (MOA) boundaries.
29 Recognizing the unique nature of Eklutna Village and the need to
30 respect, accommodate and maintain traditional cultural practices
31 and way of life, it is clear that standard zoning per Anchorage
32 Municipal Code (AMC) may not be an effective regulatory tool and
33 a specialized approach to land use regulation is appropriate. The
34 overlay district serves to recognize and protect cultural and
35 traditional uses, ensure that traditional and customary land uses
36 are allowed, and protect the village from requirements for public
37 trails and other uses not compatible on the village subsistence
38 lands, while allowing them to progress and develop in the manner
39 that best meets the needs of Eklutna people. Public trails and utility
40 and transportation corridors could directly impact archaeological
41 and cultural material of importance to the tribe, and would provide
42 and promote casual access through sensitive historic, spiritual and
43 subsistence areas of the village. This could compromise the
44 integrity of this unique native village area and should be avoided.

45
46 iv. The CE-EVO: Eklutna Village Overlay District is intended to create
47 a district that will protect and preserve the rural character (and
48 Dena'ina tradition) of the Eklutna Village and surrounding lands,

1 and protect the traditional culturally significant uses, development
2 patterns, and lifestyle. The overlay district specifically allows
3 communal cultural use types, allows for extended multi-
4 generational family living situations, retains rural roadway design,
5 minimizes intrusion by public trail and utility systems, and facilities
6 small-scale village-serving commercial uses.

7
8 **v. Recognition of the historical attributes of the overlay area,**
9 **recognition of the importance of this overlay to the people in**
10 **the community of Eklutna, and the adoption of this overlay, are**
11 **not intended to address jurisdictional rights. The overlay is an**
12 **exercise of powers of the Municipality to enact and enforce**
13 **municipal land use regulation.**

14
15 **b. Boundary Description of the District**

16
17 The Eklutna Village Overlay District covers the area north of the Eklutna
18 River, east of the Cook Inlet shoreline, south of the Wells Fargo parcel
19 property line and along Wood Spruce Drive, and west of the Glenn
20 Highway. The boundaries of this tract are defined by the calls for natural
21 and manmade features. Bearings of NORTH, SOUTH, EAST,
22 SOUTHWESTERLY, NORTHWESTERLY, and NORTHEASTERLY are
23 intended to be general in nature and for descriptive purposes only.

24
25 Beginning at a point on the southerly Meander Line of Knik Arm as defined
26 by General Land Office and Bureau of Land Management official surveys,
27 said point being NORTH of the East 1/16 Corner of Sections 13 and 24,
28 Township 16 North, Range 1 West of the Seward Meridian Alaska, and
29 said point being the True Point of Beginning for this description; thence
30 SOUTH to said East 1/16 Corner, being the northwest corner of N.B.A.
31 Property Eklutna Subdivision filed as Plat No. 85-32 in the Anchorage
32 Recording District, Third Judicial District, State of Alaska; thence on the
33 west line thereof SOUTH to the southwest corner of said N.B.A. Property
34 Eklutna Subdivision; thence on the south line thereof and said line
35 extended through the Alaska Rail Road right-of-way EAST to the East 1/4
36 Corner of Section 24 on the east right-of-way line of Wood Spruce Street;
37 thence on said east right-of-way line SOUTH to Corner 5, Lot 1, Alaska
38 Native Claim Settlement Act (ANCSA) Section 14 (c) (I) Tracts, filed as
39 Plat No. 86-63 in the Anchorage Recording District, Third Judicial District,
40 State of Alaska being a point on the southerly right-of-way line of said
41 Alaska Rail Road right-of-way; thence on said southerly right-of-way line
42 SOUTHEASTERLY to the northwesterly right-of-way line of the Glenn
43 Highway, as shown on the State of Alaska Department of Highways Right
44 of Way Map, Alaska Project No. F-042-1 (34), filed as Plat No. 81-243 in
45 the Anchorage Recording District, Third Judicial District, State of Alaska;
46 thence on said northwesterly right-of-way SOUTHWESTERLY to the Right
47 (northeasterly) Bank of the Eklutna River; thence on said Right Bank of
48 Eklutna River NORTHWESTERLY to the southerly meander line of Knik

1 Arm as defined by General Land Office and Bureau of Land Management
2 official surveys; thence on said meander line NORTHEASTERLY to the
3 True Point of Beginning; and

4
5 EXCLUDING THEREFROM any portion of the Glenn Highway
6 right-of-way contained within this description;

7
8 AND EXCLUDING THEREFROM any portion of the Alaska
9 Railroad right-of-way contained within this description.

