

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB TITLE 15 RELATING TO THE PLANNING COMMISSION

AGENDA OF: October 17, 2023

ASSEMBLY ACTION: Amended and Adopted without objection 12/19/23 - BJH

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator	9 / 8 / 2 0 2 3 X D e n i s e M i c h a e l s k e Signed by: Denise Michalske
Department Director	9 / 1 1 / 2 0 2 3 X A l e x S t r a w n Signed by: Alex
Finance Director	9 / 1 5 / 2 0 2 3 X C h e y e n n e H e i n d e l Signed by: Cheyenne Heindel
Borough Attorney	9 / 1 5 / 2 0 2 3 X N i c h o l a s S p i r o p o u l o s Signed by: Nicholas Spiropoulos
Borough Manager	9 / 1 9 / 2 0 2 3 X M i c h a e l B r o w n Signed by: Michael Brown
Borough Clerk	9 / 2 0 / 2 0 2 3 X L o n n i e M c K e c h n i e Signed by: Lonnie McKechnie

ATTACHMENT (S) : Ordinance Serial No. 23-089 (7 pp)
 Planning Commission Resolution 23-35 (2 pp)
 MSB 15.04 and MSB 15.08 (10 pp)
 PC Resolution No. 23-089

SUMMARY STATEMENT: This ordinance is sponsored by the Mayor to revise, update, and make changes to various provisions of the Borough code pertaining to the Matanuska-Susitna Borough's Planning Commission.

Alaska Statute 29.40.020 details the requirements for the establishment of a planning commission in first and second class boroughs. Chapter 15.08 of Borough Code was created under this authority granted in Alaska Statute. As currently written, Borough Code does not match the requirements of AS 29.40.020.

AS 29.40.020(a) reads:

Each first and second class borough shall establish a planning commission consisting of five residents unless a greater number is required by ordinance. A member shall be appointed by the borough mayor for a term of three years subject to confirmation by the assembly, except that a member from a home rule or first class city shall be selected from a list of recommendations submitted by the council. Members first appointed shall draw lots for one, two, and three year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the assembly. If a first or second class borough has a population of less than 20,000 or more than 75,000, the commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the proportion of the borough population residing in home rule and first class cities located in the borough.

As currently written, Borough Code does not include the language requiring that "a member from a home rule or first class city shall be selected from a list of recommendations submitted by the council...". This legislation seeks to correct this omission and bring Chapter 15.08 into alignment with state statute.

Currently the seven Planning Commission members are apportioned to align with the seven assembly districts but do not contain members from home rule or first class cities that were recommended by the city councils. The addition of two additional Planning Commission seats will allow for each of the current assembly districts to retain a member on the planning commission while also allowing for Palmer (a home rule city) and Wasilla (a first class city) to be proportionally represented while aligning Borough code to State Statute.

In preparing this legislation to address the above issues, other items in the ordinance were identified as needing revision and they are included here as well. The changes are detailed below:

Chapter 15.04
Planning Commission; Establishment and General Functions

MSB 15.04.10 Established.

(A) Comment: Deleted "planning and zoning for the borough"

and added "under AS 29.40.030 and AS 29.40.040". The Borough has established a separate platting board for the purpose of performing areawide platting functions.

MSB 15.04.015 Functions.

(8) Comment: Section 8 has been added as an update and clarification that the Planning Commission adjudicates requests for conditional use permits as provided for in Borough Code.

MSB 15.04.020 Exemption to Borough-Wide Powers

Comment: Deleted "Borough-Wide Powers" from the title and replaced it with "Functions". Deletes subsections A, B, C, and D and replaces them with a more concise statement as to what functions the Planning Commission will not perform. This short statement is to explain that the Matanuska-Susitna Borough Planning Commission does not perform the functions of the Planning Commission for the cities because the power to do so has been delegated to each of the cities.

MSB 15.04.025 Naming geographic features

(C) Comment: Deleted the typographical error of "un" before the word incorporated.

