

CODE ORDINANCE

Sponsored by: Borough Manager  
Introduced: 04/16/24  
Public Hearing: 05/07/24  
Adopted: 05/07/24

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 24-030**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ADOPTING MSB 2.55, LABOR RELATIONS BOARD DUTIES AND HEARING PROCEDURES; AMENDING MSB 4.36.010, LABOR RELATIONS BOARD, TO REFERENCE THE NEWLY ADOPTED PORTION OF CODE; AND REPEALING MSB 2.54.040, LABOR RELATIONS BOARD, IN ITS ENTIRETY IN ORDER TO ELIMINATE DUPLICATE INFORMATION IN CODE CHAPTERS AND CREATE MORE CONSISTENT CODE FOR THE LABOR RELATIONS BOARD AND ITS PROCEDURES.

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WHEREAS, the rationale and intent of the ordinance is outlined in accompanying Informational Memorandum No. 24-045.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Adoption of Chapter. MSB 2.55 is hereby adopted to read as follows:

2.55.010 COMPOSITION; APPOINTMENT AND TERM;  
QUALIFICATIONS; DUTIES

(A) There is established the Matanuska-Susitna Borough Labor Relations Board. The board shall have five members appointed by the mayor and confirmed by the assembly. Members shall serve two staggered three-year terms.

(B) None of the members of the board shall be current officials of the borough or currently employed

by the borough. Board members shall be reimbursed actual expenses incurred on authorized board business.

(C) The board shall:

- (1) assist in the resolution of disputes as prescribed in chapter 2.54;
- (2) determine the extent of and remedy for unfair practices;

(D) The board may conduct hearings and issue cease-and-desist orders in accordance with this chapter.

(E) Members shall be reimbursed according to the provisions in MSB 4.05.071

#### MSB 2.55.020 OFFICERS

(A) Annually, the Labor Relations Board shall select from its membership a chairperson and a vice chairperson. The chairperson shall preside at meetings and shall represent the Board as directed by its membership.

(B) The vice chairperson shall act in the absence of the chairperson.

(C) The clerk or their designee shall act as staff support to the Labor Relations Board.

#### MSB 2.55.030 RULES OF PROCEDURE

The Labor Relations Board may, by resolution, adopt its own written rules of procedure, consistent with this

title, governing the conduct of its proceedings. In all matters of procedure not governed by rules adopted by the Board or by this chapter, the current edition of Robert's Rules of Order Newly Revised shall govern.

MSB 2.55.040 EX PARTE CONTACT

(A) Labor Relations Board members shall be impartial in all administrative decisions, both in fact and in appearance.

(B) No member may receive or otherwise engage in ex parte contact with the petitioner, respondent, other parties with an interest in the petition, or members of the public, concerning the petition or issues presented in a notice of petition, either before the petition hearing or during any period of time the matter is submitted for decision or subject to reconsideration.

(C) If unsolicited ex parte communication occurs, the member shall disclose the communication on the record prior to a decision being rendered. The member shall not take information contained in an ex parte communication into consideration and shall recuse themselves if necessary.

(D) This section shall not prevent the Board from receiving information from the petitioner, the respondent, Borough Staff, or other parties to the

petition, during a hearing. This section shall not prevent board members from discussion among themselves in open meetings or during adjudicatory session.

(E) All members of the Labor Relations Board shall abide by the Borough code of ethics, codified at MSB 2.71.

#### MSB 2.55.050 NOTICE OF PETITION

(A) Filing of Petition. Within five calendar days of receipt of a petition to the Labor Relations Board, the clerk shall serve notice of the petition to the Labor Relations board members. The notice shall include a copy of the petition filed. The board shall conduct the following pursuant to 2.54.110:

- (1) Establishment of jurisdiction;
- (2) Probable cause investigation regarding the petition;
- (3) Determination of probable cause;
- (4) If probable cause determination made; conference, conciliation, and persuasion.

If the board fails to obtain voluntary compliance with 2.54, it shall serve notice of the petition upon the petitioner and the respondent. The notice shall include a copy of the petition filed.

(B) Response to Petition. The respondent shall provide a response to the allegations in the petition within 20 calendar days of the date of service of the notice of petition.

MSB 2.55.060 NOTICE OF HEARING DATE AND BRIEFING SCHEDULE

(A) When the clerk serves the response to the petition, the clerk shall also give written notice to the parties of the date briefs and witness lists are due and the date of the hearing.

(B) The notice of hearing and briefing schedule shall include a statement that affected employees interested in receiving a copy of any documents submitted to the Board, shall make the request prior to the hearing date as indicated in the notice of hearing and briefing schedule.

MSB 2.55.070 WRITTEN ARGUMENTS, WITNESS LISTS, AND OTHER INFORMATION TO BE CONSIDERED BY THE BOARD

(A) The parties may submit written arguments regarding the petition. Written arguments, witness lists, and other information to be considered by the Board shall be submitted to the clerk within 20 calendar days after the date the response to the petition has been served on the parties. Written arguments, witness lists, and other information to be considered by the

Board and submitted in a timely manner shall be served by the Clerk within five calendar days.

(B) Evidence or written arguments shall not be accepted after the deadline unless the party requests, and is granted leave by the Labor Relations Board chairperson, to make a late filing.

(C) New evidence may be submitted at the time of hearing if the board determines that the evidence could not have been obtained prior to the deadline for evidence submittal, or if the evidence is relevant and it is in the interest of justice that it be considered.