10
11 CE-EVO: Eklutna Village Overlay District Boundary Map



12
13
14 **c. Uses and Development Standards**

15
16 **i. Uses**

17 Notwithstanding the underlying zoning, the only uses allowed within
18 the Eklutna Village Overlay District shall be those uses listed in
19 table 21.10-4 under CE-EVO.

20
21 **ii. Municipal Utility and Transportation Easements**

22 **(A) New municipal easements or corridor alignments for public**
23 **trails, public utilities, or public transportation facilities, which**
24 **traverse, penetrate, and/or bisect the Eklutna Village Overlay**
25 **District, shall be prohibited, unless otherwise agreed to in**
26 **writing by both NVE and EI.**

27
28 **(B) New state, Federal or state/Federal regulated**
29 **corridor/alignments, shall be strongly encouraged to avoid**
30 **bisecting, penetrating and/or traversing the Eklutna Village**

1 Overlay District unless otherwise mutually agreed upon by
2 NVE and EI.

3
4 (C) Current utility easements, rights-of-way, and corridors are
5 limited to their stated use and dimensions. Use and/or
6 dimensions shall not be expanded without mutual agreement
7 of NVE and EI. Future subdivisions within the boundaries of
8 the Eklutna Village Overlay District shall not be subject to
9 exactions of utility easements by public or private utilities,
10 beyond the minimum necessary to service the specific parcel
11 being subdivided, and providing for future service to
12 adjacent/abutting parcels within the overlay district
13 boundary.

14
15
16 *iii. CE-PCD Zoning, Prior Entitlements, and Master Planning*

17 (A) Areas zoned CE-PCD within the overlay district are not
18 required to submit a master plan before development. The
19 provisions of this overlay govern allowed development within
20 CE-PCD-zoned areas.

21
22 (B) Any prior entitlements granted to development projects
23 within the overlay district (e.g., Eklutna Natural Resource
24 Extraction Conditional Use) remain valid and effective. If
25 any condition placed on any entitlement approval conflicts
26 with any provisions of this overlay district, the condition
27 placed on the entitlement approval shall govern.

28
29 (C) When cumulative commercial floor area in the overlay district
30 area is proposed to exceed 100,000 square feet, additional
31 commercial development shall be preceded by a master
32 plan. The master plan shall address infrastructure planning
33 and development and the relationship of the Eklutna Village
34 area to the entire Chugiak-Eagle River area. The master
35 plan may revisit the allowed uses within the overlay district
36 and propose limitations or changes in the approval process.
37 The master plan shall have the elements required by an area
38 master plan (subsection 21.09.030E.3.e.) and shall be
39 decided by the assembly after a public hearing, using the
40 approval criteria of subsection 21.03.160E. (replace
41 “rezoning” with “master plan”).

42
43 *iv. Private Open Space*

44 Section 21.07.030, Private Open Space, shall not apply within the
45 overlay district.

46
47 *v. Transportation and Connectivity*

1 (A) Section 21.07.060, *Transportation and Connectivity*, shall
2 not apply within the overlay district, except as follows:

3 1.~~(B)~~ Traffic Impact Analyses may be required for
4 applicable development in accordance with
5 subsection 21.07.060C.

6 2.~~(C)~~ Sidewalks shall be provided on streets of
7 collector or greater classification in accordance
8 with subsection 21.07.060E.

9 vi. *Landscaping*

10 (A) Permitted uses shall be exempt from landscaping
11 requirements, except that ground surface areas disturbed or
12 stripped of vegetation shall be mulched or planted with grass
13 or provided with other suitable ground cover, to mitigate
14 erosion of soils by wind and water. Conditional uses will be
15 subject to the standards of 21.07.080, except as modified by
16 this chapter.

17
18 (B) Freeway landscaping per 21.07.080E.1.g. shall apply except
19 along the parcel legally described as T16N R1W Sec 24
20 Eklutna Village Hall.

