



ORDINANCE 2023-01
AN ORDINANCE ESTABLISHING
EXTRATERRITORIAL JURISDICTION

The City Council of the City of Delta Junction, Alaska finds that:

A. The City of Delta Junction ("the City") operates a cemetery and a landfill, provides emergency fire and ambulance response outside the City limits, and is responsible for area-wide assignment of addresses both inside and outside the City limits.

B. Alaska Statute 29.35.020 provides that the City may own, operate and provide certain types of facilities and services outside the City limits so long as they are approved by ordinance.

C. The approved functions by state statute which the City can do outside the City limits include owning and operating a cemetery and a landfill or other refuse disposal facility, providing emergency response services, and providing other services.

D. The City needs to adopt an ordinance granting it authority to provide these ongoing functions outside the City limits.

NOW, THEREFORE, in consideration of the Findings above, the following ordinance is enacted by the City Council of the City:

1. Extraterritorial Authority. The City shall have the extraterritorial authority under Alaska Statute 29.35.020 to own, operate and provide services outside its City limits as set forth below and the City is further authorized to exercise the powers necessary for the provision of those services:

- a. To own and operate a City cemetery;
- b. To own and operate a City landfill or other solid waste or refuse collection or transfer site;
- c. To provide emergency medical and ambulance services; and
- d. To provide area-wide address assignment.

2. Classification. This Ordinance is of a permanent and general character, and shall take effect immediately upon adoption.

3. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Introduction:	September 6, 2022
First Reading:	September 6, 2022
Public Hearing:	September 20, 2022
Second Reading:	September 20, 2022
Adoption:	September 20, 2022

PASSED AND APPROVED this 20th day of September by a duly constituted quorum of the City Council of Delta Junction.

	YES	NO	ABSENT	ABSTAIN
Seat A: Dove				
Seat B: Catterson				
Seat C: Prestegard				
Seat D: Heinbockel				
Seat E: Musgrove				
Seat F: Hallgren				
Seat G: Levinson				

JW Musgrove, Mayor

Pat White, City Clerk

CITY
SEAL

Alaska Title 29 §29.35.020 Extraterritorial Jurisdiction

(a) To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service, the municipality may provide facilities for the confinement and care of prisoners, parks, playgrounds, cemeteries, emergency medical services, solid and septic waste disposal, utility services, airports, streets (including ice roads), trails, transportation facilities, wharves, harbors and other marine facilities outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them. A regulation adopted under this section must state that it applies outside the municipality.

(b) A municipality may adopt an ordinance to exercise a power authorized by this subsection and may enforce the ordinance outside its boundaries. Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance, and before a power authorized by this subsection may be exercised inside a village, as that term is defined by [AS 46.08.900](#), the approval of the village must be given by resolution. A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to

(1) protect its water supply and watershed; or

(2) contain, clean up, or prevent the release or threatened release of oil or a hazardous substance that may pose an imminent or substantial threat to persons, property, or natural resources within the municipality's boundaries; however, this paragraph does not authorize a municipality to enforce an ordinance outside its boundaries to regulate exploration, development, production, or transportation of oil, gas, or minerals in a manner inconsistent with the state's management of those resources, and enforcement of the ordinance must be consistent with a regional master plan prepared by the Department of Environmental Conservation under [AS 46.04.210](#); in this paragraph, "natural resources" has the meaning given in [AS 46.03.826](#).

(c) A municipality may enter into agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

(d) This section applies to home rule and general law municipalities.

(e) In this section, "village"

(1) means the area within a five-mile radius of the village post office or, if there is no post office, another site designated by the commissioner;

(2) does not include an area described in (1) of this subsection that is within a city or another village.

AS 46.08.900 Definitions.

(1) "capital improvement" includes construction, renovation, repair of, and improvement to, a building, but does not include other improvements to real property, such as construction of a dike or retaining wall;

(2) "commissioner" means the commissioner of environmental conservation;

(3) "containment and cleanup" includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of oil or a hazardous substance, and the restoration of the environment; when applied to expenses, the term includes the additional costs of providing a reasonable and appropriate function or service incurred in response to the release of the oil or hazardous substance, including administrative expenses for the incremental costs of providing the function or service;

(4) "department" means the Department of Environmental Conservation;

(5) "fund" means the oil and hazardous substance release prevention and response fund;

(6) "hazardous substance" means (A) an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents an imminent and substantial danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or (B) a substance defined as a hazardous substance under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); "hazardous substance" does not include uncontaminated crude oil or uncontaminated refined oil in an amount of 10 gallons or less;

(7) "oil" means petroleum products of any kind and in any form, whether crude, refined, or a petroleum by-product, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily refuse, oil mixed with other wastes, liquified natural gas, propane, butane, and other liquid hydrocarbons regardless of specific gravity;

(8) "permitted release" means a release occurring under the authority of a valid permit issued by the department or by the Environmental Protection Agency;

(9) "prevention account" means the oil and hazardous substance release prevention account established in AS [46.08.010](#) (a)(1);

(10) "prevention mitigation account" means the oil and hazardous substance release prevention mitigation account established in AS [46.08.020](#)(b);

(11) "release"

(A) means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment;

(B) does not include

(i) a permitted release; or

(ii) an act of nature;

(12) "response account" means the oil and hazardous substance release response account established in AS [46.08.010](#) (a)(2);

(13) "response mitigation account" means the oil and hazardous substance release response mitigation account established in AS [46.08.025](#)(b);

(14) "service"

