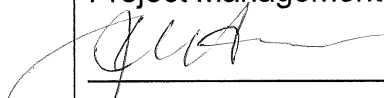




OPERATING POLICY & PROCEDURE

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| Title: Operating Policy and Procedure for Administration of Orders to Stop Work by the Private Development Division of the Project Management & Engineering Department | P & P No.: 9 | Effective Date: January 7, 2008 |
| Prepared by: Donald C. Keefer, P.E., Private Development Manager | Supersedes No.: New | Dated: |
| Approved by: J. W. Hansen, Deputy Director, Project Management & Engineering  | | |

I. PURPOSE

To publish the policies and procedure for effecting stop work orders on private development projects administered by the Private Development Division of the Project Management & Engineering Department.

These policies and procedures shall apply to Subdivision Agreements, Road Extension Agreements, Improvement of Public Places Agreements, and custom agreements as necessary, unless specifically prohibited in the aforementioned agreement.

Under Anchorage Municipal Code of Regulations (AMCR) 21.90, these policies apply to construction of all roads and other facilities within dedicated public use easements or right-of-way.

Indirectly, these policies could impact activities permitted through a right-of-way, building, or land use permit in those locations where such activities involve real property subject to the aforementioned development agreements.

In the event of a conflict between this policy and agreement language or revised standards adopted by the Municipality of Anchorage, the agreement and standards language shall govern.

II. POLICY

The Municipality strives to construct improvements and infrastructure in public right of way and easements to a quality and to accepted standards that promote safety, durability, accessibility, and nominal maintenance. To that end, from time to time, when work is observed that is not being constructed according to accepted and approved practices, standards and plans, the Municipality may issue Stop Work Orders.

If the Municipality determines that a Developer is failing to comply with an agreement, the Municipality may stop all further construction of improvements by posting a stop work order at the site of the nonconforming construction and notifying the Developer and the Developer's Engineer of the order.

The issuance of a stop work order is solely for the benefit of the Municipality. The Municipality does not undertake to supervise the work for the benefit of the Developer or any other person. No suspension of work shall be grounds for an action or claim against the Municipality, or for an extension of time to perform the work.

A Stop Work Order shall remain in effect until the Municipality approves:

- a. arrangements made by the Developer to remedy the nonconformity; and
- b. assurances by the Developer that future nonconformities will not occur.

The Developer shall include in all contracts for work to be performed, or materials to be used under this Agreement, the following provisions:

The Municipality of Anchorage, pursuant to an agreement incorporated by reference herein, has the authority to inspect all work and materials under this contract, and to stop work in the event that the work performed under the agreement fails to comply with any provisions of the agreement. In the event that a stop work is issued by the Municipality of Anchorage, the contractor shall immediately cease all work and await further instruction from the Developer.

The Municipality may order all persons to stop work at once within a public right-of-way or under a subdivision agreement for administrative and performance reasons, such as:

- a. Declaration of default, i.e. the Developer is adjudged as bankrupt or if the Developer has failed in any measurable way to perform obligations under the respective agreement or to comply with the provision of the respective agreement.
 - i. Developer's payment of municipal invoices are delinquent (past due by more than 45 days) or are turned over to a collection agency.
 - ii. The agreement is expired and no extension has been granted, or conditions to extend have not been met.
 - iii. Required performance and/or warranty guarantees are released without Municipal approval.
- b. Working without approved plans and without approved plans on-site, including, but not necessarily limited to, construction, SWPPP, erosion and sedimentation control, and dewatering plans.
- c. Failure to comply with approved plans and standards, i.e. any work or material that deviates from the approved plans and permits, MASS standards, specified materials and accepted material specifications, and acceptable work quality.
- d. Working without required permits and permissions.
- e. Failure to comply with permit stipulations.
- f. Work under (weather) conditions not appropriate for the site work being performed.
- g. Safety (dangerous and unsafe), environmental, and construction violations observed on the project.

- h. Failure to comply with construction inspection requirements, such as, failure to provide notification of work, or failure to provide fulltime inspection for work requiring fulltime inspection.
- i. Failure to submit requisite daily and weekly reports within established timeframe.
- j. Operating without approved, properly installed and maintained storm water treatment methods.
- k. Failure to allow inspections or access for inspections, or to notify the Municipality when critical work is being performed.
- l. Failure to keep an engineer and inspector retained, and failure of the engineer and inspector to visit and consistently monitor the site.
- m. Lack of, or ineffective, inspections.

A Stop Work Order shall be signed by the Manager of the Private Development Division of PM&E, or, in the Manager's absence, the Manager's designee. A municipal Stop Work Order decision and issuance may be appealed. Appeals shall be in accordance with PM&E Operating Policy and Procedure No. 10: Operating Policy and Procedures for Contesting and Appealing Decisions made by the Private Development Division of the Project Management & Engineering Department pertaining to reviews and approval under its purview.

Any change to this policy shall be subject to a 30-day comment period.