21
22 vii. *Residential Design Standards*

23 Section 21.07.110, *Residential Design Standards*, shall not apply
24 within the overlay district.

25
26 viii. *Streets located in the Eklutna Village Overlay District*

27
28 (A) Streets located in the Eklutna Village Overlay District should
29 be considered primarily rural. They should be designed to
30 maintain the rural character of their neighborhoods. Street
31 typology in Chugiak-Eagle River calls for minimizing the
32 disturbance during construction so that native vegetation will
33 be maintained as much as possible. Rural roads are to serve
34 low numbers of local residents, so are narrower, typically
35 two-lane, with wide shoulders and ditch drainage; however,
36 one-way loops consisting of one travel lane may also be
37 utilized. Pedestrian traffic occurs on adjacent paths or in the
38 street shoulder. Street lighting is not typical, but can be
39 installed when there is a specific safety-related need. Rural
40 streets within the Eklutna Village Overlay District are
41 typically strip paved, recycled asphalt pavement (RAP) or
42 gravel, with no curbs or sidewalks.

43
44 (B) Rural residential local streets within the Eklutna Village
45 Overlay District shall have a right-of-way limited to the
46 greatest extent possible to accommodate the proposed

1 improvements. The street section shall be as narrow as
2 possible to comply with safe and efficient function.

3
4 (C) The platting authority may reduce the width of street rights-
5 of-way during the platting process.
6

7 **Section 2:** Tables 21.10-4, 21.10-5, and 21.10-7 shall be amended as shown in
8 Attachment A.
9

10 **Section 3:** Section 21.10.050D. shall be amended as follows:
11

12 **D. Community Uses: Definitions and Use-Specific Standards**

13
14 **1. Community Smokehouse**

15 **a. Definition**

16 A building or special construction for curing meat, fish, etc.
17 by smoking.
18

19 **2. Dry Storage**

20 **a. Definition**

21 A nonresidential building which may be open at the ends,
22 sides, or bottom, intended for the dry storage of firewood or
23 other community uses.
24

25 **3[1]. Park, Public or Private**

26 **a. In the Eklutna Village Overlay District, only private parks are**
27 **permitted. Public parks are prohibited.**

28 **b[a]. Any master plan created for a municipal park in Chugiak-**
29 **Eagle River shall be reviewed and approved as follows:**

30 *** **

31
32 **4[2]. Heliport (Replaces 21.05.040I.3.b.)**

33 **a. In the Chugiak-Eagle River area, heliports are considered**
34 **accessory to hospitals and airports.**

35 **b. Applications for heliports shall be accompanied by a**
36 **determination letter from the Federal Aviation Administration**
37 **(FAA).**

38 **c. Heliports in nonresidential districts shall be at least 200 feet**
39 **from a residential district.**

40 **d. In the Eklutna Village Overlay District, when associated with**
41 **a medical clinic (even if on a separate lot), a heliport is a**
42 **permitted use. Otherwise a heliport is a conditional use.**

5[3]. Tower, High Voltage Transmission

Notwithstanding subsection 21.05.040J.1.b., all high voltage transmission towers in Chugiak-Eagle River residential districts require a conditional use, as indicated by table 21.10-4.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, 01-28-14)

Section 4: Section 21.10.050J.2. shall be amended as follows:

2. Quonset Hut

- a. In the class B commercial, industrial, CE-PLI, and CE-PR zoning districts, Quonset huts are an allowed structure type for any permitted or conditional principal or accessory use.
- b. In the class B residential zoning districts, Quonset huts are an allowed structure type for any permitted accessory use.
- c. Quonset huts are not an allowed structure type in the CE-DO overlay district.
- d. In the CE-EVO, Quonset huts are an allowed structure type for any principal or accessory use.

(AO 2012-124(S), 2-26-13; AO 2013-117, 12-3-13; AO 2013-139, 01-28-14)

Section 5: An amendment to the Chugiak-Eagle River Comprehensive Plan Update (December 2006) to bring conformance between the Eklutna Village Overlay District and the comprehensive plan shall be scheduled in front of the Planning and Zoning Commission before December 31, 2014.

Section 6: The Director of the Department of Community Planning and Development shall amend and provide for inclusion of the CE-EVO zoning map when this ordinance becomes effective.

Section 7: This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of May, 2014.

Chair

ATTEST:

Municipal Clerk