(A) means a function performed or service provided by a municipality under a duty or power authorized by AS [29](#) or by another provision of law authorizing a municipality to perform functions or provide services, or a comparable function performed or service provided by a village;

(B) includes functions not previously performed and services not previously provided by the municipality or village;

(15) "threatened release" means that a release is imminent; a release is imminent if

(A) it is impending, or on the point of happening; or

(B) though not impending, in the judgment of the commissioner

(i) the incident or occurrence may reasonably be expected to culminate in an actual release; and

(ii) that actual release may reasonably be expected to cause personal injury, other injury to life, or loss of or damage to property, including the environment;

(16) "village" means a place within the unorganized borough or within a borough if the power, function, or service for which a grant application under AS [29.60.510](#) is submitted is not exercised or provided by the borough on an areawide or nonareawide basis at the time the grant application is submitted that

(A) has irrevocably waived, in a form approved by the Department of Law, any claim of sovereign immunity that might arise in connection with the use of grant money under this chapter; and

(B) has

(i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(ii) a traditional village council recognized by the United States as eligible for federal aid to Indians; or

(iii) a council recognized by the commissioner of commerce, community, and economic development under regulations adopted by the Department of Commerce, Community, and Economic Development to determine and give official recognition of village entities under AS [44.33.755](#)(b).

AS 46.04.210 Regional Master Plan.

(a) For any region of the state, the boundaries of which are determined by the commissioner by regulation, in which the department is required to review and approve an oil discharge prevention and contingency plan submitted by a person under AS [46.04.030](#), the department shall prepare, annually review, and revise as necessary a regional master oil and hazardous substance discharge prevention and contingency plan.

(b) The provisions of AS [46.04.200](#) (b) and (c) apply to preparation and review of a regional master plan under this section.

(c) In setting boundaries under (a) of this section, the department shall, when possible, group together communities that are likely to require coordination of their efforts to respond effectively to a discharge.

AS 46.03.826 Definitions For AS [46.03.822](#)

In AS [46.03.822](#) - [46.03.828](#)

(1) "act of God" means an act of nature which is unforeseeable in kind or degree;

(2) "economic benefit" means a benefit measurable in economic terms, including but not limited to the gathering, catching, or killing of food or other items utilized in a subsistence economy and their replacement cost;

(3) "facility"

(A) includes a

(i) building, structure, installation, equipment, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or pipe or pipeline, including a pipe into a sewer or publicly-owned treatment works;

(ii) site or area at which a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located;

(B) does not include any consumer product in consumer use;

(4) "having control over a hazardous substance" means producing, handling, storing, transporting, or refining a hazardous substance for commercial purposes immediately before entry of the hazardous substance into the atmosphere or in or upon the water, surface, or subsurface land of the state, and specifically includes bailees and carriers of a hazardous substance;

(5) "hazardous substance" means

(A) an element or compound which, when it enters into the atmosphere or in or upon the water or surface or subsurface land of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found;

(B) oil; or

(C) a substance defined as a hazardous substance under 42 U.S.C. 9601(14);

(6) "natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state or a municipality;

(7) "oil" means a derivative of a liquid hydrocarbon and includes crude oil, lubricating oil, sludge, oil refuse or another petroleum-related product or by-product;

(8) "owner" and "operator"

(A) mean

(i) in the case of a vessel, any person owning, operating, or chartering by demise, a vessel;

(ii) in the case of facility, any person owning or operating the facility;

(iii) in the case of an abandoned facility or vessel, any person who owned, operated, or otherwise controlled activities at the facility or vessel immediately before the abandonment; and

(iv) in the case of a facility or vessel, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of the state or a political subdivision of the state, any person who owned, operated, or otherwise controlled the facility or vessel immediately beforehand;

(B) do not include a person who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect that person's security interest in the vessel or facility;

(9) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excluding

(A) any release that results in exposure to persons solely within a workplace, with respect to a claim that those persons may assert against the persons' employer; and

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, or vessel;

(10) "response action contract" means a written contract or agreement to provide response action with respect to a release or threatened release of a hazardous substance entered into by a person with

(A) the department;

(B) another person who has entered into an agreement with the department that provides for response action subject to the department's oversight and control;

(C) a federal agency with jurisdiction over the release or threatened release; or

(D) another person potentially liable for the release or threatened release under state or federal law;

(11) "response action contractor" means

(A) a person who enters into a response action contract with respect to a release or threatened release of a hazardous substance and who is carrying out the contract, including a cooperative organization formed to maintain and supply response equipment and materials that enters into a response action contract relating to a release or threatened release;

(B) a person who is retained or hired by and is under the control of a person described in (A) of this paragraph to provide services related to the response action contract; and

(C) a person who acts as a volunteer and is engaged in a response action.

(12) "subsistence economy" means an economy which utilizes on a regular basis an item which is owned in common by the people of the state, or the United States, including but not limited to fish, game, fur bearing animals, birds, timber or any part of the natural habitat for noncommercial purposes;

(13) "transport" means the movement of a hazardous substance by any mode, including pipeline; in the case of a hazardous substance that has been accepted for transportation by a common or contract carrier, "transport" includes any stoppage in transit that is temporary, incidental to the transportation movement, and at the ordinary operating convenience of a common or contract carrier, and any stoppage of this type shall be considered as a continuity of movement and not as the storage of a hazardous substance;

(14) "vessel" means every description of watercraft or other artificial contrivance that is used, or is capable of being used, as a means of transportation on water, or that carries hazardous substances for the purpose of incineration of the hazardous substances;

(15) "water, surface or subsurface land of the state" means all water, surface or subsurface land within the territorial limits of the State of Alaska.