

**DECEMBER 9, 2021
AIRPORT COMMISSION MEETING
ADDITIONAL MATERIALS**

REQUESTED REVISIONS TO THE AGENDA/PACKET:

<u>ACTION</u>	<u>ITEM</u>	<u>REQUESTED BY</u>
Add to Item 5.a	Discussion/Recommendation – Resolution No. AC21-01 – Recommending the Council of the City of Kenai Approve and Adopt the City of Kenai Land Management Plan <ul style="list-style-type: none">• Zoning and Definition of “Retain” and “Dispose” in the Draft Land Management Plan Memo• Disposition of City Lands – Summary of KMC 22.05	Planning Director Foster City Manager Ostrander
Add Item 6.a	Discussion/Recommendation – Special Use Permit to American Red Cross of Alaska for General Office Space	Airport Admin. Assistant Erica Brincefield



KENAI

City of Kenai | 210 Fidalgo Ave, Kenai, AK 99611-7794 | 907.283.7535 | www.kenai.city

MEMORANDUM

TO: Mayor Gabriel, Council Members and City Commissions
FROM: Ryan Foster, Planning Director
DATE: December 6, 2021
SUBJECT: **Zoning and Definition of “Retain” and “Dispose” in the Draft Land Management Plan**

Zoning in the City of Kenai

The City of Kenai is a home rule city with its own City Charter and Municipal Code. Kenai Municipal Code Title 14 Planning and Zoning codifies the planning and development processes within the City by implementing the Comprehensive Plan (long range policy document), establishing zoning districts, and specifying development standards for zoning districts regarding land use, form, layout, and density.

To determine the land uses and development standards of a parcel, the City’s Zoning Map and Land Use Table must be referenced. Each parcel in the City has a zoning designation (there are 17 total zoning districts) across categories such as residential, commercial, industrial, etc. The City of Kenai Interactive Zoning Map App can be found here:

<https://kenai.maps.arcgis.com/home/index.html>

After determining the zoning district of a property, reference the KMC 14.22.010 Land Use Table, which contains a list of land uses and all of the corresponding zoning districts in the City. A land use is either designated as P= Principal Permitted Use, C= Conditional Use, S= Secondary Use, N= Not Permitted for each zoning district. This provides the necessary information to determine the development options for a property based on the zoning and the desired land use. The Land Use Table can be found here:

<https://kenai.municipal.codes/KMC/14.22>

Definitions of “Retain” and “Dispose” in the Draft Land Management Plan

The Draft Land Management Plan contains recommendations for each City owned property. For clarification, below are the definitions of “retain” and “dispose” and where they can currently be found in Kenai Municipal Code in the same context:

- “Retain” means a parcel is needed for a public purpose, such as for:
 - Existing public buildings and facilities.
 - Future public buildings and facilities.
 - Public purposes such as wetlands, beach protection, and stormwater retention.

- For Airport Fund lands, “retain” means the parcel is needed for a public purpose where the use is aviation-related or consistent with the FAA self-sustaining requirement and does not adversely affect the airport’s capacity, security, safety, or operations.
- In this context, the term retained is currently found in Kenai Municipal Code:
 - 22.05.110 Determination as to need for public purpose
- “Dispose” means the parcel has not been retained for a public purpose and will be considered available for lease, sale, or lease with the option to purchase. All disposals are at the discretion of the Kenai City Council and must meet the intent of Kenai Municipal Code:
 - 22.05.010 Authority and intent
 - (c) It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.
 - (d) It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.
- In order for a property to be sold, it must first be determined that it is not needed for a public purpose. Most disposals will require development on the parcel. In this context, the term disposal is currently found in Kenai Municipal Code:
 - KMC 22.05.015 Lands available for lease, sale, or disposal
 - KMC 22.05.095 Methods of sale or disposal





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MEMORANDUM

TO: Mayor Gabriel, Council Members and City Commissions
FROM: Paul Ostrander, City Manager
DATE: December 6, 2021
SUBJECT: **Disposition of City Lands – Summary of KMC 22.05**

Kenai Municipal Code Chapter 22.05, The Disposition of City Lands, was repealed and reenacted by Ordinance 3072-2019 on October 2, 2019. This memorandum will provide an overview of this provision of code. Excerpts from code are identified in *italics*.