Chapter 15.08

Planning Commission; Organization and Meetings

MSB 15.08.010 Membership; Compensation

(A) Comment: Changed the number of members from seven to nine to add two seats, one for Palmer, (a home rule city) and one for Wasilla (a first class city).

(B) Comment: Deleted this section to remove the manager and planning director as members of the Planning Commission. Historically these two positions have not been appointed, confirmed, or participating as members of the Planning Commission and this change formally removes them from that role.

MSB 15.08.020 Appointments

Comment: Language was added from AS 29.40.020 as relates to the statutory requirement of how members from home rule and first class cities within the borough are appointed.

MSB 15.08.030(B)

Comment: At some point in the past, the appointment of the numbered seats no longer matched the sequence spelled out in Code. The sequence of the appointment and terms of seats is being adjusted to match what is currently being followed and the two new seats were added to the years with only two so that every year three different members are subject to appointment for three year terms.

MSB 15.08.075 Voting

Comment: The number of members for a voting majority is changed from four to five based on the change from seven to nine total members.

MSB 15.08.080(A)

Comment: Language was changed to state that the regular meetings are normally held the first and third Monday of each month. Language was also changed to state that the chairperson may call a special meeting upon the request of the planning director.

MSB 15.08.100 Meetings; Rules of Proceedings

Comment: This section specifically adds language to Borough code that no member may abstain from voting unless required by law. Robert's Rules technically allows for abstentions, but it is inappropriate for Planning Commissioners to abstain from voting because they are volunteering to provide this important public service.

MSB 15.08.110(A)

Comment: This section is being amended to prohibit adding items to the agenda. Code currently allows addition of unadvertised items to the agenda unless two members object. In practice, however, the Planning Commission does not actually add items to the agenda which are unadvertised. Borough code requires publication of the agenda and it is bad public policy and creates confusion about adding items. This code change will clarify that items cannot be added.

RECOMMENDATION OF ADMINISTRATION: Adopt legislation.

By: A. Strawn
Introduced: September 18, 2023
Public Hearing: October 2, 2023
Action: ADOPTED

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 23-35**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING APPROVAL OF AND ORDINANCE AMENDING TITLE 15 RELATING
TO THE PLANNING COMMISSION.

WHEREAS, Alaska Statute 29.40.020 details the requirements
for the establishment of a planning commission in first and second
class boroughs; and

WHEREAS, MSB Chapter 15.08 was created under this authority
granted in Alaska Statute; and

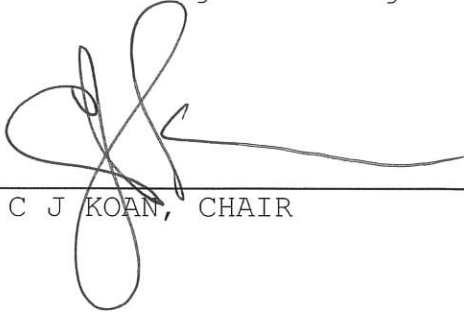
WHEREAS, as currently written, Borough Code does not match
the requirements of AS 29.40.020 as it does not include language
requiring that "a member from a home rule or first class city shall
be selected from a list of recommendations submitted by the
council..."; and

WHEREAS, this legislation seeks to correct this omission and
bring Chapter 15.08 into alignment with state statute; and

WHEREAS, this ordinance also addresses other necessary
revisions to MSB Title 15.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 23-089.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 2nd day of October, 2023.


C J KOAN, CHAIR

ATTEST


KAROL RIESE, PLANNING CLERK



(SEAL)

YES: (6) Commissioner McCabe, Allen, Scoggin, Shoney, Ferrandez & Kean

NO: (0)

CHAPTER 15.04: PLANNING COMMISSION; ESTABLISHMENT AND GENERAL FUNCTIONS

Section

[15.04.005 Definitions](#)

[15.04.010 Established](#)

[15.04.015 Functions](#)

[15.04.016 Hearing requirements](#)

[15.04.020 Exceptions to borough-wide powers](#)

[15.04.025 Naming geographic features](#)

15.04.005 DEFINITIONS.

(A) For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Commission" means the Matanuska-Susitna Borough Planning Commission.