(D) An effected employee, authorized employee representative, or employer may participate as a party in the proceedings before the Board by filing a written notice of participation with the Clerk no later than 20 calendar days after the date the notice of petition has been served.

(E) The notice of participation shall include the name, mailing address, phone number, and email address of the affected employee, authorized employee representative, or employer.

(F) Failure to provide notice of participation does not prevent any employee, authorized employee representative, or employer from attending the hearing

or testifying as a witness for a party to the hearing.

MSB 2.55.080 PETITION HEARING

(A) The Labor Relations Board shall hold a hearing on the petition no later than 20 days after written arguments are due. The hearing may be continued by the Labor Relations Board chairperson, by stipulation of the petitioner and respondent, or by motion.

(B) Unless the Board permits a change, the hearing on petition shall be subject to the following order:

(1) Hearing on the petition

(a) Opening presentation by Petitioner  
(15 minutes);

(b) Opening presentation by Respondent  
(15 minutes);

(c) Witness Statements; witnesses are subject to direct and cross examination by the parties  
(5 minutes each);

(d) Closing Remarks by petitioner  
(5 minutes);

(e) Closing remarks by respondent  
(5 minutes);

(2) Adjudicatory session for deliberations  
regarding the final disposition of the petition.

(C) Failure to observe the above procedures in a hearing will not affect the validity of the Labor Relations Board decision so long as the primary parties have had a reasonable opportunity to be heard.

MSB 2.55.090 CONTINUANCE, SHORTENED TIME

(A) A motion for continuance or shortening of any of the deadlines or time limitations set by the Chairperson or established in code shall be in writing and filed with the clerk no later than 10 calendar days before the date being continued.

(1) If the continuance or shortened time request is due to an emergency, less notice is allowable at the Board chairperson's discretion. The clerk shall immediately mail or personally serve the motion to the parties.

(2) An opposing party may file a written opposition. An opposition shall be filed within 3 calendar days after the clerk has served the motion.

(B) The Board chairperson shall rule on a motion for continuance without calling a meeting.

(1) Shortened time motions shall only be granted upon showing that it is not a



self-imposed emergency by the party making the request.

- (2) The ruling shall be in writing and shall specify which deadlines have been changed or the time frame that has been extended or shortened.

(C) The clerk shall immediately serve the ruling on the parties.

#### MSB 2.55.100 DECISION

(A) The Board's decision shall be in writing and shall:

- (1) state that it is a final decision;
- (2) notify the parties of their right to appeal to the Superior Court; and
- (3) shall include sufficient findings and conclusions that shall be reasonably specific so as to provide the community, and where appropriate, reviewing authorities, a clear and precise understanding of the reason for the decision.

(B) The Labor Relations Board's decision shall be served no later than 10 calendar days after the date the decision was made.

MSB 2.55.105 RECONSIDERATION

(A) The Board shall reconsider its decision upon request by the petitioner or respondent. The motion for reconsideration shall be filed within 10 calendar days after the date the final decision has been mailed or personally served.

(B) The Board shall review the petition at the next available hearing date and decide whether to reconsider the matter.

(1) The decision shall be based on the petition and any response thereto.

(2) The Labor Relations Board may also hear oral arguments of the petitioner and respondent. In determining whether to reconsider the matter, no additional evidence shall be taken.

(3) A decision shall be reconsidered only if:

(a) There was a clerical error in the decision. For the purposes of this section, typographical errors are not considered clerical errors;

(b) The decision resulted from fraud or mistake; or

(c) There is newly discovered evidence or a change in circumstances which, by due diligence, could not have been discovered before the original Labor Relations Board hearing.

(C) If the petition for reconsideration is granted the Labor Relations shall set the matter for rehearing. The order of the agenda shall include the following:

- (1) Party that was granted reconsideration  
(15 minutes)
- (2) Opposing party (15 minutes)
- (3) Adjudicatory Session

(D) For purposes of appeal to the appropriate the Superior Court:

- (1) Where the Labor Relations Board denies the petition for reconsideration, the decision on the petition for reconsideration is the final decision.
- (2) Where the Labor Relations Board grants the petition for reconsideration, the decision on reconsideration is the final decision.

MSB 2.55.110 JUDICIAL REVIEW

(A) An appeal from a Labor Relations Board decision may be taken within the time prescribed in the Alaska Rules of Appellate Procedure, Part 600, by a primary party or interested party who provided testimony before the board.

(B) The Clerk shall estimate the cost of preparing the transcript of the hearing before the Board and compiling the record on appeal. The appellant shall deposit the estimated cost of the transcript with the Clerk. The Clerk shall refund any excess deposit or charge the appellant for costs exceeding the deposit.

(C) The Clerk shall calculate the actual cost of preparing and printing the record on appeal. The appellant shall pay the cost for the record at the time the deposit for the transcript is provided to the Clerk. The record shall not be released to the appellant until full payment is made, unless otherwise ordered by the court.

Section 3. Amendment of Section. MSB 4.36.010 is amended as follows:

The labor relations board is established with powers and duties set out in MSB [2.54.040]2.55.

Section 4. Repeal of Subsection. MSB 2.54.040 is hereby repealed in its entirety.

Section 5. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 7 day of May, 2024.

  
EDNA DeVRIES, Borough Mayor

ATTEST:

  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Hale, Nowers, McKee, Yundt, Gamble, Fonov,  
and Bernier