KMC Chapter 22.05 applies to City owned real property other than lands within the airport reserve – described in KMC Chapter 21.10, and the leasing of tidelands for shore fisheries.

Authority

KMC Chapter 22.05 establishes the authority for the City's land disposals:

The City may sell, convey, exchange, transfer, donate, dedicate, direct, assign to use, or otherwise dispose of City-owned real property, including property acquired, held for, or previously devoted to a public purpose, only in accordance with this chapter, and, with respect to properties acquired through foreclosure for taxes, in compliance with those terms and provisions of AS 29 which apply to home-rule municipalities. Disposal or sale of lands shall be made only when, in the judgment of the City Council, such lands are not or are no longer required for a public purpose.

Intent

KMC Chapter 22.05 establishes the intent of the chapter and goes further to establish that it is not the intent of the chapter to allow for speculation on City-owned lands:

It is the intent of this chapter to provide land policies and practices that encourage responsible growth and development to support a thriving business, residential, recreational and cultural community.

It is not the intent of this chapter to allow for speculation on City-owned lands. All leases, sales, and other disposals of City-owned land must meet the intent of this chapter.

Lease and / or Sale of City Lands

KMC Chapter 22.05 has provisions for the lease and sale of City owned real property. An individual or entity that wishes to acquire real property from the City can pursue a lease, a sale, or a lease with an option to purchase from the City.

Lease

To lease City owned lands an applicant must first submit a lease application:

All applications for lease of lands must be submitted to the City Manager or designee on an application form provided by the City. Applications will be dated on receipt and must include payment of the nonrefundable application fee as set forth in the City's schedule of fees approved by the City Council.

If a subdivision is required to lease the land, the costs of that subdivision are generally at the expense of the applicant:

Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to any new appraisal, engineering services, surveying and consulting costs unless, in the sole discretion of the City Council, it is determined that the subdivision serves other City purposes.

To determine the annual lease rate of the property an appraisal must have been completed in the last 12 months:

Applications for lands which have not been appraised within one (1) year of the requested starting date of the lease require the applicant to be responsible for all costs associated with appraisal. The cost of the appraisal shall be credited or refunded to the lessee once development is completed as required by the lease, extension or renewal.

The length of the lease term is based on the amount of investment the applicant proposes to make with a minimum investment of \$7,500 equaling a maximum term of 5 years, and an investment value of \$307,500 or more equaling a maximum term of 45 years:

The length of term for an initial lease shall be based on the amount of investment the applicant proposes to make in the construction of new permanent improvements on the premises as provided in the application. The City Council may offer a shorter lease term, if the City Council makes specific findings that a shorter lease term is in the best interest of the City.

The maximum term of a lease shall be determined according to the following term table and cannot exceed forty-five (45) years:

The public is notified of all lease applications received by the City to provide an opportunity for competing applications:

Notice of complete applications for new leases, renewals or extensions shall be published in a newspaper of general circulation within the City and posted on the property. The notice must contain the name of the applicant, a brief description of the land, whether the applicant requests a lease with an option to purchase, and the date upon which any competing applications must be submitted (thirty (30) days from the date of publication).



If a competing application is submitted, the City Manager will recommend the application anticipated to best serve the interest of the City to the applicable commissions and the City Council:

If another application for a new lease, extension or a renewal is received for the same property within thirty (30) days from the notice of application publication date by a different applicant, City staff shall process the application and forward the application, the City Manager's recommendation and applicable commission recommendations to the City Council for approval of the application anticipated to best serve the interest of the City. The City Council may approve one (1) of the applications, reject all the applications or direct the City Manager to award a lease of the property by sealed bid.

