

CHANDLER, FALCONER, MUNSON & CACCIOLA, LLP
Attorneys At Law
Suite 302
911 West Eighth Avenue
Anchorage, Alaska 99501
Telephone: (907) 272-8401
Facsimile: (907) 274-3698
bcf@bcfaklaw.com

MEMORANDUM

TO: CHRIS HLADICK
INTERIM CITY MANAGER

FROM: BROOKS CHANDLER
CITY ATTORNEY



DATE: September 15, 2021

RE: City Regulation of Trapping

You asked whether the City of Dillingham may regulate trapping within city boundaries. Based on our review of state statutes, state regulations and court cases regarding the extent of local authority on matters also regulated by the State in our opinion the answer is YES- to a limited extent. The City can certainly prohibit trapping on property owned by the City and has limited authority to regulate non-commercial and non-sport trapping within city boundaries. But the City does not have general authority to regulate sport or commercial trapping subject to State regulation within Dillingham. The reasons for these conclusions are set forth in greater detail below.

Alaska Constitution

Article VIII, Section 1 sets as state policy making state resources “available for maximum use consistent with the public interest.” With regard to fish and game the constitution “reserves” these resources “to the people for common use”.

State Regulation of Trapping

AS 16.05.255 authorizes the State of Alaska Board of Game to adopt regulations establishing seasons and areas for the taking of game including trapping of fur bearing animals and to regulate the means and methods employed in trapping. The Board has exercised this authority in the Dillingham area. Dillingham is in game management unit 17C. 5 AAC 84.270 sets bag limits and trapping seasons in Unit 17C by species. 5 AAC 84.275 prohibits trapping without a license except for persons under the age of 18. The state also regulates the means and methods of trapping including use of bait in traps and the “jaw spread” of conventional steel traps. 5 AAC 92.095. The State includes trapping as a permitted subsistence use of various species. 5 AAC 99.025(13).

No areas within Unit 17C are closed to trapping. However the state trapping regulation booklet advises trappers “local regulations, ordinances, or state park rules may prohibit access, trapping, or the use of firearms, or require an access permit. It is your responsibility as a trapper to check with the landowner before you trap.”

Rules About Dual State and Local Regulation.

The City can regulate activities also subject to state regulation. However there are restrictions on the extent of municipal authority over conduct regulated by the State. If state statutes or the Alaska Constitution indicate an intent to preclude local authority the City cannot regulate. And a municipal regulation cannot conflict with the purpose of a state regulation or statute.

When it comes to trapping the Alaska Constitution indicates an intent that harvesting fish and game is a matter exclusively controlled by the State of Alaska. And it would conflict with the existing state regulation specifying areas open for commercial, sport and subsistence trapping for the City to close such areas to trapping with one exception. It is well recognized that a private landowner can prohibit access to private property for the conduct of hunting, fishing and trapping activity permitted by the State of Alaska.

What the City Can Regulate

The City can prohibit trapping on some or all city property or within a specified distance of an officially designated trail or within a city easement. The City can restrict the means and methods of trapping non-commercial species not subject to state regulation. (For example, requiring the use of live trap methods rather than spring traps or snares). The City could require monitoring of traps set within city limits on a specified basis and require humane care of dogs caught in traps within Dillingham.

Let me know if there are additional questions on this topic.