III. ORGANIZATIONS AFFECTED

Development Services Department
 Planning Department
 Project Management & Engineering Department
 Maintenance and Operations
 Traffic Department
 Anchorage Fire Department

IV. REFERENCES

- A. MOA Title 21 Code of Ordinances and Regulations
- B. MOA Title 24 Code of Ordinances
- C. MOA Standard Specifications (MASS) (currently adopted version)
- D. MOA Grading, Excavation, and Fill Code (currently adopted version)
- E. MOA Erosion and Sediment Control and Materials Containment Guidance Manual (currently adopted version)
- F. MOA Storm Water Treatment Plan Review Guidance Manual (currently adopted version)
- G. Design Criteria Manual (currently adopted version)
- H. Private Development Handbook

- I. Operating Policy and Procedure No. 6: Operating Policy and Procedures for project administered by the Private Development Division of the Project Management & Engineering Department
- J. Operating Policy and Procedure No. 10: Operating Policy and Procedures for Contesting and Appealing Decisions made by the Private Development Division of the Project Management & Engineering Department pertaining to reviews and approval under its purview

V. DEFINITIONS

- A. **Agreement:** Any agreement entered into between the Developer and the Municipality of Anchorage that will govern the oversight of construction of infrastructure resulting from development. Typical agreements are Subdivision Agreements, Road Extension Agreements, and Improvement of Public Place Agreements. Additional agreements may be developed to suit special requirements placed on future developments.
- B. **Approved Plans:** Plans that have been reviewed and approved by all appropriate Departments within the Municipality. The approval designation will be a stamp imprint with an original signature and date. The signature will be from an authorized Plan reviewer in the Private Development Division of the Project Management & Engineering Department.
- C. **Default:** A Developer is in default of the Agreement if: The Developer has bills from the Municipality that are more than 45 days past due or in collections; the Developer has received a Notice of Default letter from the Municipality; a Stop Work order has been placed on the project by any Municipal agency or party; or, the Agreement is expired and/or conditions to extend the Agreement have not been met. A bill, or any portion of a bill, that is in dispute shall not place the Agreement in default; however, the bill, modified or not, shall be due immediately upon resolution of the dispute. Any portion of a bill not in dispute shall be due and payable.
- D. **Developer:** The party obligated under an Agreement to provide all infrastructure improvements including, but not limited to: Roads, drainage, pedestrian facilities, signing, striping, and lighting required to serve a development.
- E. **Engineer:** A professional engineer registered in the State of Alaska identified as the engineer of record for the project as documented by the Developer as a requirement of the Agreement.
- F. **Municipality:** The Municipality of Anchorage.
- G. **Plan(s):** Under this Policy and Procedure, a document, prepared, sealed and signed by a professional engineer licensed in the State of Alaska, showing the complete design, studies, and documentation of all improvements defined by the Agreement submitted to Private Development for circulation and review.
- H. **Private Development (PD):** A division within the Project Management & Engineering Department.
- I. **Project Management & Engineering Department (PM&E):** A department within the Municipality of Anchorage.
- J. **Order to Stop Work (a.k.a. Stop Work Order):** A declaration to cease or suspend all or parts of the work.

VI. PRIVATE DEVELOPMENT OPERATING PROCEDURES

MUNICIPALITY OF ANCHORAGE RESPONSIBILITIES

If the Developer has failed in any measurable way to perform its obligations under the agreement and as described in Part II of this P&P, the Municipality may declare the Developer in default provided the Municipality gives the Developer notice of the failure to perform and the Developer fails to correct the failure within thirty (30) days of receiving the notice; or if the failure requires more than thirty (30) days to cure, and the Developer fails within thirty (30) days of receiving the notice to commence or proceed with diligence to cure the failure.

In the event the Stop Work Order is due to a declaration of default, the Municipality shall give the Developer the requisite 30 day notice.

For all other construction-related Stop Work Orders, the Municipality shall first notify the Developer or the Developer's designee to correct or mitigate the violation(s). If the violation is not corrected, the Municipal inspector will notify the Engineer of Record that a Stop Work will be posted by a specific day or time.

When implementing a Stop Work Order, the Municipal inspector will:

1. Print, complete, secure signature authority, and laminate the Stop Work Order. The stop work order shall clearly state the reason for the order, and the conditions under which the cited work shall be permitted to resume and the Stop Work Order lifted.
2. Call the Developer to inform the Developer of the violation and the time and day that the Stop Work will be placed. Indicate a willingness to work with the Developer to allow the Developer to resolve or mitigate the violation prior to the Stop Work placement.
3. If violation has not been corrected, post the Stop Work and inform the Private Development Manager, the PM&E Director, and the PM&E Deputy Director.

DEVELOPER'S RESPONSIBILITIES

Upon issuance of a Stop Work Order, the work described in the citation shall immediately cease.

In the event of a Stop Work Order, the Developer may request relief for portions of a project if they are not related to the Stop Work and will not impact resolution of the issue that initiated the Stop Work. Final determination regarding the activities that may continue will be made by the Municipal Engineer.

BI-ANNUAL REVIEW

This Policy and Procedure shall be reviewed for required updates no later than December 31st of odd-numbered years.