If there are no competing applications, the City Council will determine if the lease is in the best interests of the City after considering the recommendations of the Planning and Zoning Commission, any other applicable commissions, and the City Manager:

The recommendations of the City Manager, Planning and Zoning Commission, and any other applicable commissions shall be provided to the City Council. The City Council shall determine whether the lease is consistent with the intent of this chapter and in the best interest of the City. The decision whether or not to lease land rests in the sole discretion of the City Council.

Development Incentives

The City Council may approve lease incentives to encourage commercial development:

A credit may be applied toward rent for a maximum of five (5) years. The credit may only include the value of site preparation work on the leased premises to include clearing and grubbing, unclassified excavation, classified fill and back fill, crushed aggregate base course, and utility extensions.

For the credit to be applied, the approved scope of work must be completed.

Sale of Land

KMC Chapter 22.05 authorizes the sale of City owned lands through both a non-competitive and competitive process:

There are four methods to sell City owned lands through a non-competitive process:

- (i) Conveyance to encourage new enterprises where it is found that encouragement of a new commercial or industrial enterprise would be in the best interest of the City; one (1) or more parcels of City land may be sold upon such terms as to price, conditions of conveyance, and with such contingencies as may be set forth in the ordinance.*
- (ii) Property sale to adjacent owners for the conveyance of a parcel of City property at fair market value to the owner of adjacent land whenever, in the judgment of the City Council, the parcel of land is of such small size, shape, or location that it could not be put to practical use by any other party.*
- (iii) Grant or devotion of real property to the United States, the State of Alaska, a local political subdivision of the State of Alaska, or any agency of any of these governments or a nonprofit corporation, for a consideration agreed upon between the City and*



grantee without a public sale if the grant, devotion or lease is in the best interest of the City.

- (iv) Conveyance of land to resolve a land use conflict.*

There are four methods to sell City owned lands through a competitive process:

- (i) Public outcry auction to the highest responsible bidder.*
- (ii) Sealed bid to the highest responsible bidder.*
- (iii) Over-the-counter sale after a public outcry auction or sealed bid process on a first-come basis, provided minimum development requirements are met within two (2) years of sale and the land is sold for fair market value. An appraisal to determine fair market value must be completed within a one (1) year period prior to the date of sale.*
- (iv) Leased land in which the lease was subject to competition through the lease application review process and which contains an option to purchase once the minimum development requirements have been met for the fair market value of the land excluding permanent improvements made by the lessee. An appraisal to determine fair market value must be completed within a one (1) year period prior to the sale.*

The application process, subdivision process (if necessary) and appraisal process for the sale of land is similar to the process for the lease of land:

All requests to purchase City land must be submitted to the City Manager or designee on approved forms provided by the City. Applications will be dated on receipt and payment of the nonrefundable application fee and must include applicable deposit as set forth in the City's schedule of fees adopted by the City Council. The City Council may decide to sell lands consistent with the intent of this chapter after a recommendation from the City Manager and any appropriate City commission. The City Council may always recommend a lease as opposed to a sale when in the best interest of the City and consistent with the intent of this chapter.

Applications which propose a subdivision shall require the applicant to be responsible for all costs associated with the subdivision, including but not limited to engineering services, surveying and consulting costs, unless in the sole discretion of the City Council it is determined the subdivision serves other City purposes. Sales of parcels must be of appropriate size to meet the needs of the proposed development or use to meet the intent of this chapter. The sale of excess acreage not needed for the intended development or use does not meet the intent of this chapter.

The City will retain the services of an independent real estate appraiser certified under Alaska State statutes to determine the fair market value for a determination of the minimum price on the land to be paid for from the deposit made by the applicant unless such an appraisal has been obtained within one (1) year prior to the date of sale. The cost of the appraisal will be credited toward the purchaser at closing.



Lease with an option to purchase

KMC Chapter 22.05 will allow an applicant to request to acquire City land using a combination of lease and sale. A lease with an option to purchase would allow an applicant to lease the real property for a period of time, during which the development of the property could be completed and the applicant would benefit from lease development incentives, followed by the sale of the property when the incentives have been exhausted.

Kenai Municipal Code Chapter 21.10

KMC Chapter 21.10, Leasing and Acquisition of Airport Reserve Lands, with few exceptions, mirrors KMC Chapter 21.05, although KMC Chapter 21.10 does not allow the sale of land. Airport Reserve Lands are available for lease only.