(Ord. 94-071 (sub1), § 4 (part), 1994)

15.04.010 ESTABLISHED.

(A) The planning commission is established to perform the areawide functions of planning, platting and zoning for the borough, except as otherwise provided in this title.

(B) The commission's recommendations shall be transmitted to the assembly.

(Ord. 94-071 (sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.04.015 FUNCTIONS.

(A) The commission shall:

(1) prepare and recommend to the assembly a comprehensive plan, a zoning ordinance to implement the plan, a subdivision ordinance and official map of the borough, and modifications to these documents. The commission shall publish notice and hold at least one public hearing before submitting its recommendations on the plans, ordinances, and maps to the assembly;

(2) investigate and report on the location and design of any public facility, including, but not limited, to public buildings, docks, beaches, ski ground, statue, memorial, park parkway, boulevard, road, trail,

playground, public street, alley or grade of a facility before final action is taken by the borough or any department, office or agency;

(3) investigate and prepare, under the directions and conditions as the assembly may from time to time request, the commission's recommendations on a capital improvement program, and to review the program periodically and revise it from time to time, but not less frequently than annually. The annual capital improvement program shall constitute permanent records of the commission, which shall be public records;

(4) investigate and recommend to the assembly for adoption by ordinance, with the amendments as the commission believes necessary and proper because of local conditions, the published codes of technical regulations as relate to the functions planning, platting, and zoning;

(5) investigate and prepare, from time to time, and to initiate on its own motion in the absence of directions from the assembly, reports of the availability of public lands by selection, transfer at less than appraised value, and otherwise for borough purposes;

(6) investigate and prepare reports on the location and establishment of outdoor public recreation and public campgrounds; and

(7) review all requests for enactment or amendment to planning, platting and land use regulations, including, but not limited to, comprehensive plans, special land use districts, zoning, and conditional use requirements. At a minimum, this shall include all amendments to MSB Titles 8, 11, 15, 17, 28, and 43.

(Ord. 09-025(AM), § 4, 2009; Ord. 94-071 (sub1), § 4 (part), 1994)

15.04.016 HEARING REQUIREMENTS.

Prior to recommending to the assembly ordinances adopting or amending regulations, restrictions and boundaries of districts, the commission shall conduct at least one public hearing, preceded by 15 calendar days' notice of the time and place of the hearing and the scope of subject matter to be heard, published in a newspaper of general circulation in the borough.

(Ord. 94-071 (sub1), § 4 (part), 1994)

15.04.020 EXCEPTIONS TO BOROUGH-WIDE POWERS.

(A) *[Repealed by Ord. 94-071 (sub1), § 4 (part), 1994 and recodified at MSB 15.04.010]*

(B) The Houston City Council shall act as the city zoning board pursuant to MSB 17.40, and shall hear and decide requests for variances and conditional uses within the city of Houston.

(C) The borough has delegated to the city of Palmer the power of land use regulation for all areas within the city limits.

(D) The Wasilla Planning and Utilities Commission shall act as the city planning and land use regulatory authority pursuant to MSB 17.45.

(Ord. 94-071 (sub1), § 4 (part), 1994; Ord. 92-080AM, § 2, 1992; Ord. 92-079, § 2, 1992; Ord. 81-151, § 5(b), 1982; Ord. 73-5, § 3 (part), 1973)

15.04.025 NAMING GEOGRAPHIC FEATURES.

(A) The Alaska State Geographic Board is recognized as the sole authority for determining the correct name, and upon the approval of the affected local government, for changing the name of lakes, streams, and other geographic features within the borough.

