

16.06.010 Easements.

- A. Authorized. The borough manager may convey or lease an easement in municipally owned land after review and approval by the planning and zoning commission and upon approval by the borough assembly by resolution. Easements shall be nonexclusive unless otherwise provided in the easement document.
- B. Application and Fee. The applicant for an easement shall apply to the planning and zoning commission on a form prescribed by the clerk of the planning commission. The application shall be accompanied by thirty-five percent (35%) drawings and other plans, reports, a narrative, and other material sufficient to permit the planning and zoning commission to evaluate need for and use to be made of the requested easement. The application shall also be accompanied by a base fee of fifty dollars (\$50.00). The borough manager shall adjust the base fee to reflect changes in the cost of municipal services.
- C. Departmental Action. Prior to consideration by the planning and zoning commission, the application for the easement shall be referred for comment to municipal departments which may have an interest in the parcel subject to the proposed easement. Upon receipt of the comments of the departments, the planning and zoning commission shall review the application, materials submitted with the application, and the departmental comments. The planning and zoning commission may then approve the easement application and recommend its approval to the borough assembly. If approved and recommended by the planning and zoning commission, the borough assembly may, by resolution, approve the easement and authorize the borough manager to execute the easement under such terms and conditions as are specified and authorized by the borough assembly. Before the borough manager will execute an easement agreement, the applicant shall submit one hundred percent (100%) designs for borough manager approval. The resolution of the borough assembly approving the easement shall state that the resolution and approval are automatically revoked if the applicant fails to provide the one hundred percent (100%) designs to the borough manager within ninety (90) days of the effective date of the resolution.
- D. Survey and Appraisal. Prior to the execution of an approved easement, the applicant shall provide a survey of the easement to the standards required by the borough manager, and shall pay the cost of the appraisal required to determine the sale or lease price of the easement.
- E. Easement Price. The sale or lease price of an easement shall be the appraised value established not more than six (6) months prior to borough assembly authorization of the easement. Upon execution of the easement by the municipality, the applicant shall pay to the municipality the market value of any marketable materials, timber or other resources within the easement area which will be destroyed, cut or removed. The borough manager shall determine the value of resources of any marketable materials, timber or other resources within the easement area which will be destroyed, cut or removed.
- F. Improvements and Changes. No improvements or changes in improvements may be made within an easement unless first approved by the borough manager.

G. As-Built Plans. Immediately upon completion of the construction of any improvements within the easement area, the easement holder shall provide the borough manager with accurate, complete and legible as-built drawings of such improvements. Upon making any changes or additions to such improvements, the easement holder shall provide the borough manager with as-built drawings showing such changes or additions.

H. Restoration. The borough manager or the planning and zoning commission may require restoration and the posting of such security for restoration as determined necessary.

I. Appeals.

1. Any interested party may file with the borough assembly a notice of appeal of the denial of an application for an easement by the planning and zoning commission, specifying in detail the basis for appeal. Only such grounds for appeal as specified in detail in the notice of appeal shall be considered. All such appeals shall be filed in writing with the borough clerk within ten (10) days of the date of the decision of the planning commission. Any attempt to file an appeal after ten (10) days shall not be considered by the borough assembly. If the final day to file an appeal falls on a weekend (Saturday or Sunday) or a holiday, the final day to file an appeal shall be the next working day of the week.

2. The borough clerk shall transmit the record before the planning commission and the appeal and materials attached to the appeal to the borough assembly within thirty (30) days of the filing of the appeal. The borough assembly shall make a reasonable effort to decide whether to affirm or reverse the denial of the application by the planning commission within sixty (60) days after receipt of the record and the appeal from the borough clerk at a regular meeting of the assembly. The borough assembly may extend the time for decision in its discretion. Failure by the borough assembly to render a decision within sixty (60) days, or as extended by the borough assembly, shall mean that the decision of the planning commission is affirmed. If the borough assembly upholds the planning commission's denial of the application for an easement, the appellant may appeal to the Superior Court as outlined in SMC 19.04.070(F) in accordance with the Alaska Rules of Appellate Procedure for appeals from an agency decision.

(Ord. 21-02, Amended, 04/01/2021; Ord. 20-13, Amended, 05/21/2020; Ord. 12-03, Amended, 03/01/2012; Ord. 90-17, Repealed & Replaced, 08/02/1990; Ord. 84-23, Repealed & Replaced, 10/25/1984)