"Serving the Greater Kenai Peninsula"

305 N. WILLOW ST. SUITE 200 KENAI, ALASKA 99611
TELEPHONE 907-283-8281
FAX 907-283-3737

Memo

To: Airport Commission
Through: Eland Conway – Airport Manager
From: Erica Brincefield - Assistant
Date: December 3, 2021
Subject: ***American Red Cross of Alaska- Special Use Permit***

American Red Cross of Alaska is requesting a special use permit for approximately 475 sqft of general office space on the second floor of the Alaska Regional Fire Training Center. The American Red Cross provides services to the Kenai Peninsula such as house and forest fire response, smoke alarm installs and preparedness training.

The special use permit will be effective for one year from December 1, 2021 to November 30, 2022.

American Red Cross of Alaska has submitted the special use permit application and paid the \$100 application fee.

Does Commission recommend Council approve the Special Use Permit to American Red Cross of Alaska?

Attachments

SPECIAL USE PERMIT

THE CITY OF KENAI (CITY) for the considerations and pursuant to the conditions and requirements set forth below, hereby grants **AMERICAN RED CROSS OF ALASKA (PERMITTEE)**, a nonprofit corporation, whose address is 235 E. 8th Ave. Ste. 200, Anchorage Alaska, 99501, the non-exclusive right to use that area described below:

Access to second floor office space, ROOM 228, and parking at the Alaska Regional Fire Training Center, located at 450 Marathon Rd., Kenai, Alaska 99611. Approximately 475 square feet.

1. **TERM.** This special use permit shall commence and be effective on December 1, 2021, and shall extend through November 30, 2022.
2. **PERMIT FEES.** The monthly fee for this permit is \$1.00 per month, plus \$211.44 utilities cost per month, plus applicable sales tax.
3. **USE.** The right to use the ROOM 228 for General Office Space, Training and/or Testing, and Storage. This includes reasonable ingress and egress to and from ROOM 228 through the Building's common areas. Permittee shall not have the right to use any other space in the Building (such as library, conference rooms, break room, coffee room) or any equipment belonging to the City unless given written permission to do so.
4. **LICENSES AND PERMITS; LAWS.** Permittee shall adhere to all federal, state, and local laws, ordinances, and regulations while conducting its activities on the Premises. Permittee shall obtain and maintain all required federal, state, and local licenses, permits, certificates, and other documents required for Permittee's operations under the Permit. Permittee shall provide proof of compliance to the City upon request by the City.
5. **NO EXCLUSIVITY.** This Permit is not intended to grant any exclusive use to the described Premises.
6. **INSURANCE.** Permittee shall provide proof of insurance coverage, including worker's compensation, if necessary, in an amount satisfactory to the City Manager, and listing the City as an additional insured.
7. **INDEMNITY, DEFEND, AND HOLD HARMLESS AGREEMENT.** Permittee agrees to indemnify, defend, and hold the City, its agents, and employees harmless from and against any and all liability, loss, suit, claim, judgment, fine, demand, damage, penalty, property damage, or personal injury of whatever kind, including sums paid in settlements

of claims, attorney fees, consultant fees, expert fees, or costs incurred arising from or connected with the Permittee's use or occupation of the Premises. Permittee shall give the City of Kenai reasonable notice of any such claims or actions. However, Permittee shall not be responsible for any damage or claims from the sole negligence, activities, or omission of the City or its agents or employees.

8. PERSONALITY. Permittee must keep the space and all other materials on the Premises clean and in good condition.

Permittee shall remove any and all personal property from the Premises at the termination of this Permit (or any renewal thereof). Personal property placed or used upon the Premises will be removed and/or impounded by the City, if not removed upon termination of this Permit and when so removed and/or impounded, such property may be redeemed by the owner thereof only upon the payment to the City of the costs of removal plus storage charges of \$25.00 per day. The City of Kenai is not responsible for any damage to or theft of any personal property of Permittee at or from the Premises.