(B) The following procedures shall be followed in commenting on applications to the Alaska State Geographic Board to name or change the name of geographic features within the borough, but outside of an incorporated city within the borough:

(1) Standards for evaluating proposed name include:

(a) general appropriateness;

(b) the name of a geographic feature shall not duplicate in spelling or pronunciation the name of any other similar feature within the borough, unless that feature be directly related to it. A diligent search of official records shall be made to determine if such duplication would take place were a proposed new name or name change occur;

(c) testimony or comment from public hearings held on the subject in accordance with this section shall be considered.

(2) the planning commission shall hold a public hearing concerning the proposed name. The hearing shall be preceded by notice as follows:

(a) advertisement in a newspaper of local circulation at least 15 calendar days prior to the date of the public hearing;

(b) the posting of notice in a conspicuous place open to the general public in the vicinity of the feature affected. The notice shall be given at least 15 calendar days prior to the date of the public hearing.

(3) following the public hearing, the planning commission, acting for the assembly, shall by resolution state the position of the borough with regard to public testimony and the standards set forth in this section.

(4) a copy of the planning commission's resolution shall be submitted to the Alaska State Geographic

Board as the borough's comment concerning proposed geographic names or name changes.

(C) Applications to or notices from the Alaska State Geographic Board concerning the naming or change of name of any geographic feature within the corporate limits of an unincorporated city within the borough shall immediately be referred to the affected city for disposition.

(Ord. 94-071 (sub1), § 4 (part), 1994)

CHAPTER 15.08: PLANNING COMMISSION; ORGANIZATION AND MEETINGS

Section

[15.08.010 Membership; compensation](#)

[15.08.020 Appointments](#)

[15.08.030 Terms of members](#)

[15.08.040 Officers](#)

[15.08.050 Seal](#)

[15.08.060 Vacancies](#)

[15.08.070 Quorum](#)

[15.08.075 Voting](#)

[15.08.080 Meetings; when held; notice](#)

[15.08.090 Meetings; record](#)

[15.08.100 Meetings; rules of proceedings](#)

[15.08.110 Meetings; agenda; order of business](#)

[15.08.120 Office and staff](#)

[15.08.130 Formal acts by resolution](#)

[15.08.140 Funds](#)

[15.08.150 Conflict of interest; ex parte contact](#)

15.08.010 MEMBERSHIP; COMPENSATION.

(A) The planning commission shall have seven members who are registered to vote in the borough. Commission membership shall be apportioned so that the number of members from home rule and first class cities reflects the borough population residing in home rule and first class cities located in the borough.

(B) The manager and the planning director shall be ex officio members.

(C) Commission members shall be compensated at a rate of \$100 per meeting for regular and special meetings, not to exceed four meetings in a calendar month. All requests for reimbursement shall be actual expenses incurred on authorized commission business.

(Ord. 21-112, § 2, 2021; Ord. 97-096, § 2, 1997; Ord. 94-071(sub1), § 4 (part), 1994; Ord. 91-037AM, § 3 (part), 1991; Ord. 73-5, § 3 (part), 1973)

15.08.020 APPOINTMENTS.

The mayor shall make appointments subject to confirmation by the assembly. Representation from as many assembly districts as is feasible shall be sought on the commission, but all commission members shall be appointed for their expertise and knowledge of the community and shall represent the entire borough.

(Ord. 81-161, § 2, 1982; Ord. 75-56, § 3, 1975; Ord. 73-5, § 3 (part), 1973)

15.08.030 TERMS OF MEMBERS.

(A) The term of each member of the commission shall be for three years.

(B) The seats shall be numbered and appointments made shall follow numerical sequence according to the following schedule:

(1) Seats 1, 4 and 7 beginning January 1, 1976;

(2) Seats 2, 5 and 8 beginning January 1, 1977;

(3) Seats 3, 6 and 9 beginning January 1, 1978.