9. NO WAIVER. Failure to insist upon a strict compliance with the terms, conditions, and/or any requirement herein contained, or referred to, shall not constitute or be construed as a waiver or relinquishment of the right to exercise such terms, conditions or requirements.

10. MUTUAL CANCELLATION. This Permit may be cancelled in whole or in part with one month written notice by Permittee or the City.

11. NO DISCRIMINATION. Permittee will not discriminate on the grounds of race, color, religion, national origin, ancestry, age, or sex against any patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or State law. Permittee recognizes the right of the City to take any action necessary to enforce this requirement.

12. ASSUMPTION OF RISK. Permittee shall provide all proper safeguards and shall assume all risks incurred in its use of the Premises.

13. NO JOINT VENTURE. City shall not be construed or held to be a partner or joint venturer of Permittee in the conduct of its business or activities on the Premises.

14. CONTACT INFORMATION. The contact information for Permittee, and the person in responsible charge for Permittee during the term of the Permit, for purposes of notice and all communications from City to Permittee is:

American Red Cross of Alaska
235 E. 8th Ave. Ste. 200
Anchorage, Alaska 99501
Telephone: (907) 715-7649

The contact information for City for purposes of notice and all communications from Permittee to City is:

Airport Administration
305 North Willow, Suite 200
Kenai, Alaska 99611
Telephone: (907) 283-8281

15. RIGHTS OR REMEDIES. No right or remedy herein conferred upon or reserved to each respective party is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity.

16. GOVERNING LAW; VENUE. The laws of State of Alaska will determine the interpretation of this Agreement and the performance thereof. Any lawsuit brought thereon shall be filed in the Third Judicial District at Kenai, Alaska.

17. AUTHORITY. By signing this Permit, Permittee represents that it has read this agreement and it agrees to be bound by the terms and conditions herein and that the person signing this Permit is authorized to bind Permittee.

CITY OF KENAI

By: _____

City Manager

AMERICAN RED CROSS OF ALASKA

By: _____
Paul Ramage
Regional Facility Coordinator

Approved as to form:

Scott Bloom
City Attorney

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 2021, City Manager of the City of Kenai, an Alaska municipal corporation, on behalf of the City.

Notary Public for Alaska
My Commission Expires: _____

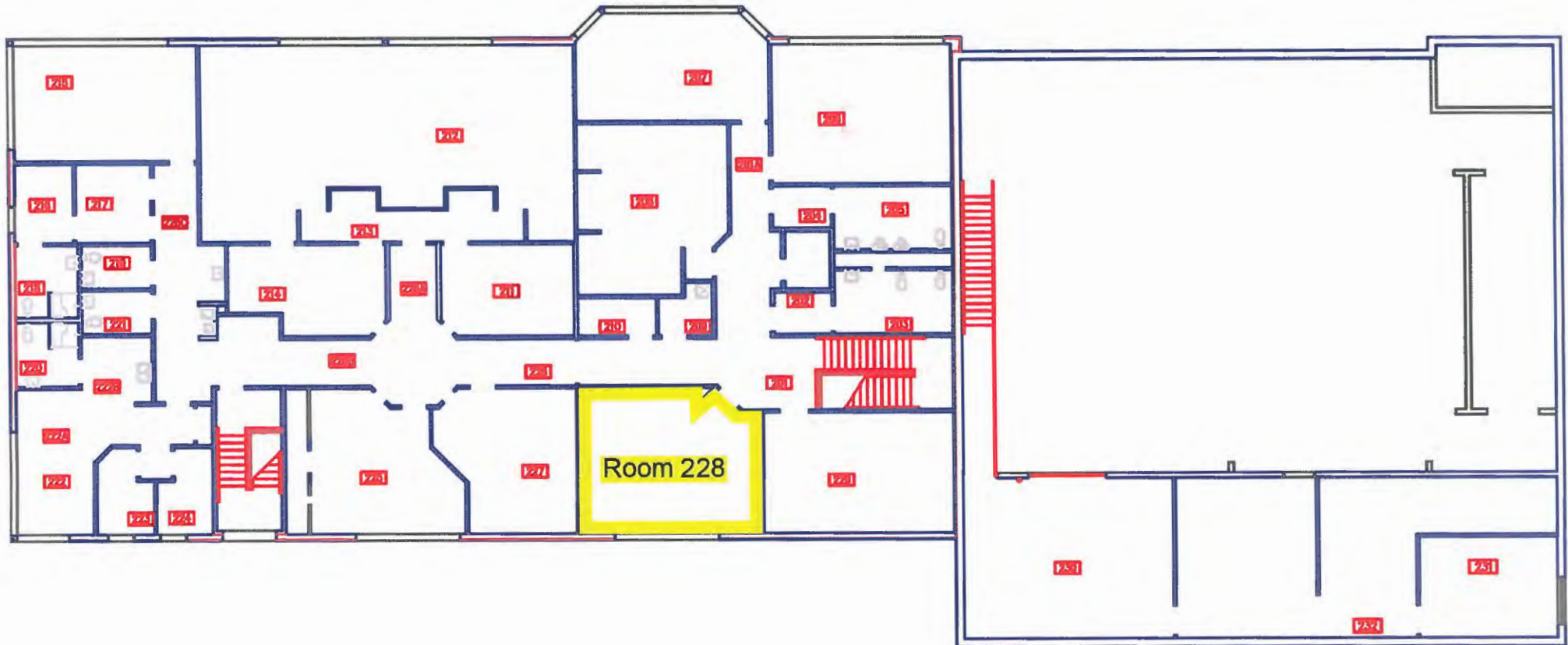
STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2021, the foregoing instrument was acknowledged before me by Paul Ramage, of AmericanRed Cross of Alaska, an Alaska non-profit corporation, on behalf of the corporation.

Notary Public for Alaska
My Commission Expires: _____

Alaska Regional Fire Training Center

Level 2





**City of Kenai
Special Use Permit
Application**

Application Date: 12/1/2021

Applicant Information

Name of Applicant:	American Red Cross of Alaska						
Mailing Address:	235 E. 8th Ave Suite 200	City:	Anchorage	State:	AK	Zip Code:	99501
Phone Number(s):	Home Phone: ()		Work/ Message Phone: () (907) 715 7649				
E-mail: (Optional)	paul.ramage@redcross.org						
Name to Appear on Permit:	Paul W. Ramage						
Mailing Address:	235 E 8th Ave Suite 200	City:	ANCHORAGE	State:	AK	Zip Code:	99501
Phone Number(s):	Home Phone: ()		Work/ Message Phone: () (907) 715 7649				
E-mail: (Optional)	paul.ramage@redcross.org						
Type of Applicant:	<input type="checkbox"/> Individual (at least 18 years of age) <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Government <input type="checkbox"/> Limited Liability Company (LLC) <input checked="" type="checkbox"/> Other Non Profit Tax Exempt						

Property Information

Legal or physical description of the property: Fire Training Center Room 228 450 Marathon Rd. Kenai Ak 99611

Description of the proposed business or activity intended: Provide Red Cross services to the Kenai Peninsula such as house and forest fire response. Community training to include school age disaster preventative training. and disaster response such as natural or man caused disaster. Also provides smoke alarm installs and preparednes training.

Is the area to be used in front of or immediately adjacent to any established business offering the same or similar products or services upon a fixed location? YES NO

Would the use under this permit interfere with other businesses through excessive noise, odor, or other nuisances? YES NO

If you answered yes to any of the above questions, please explain:

What is the term requested (not to exceed one year)? One year. 12/1/2021

Requested Starting Date: 12/1/2021

Signature:		Date:	12/1/2021
Print Name:	Paul W. Ramage	Title:	AK Regional Facility Coordinator

For City Use Only:	Date Application Fee Received:
<input type="checkbox"/> General Fund	City Council Action/Resolution: _____
<input type="checkbox"/> Airport Fund	Account Number: _____
<input type="checkbox"/> Airport Reserve Land	
<input type="checkbox"/> Outside Airport Reserve	