(C) *[Repealed by Ord. 94-071 (sub1), § 4 (part), 1994]*

(D) *[Repealed by Ord. 94-071 (sub1), § 4 (part), 1994]*

(Ord. 94-071(sub1), § 4 (part), 1994; Ord. 79-4, § 2 (part), 1979; Ord. 76-63, § 3, 1976; Ord. 73-5, § 3 (part), 1973)

15.08.040 OFFICERS.

The commission shall designate its chairperson, a vice-chairperson to serve as chairperson in the chairperson's absence, a planning clerk to prepare the journal of the commission's proceedings, and an assistant planning clerk to serve in the planning clerk's absence. The planning clerk and assistant planning clerk need not be commission members.

(Ord. 94-071(sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.08.050 SEAL.

The commission shall adopt a seal of two concentric circles within which appear the words “Matanuska-Susitna Borough Planning Commission,” “Seal” and “State of Alaska.” The seal shall be retained in the custody of the planning clerk.

(Ord. 94-071(sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.08.060 VACANCIES.

(A) A vacancy shall be declared, and filled by appointment to complete the unexpired term of the indicated seat, as provided in MSB 4.05.030(B).

(B) The clerk shall keep attendance records and notify the chairperson when vacancies occur.

(Ord. 94-071(sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.08.070 QUORUM.

A majority of the membership constitutes a quorum.

(Ord. 99-170, § 2, 1999; Ord. 73-5, § 3 (part), 1973)

15.08.075 VOTING.

All board actions shall be by vote of a majority of the board’s authorized membership; the majority vote required shall be four, which is a majority of the seven members authorized to serve on the planning commission.

(Ord. 99-170, § 3, 1999)

15.08.080 MEETINGS; WHEN HELD; NOTICE.

(A) A regular meeting shall be held at least once each month. Special meetings may be called by the commission chairperson or shall be called by the commission chairperson at the request of three members.

(B) At a meeting during the month of January each year, the commission shall adopt a schedule of regular meetings to be held by the commission through January of the following year. The adopted schedule shall be provided to each member of the commission and shall be published at least once in a newspaper of general circulation within the borough.

(C) The assembly and the planning commission shall meet jointly in accordance with the provisions set out in MSB 2.12.075.

(D) The commission chairperson or the planning and land use department director, at the request of the chairperson, shall attempt to provide written or oral notice of special meetings to each commissioner at least 24 hours prior to the meetings. Notice may be provided at either the residence or the usual workplace of the commission member. Notice of the special meeting shall include a statement of the subject or subjects for which the meeting is called.

(E) At least five calendar days prior to a regular meeting, the director shall mail or deliver to each planning commission member a packet including information on the time, place of the meeting, and the agenda. Whenever practicable, minutes of the previous meeting and any background materials pertinent to the agenda shall be included in the packet.

(Ord. 03-025, § 2, 2003; Ord. 94-071(sub1), § 4 (part), 1994; Ord. 92-035AM, § 2 (part), 1992; Ord. 88-60, § 3 (part), 1988; Ord. 87-30, § 2, 1987; Ord. 73-5, § 3 (part), 1973)

15.08.090 MEETINGS; RECORD.

The planning clerk shall keep a journal of all meetings, which shall be a public record.

(Ord. 94-071(sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.08.100 MEETINGS; RULES OF PROCEEDINGS.

Meetings shall be conducted under the current edition of *Robert's Rules of Order Newly Revised*, and such modified or amended rules as may be adopted by the commission.

(Ord. 97-038, § 6, 1997; Ord. 91-063, § 2, 1991; Ord. 73-5, § 3 (part), 1973)

15.08.110 MEETINGS; AGENDA; ORDER OF BUSINESS.

(A) The agenda for special and regular meetings shall be prepared by the planning and land use department director. Items not on the agenda may not be added to the agenda or discussed at a meeting over the objection of any two planning commission members.

(B) *[Repealed by Ord. 94-071(sub1), § 4 (part), 1994 and recodified at MSB 15.08.080(E)]*

(C) *[Repealed by Ord. 01-158 § 2, 2001]*

(D) The commission shall adjourn in all cases not later than midnight.

(E) The order of business at special meetings shall be prescribed by the chairperson.

(F) At every regular meeting, the order of business shall be as follows:

- (1) call to order/roll call/determination of quorum;
- (2) approval of agenda;
- (3) pledge of allegiance;
- (4) consent agenda;

- (5) approval of minutes;
- (6) introductions for public hearings;
- (7) committee reports;
- (8) agency and staff reports;
- (9) land use classifications;
- (10) audience participation (for items other than public hearings- three minutes per person);
- (11) public hearings (three minutes per person);
- (12) correspondence and information;
- (13) unfinished business;
- (14) new business;
- (15) commission business;
- (16) commissioner comments;
- (17) adjournment.

(Ord. 03-086, § 2, 2003; Ord. 01-158, § 3, 2001; Ord. 94-071(sub1), § 4 (part), 1994; Ord. 92-015, § 2, 1992; Ord. 88-60, § 3 (part), 1988; Ord. 88-14, § 2, 1988; Ord. 87-30, § 3, 1987; Ord. 85-65, § 2, 1985; Ord. 83-91, § 2, 1983; Ord. 73-5, § 3 (part), 1973)

15.08.120 OFFICE AND STAFF.

(A) The commission shall be provided office space suitable for its needs adequate to file its journals, resolutions, records, reference materials, correspondence and maps, plats and charts, all of which shall constitute public records of the borough.

(B) The planning commission shall be assisted by the planning and land use director and the planning and land use director's staff.

(Ord. 94-071 (sub1), § 4 (part), 1994; Ord. 73-5, § 3, (part), 1973)

15.08.130 FORMAL ACTS BY RESOLUTION.

All formal actions of the commission shall be by resolution.

(Ord. 73-5, § 3 (part), 1973)

15.08.140 FUNDS.

All planning commission funds received as fees and charges or otherwise shall be deposited in the borough's general fund as receipts of the activities of the commission.

(Ord. 94-071 (sub1), § 4 (part), 1994; Ord. 73-5, § 3 (part), 1973)

15.08.150 CONFLICT OF INTEREST; EX PARTE CONTACT.

(A) A commission member shall not participate in deliberation or vote on a question if:

- (1) The commission member or a member of the commission member's immediate family has a substantial financial interest in any property affected by the decision;
- (2) The commission member or a member of the commission member's immediate family could foreseeably profit in any material way through a favorable or unfavorable decision.

(B) Commission members shall be impartial in all administrative decisions, both in fact and in appearance. No member may receive or otherwise engage in ex parte contact with the applicant or appellant, or other parties interested in the application or appeal, or members of the public, concerning the application or appeal or issues presented in an application or notice of appeal, either before the application or appeal hearing or during any period of time the matter is submitted for decision or subject to reconsideration. This section shall not prevent commission members from discussing an application or appeal among themselves, or prohibit communications between borough staff and commission members where the staff members are not named parties to the application or appeal, or members of an organization which in its own name has become an active party to an application or appeal.

(Ord. 94-071 (sub1), § 4 (part), 1994; Ord 85-5, § 2, 1985)

By: A. Strawn
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 23-35**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING APPROVAL OF AND ORDINANCE AMENDING TITLE 15 RELATING
TO THE PLANNING COMMISSION.

WHEREAS, Alaska Statute 29.40.020 details the requirements
for the establishment of a planning commission in first and second
class boroughs; and

WHEREAS, MSB Chapter 15.08 was created under this authority
granted in Alaska Statute; and

WHEREAS, as currently written, Borough Code does not match
the requirements of AS 29.40.020 as it does not include language
requiring that "a member from a home rule or first class city shall
be selected from a list of recommendations submitted by the
council..."; and

WHEREAS, this legislation seeks to correct this omission and
bring Chapter 15.08 into alignment with state statute; and

WHEREAS, this ordinance also addresses other necessary
revisions to MSB Title 15.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 23-089.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this -- day of --, 2023.

C J KOAN, CHAIR

ATTEST

KAROL RIESE, PLANNING CLERK

(SEAL)

YES:

NO: