

NONCODE ORDINANCE

By: Borough Manager

Pulled from Introduction and no action taken: 08/07/18

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 18-081**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 28.60.070-.100, TIMBER TRANSPORT PERMIT AND RELATED REQUIREMENTS.

WHEREAS the intent and rationale of this ordinance are contained in the accompanying Informational Memorandum No. 18-120.

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. Repeal of sections. MSB 28.60.070 through 28.60.100 are hereby repealed as follows:

[28.60.070 TRAFFIC SAFETY PLAN.

(A) THE STATE OF ALASKA HAS PRIMARY RESPONSIBILITY FOR REGULATING AND ENFORCING COMMERCIAL VEHICLE ENFORCEMENT, TRAFFIC CONTROL, AND EQUIPMENT STANDARDS ON ALL HIGHWAYS.

(B) IF NOT OTHERWISE REQUIRED BY THE STATE, THIS SECTION SHALL APPLY TO A PERSON WHO WILL BE OPERATING ON BOROUGH OR STATE ROADS FOR THEIR TIMBER HARVEST ACTIVITIES IN EXCESS OF TWO CARGO-CARRYING VEHICLES PER DAY OR TEN CARGO-CARRYING VEHICLES IN A ONE-CALENDAR-WEEK PERIOD, WHICHEVER IS MORE.

(C) IF APPLICABLE THE PERSON SHALL PREPARE A TRAFFIC SAFETY PLAN PRIOR TO BEGINNING TIMBER HARVEST TRANSPORTATION OPERATIONS.

(D) THE PURPOSE OF A TRAFFIC SAFETY PLAN IS TO IDENTIFY ROAD OR TRAFFIC CONDITIONS POTENTIALLY ADVERSE TO SAFE CARGO-CARRYING VEHICLE OPERATIONS AND PUBLIC HEALTH, SAFETY, AND WELFARE, AND TO IDENTIFY SPECIFIC ACTIONS TO BE TAKEN BY THE OPERATOR TO MITIGATE SUCH CONDITIONS.

(E) THE TRAFFIC SAFETY PLAN SHALL APPLY TO THE MOST LIKELY USED ROAD ROUTES FROM THE POINT OF LEAVING THE OPERATIONS AREA TO ITS INITIAL INTERSECTION WITH ANY STATE OR BOROUGH ROAD CLASSIFIED AS A MAJOR COLLECTOR, ARTERIAL, OR HIGHWAY UNDER THE FUNCTIONAL CLASSIFICATION SYSTEM.

(F) THE PERSON SHALL PROVIDE THE BOROUGH PUBLIC WORKS DEPARTMENT A MAP SHOWING THE ROUTE (S) TO BE USED DESCRIBED IN SUBSECTION (E) OF THIS SECTION.

(G) THE BOROUGH PUBLIC WORKS DEPARTMENT SHALL PROVIDE THE PERSON WITH A DESCRIPTION AND A MAP AT A SUFFICIENT SCALE THAT CLEARLY SHOWS, BUT NOT LIMITED TO, THE FOLLOWING GENERAL ROAD CONDITIONS:

- (1) WIDTH OF DRIVABLE SURFACE;
- (2) EXISTENCE AND WIDTH OF SHOULDERS;
- (3) CURVES SUBJECT TO OFF-TRACKING AT POSTED SPEED;

(4) STEEP GRADES REQUIRING SUSTAINED BRAKING;

(5) PRESENCE OF SCHOOL BUS ROUTES, TIMES THAT BUSES ARE PICKING UP OR DROPPING OFF STUDENTS ALONG THE ROUTE, SPECIFIC STOPS WHERE LINE OF SIGHT TO A BUS IS LIMITED (E.G., THE STATE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES CONSIDERS LESS THAN 700 FEET AT 35 MILES PER HOUR AND LESS THAN 1,000 FEET AT 55 MILES PER HOUR TO BE A REASON FOR CLOSER ANALYSIS); AND

(6) PRESENCE OF KNOWN "WALK TO SCHOOL" OR "PEDESTRIAN" CROSSING AREAS, TRAILS, OR OTHER USES ON, OR ADJACENT TO THE ROAD SURFACE.

(H) USING THE INFORMATION FROM SUBSECTION {G) OF THIS SECTION, THE PERSON SHALL PREPARE A TRAFFIC SAFETY PLAN PRIOR TO BEGINNING TIMBER HARVEST TRANSPORTATION OPERATIONS. AT A MINIMUM THE TRAFFIC SAFETY PLAN WILL ADDRESS:

(1) TIME{S) OF DAY CARGO-CARRYING VEHICLE USE WILL OCCUR;

(2) TYPE, GROSS VEHICLE WEIGHT AND OVERALL LENGTH OF CARGO- CARRYING VEHICLES THAT WILL BE UTILIZED; AND

(3) NUMBER OF TRIPS BY CARGO-CARRYING VEHICLES THAT WILL OCCUR PER DAY OR WEEK.

(I) THE PLAN SHALL SERVE AS THE BASIS FOR DETERMINING THE REQUIREMENTS TO BE INCLUDED IN THE TIMBER TRANSPORTATION PERMIT, AND BY THE PERSON TO:

(1) IDENTIFY TOPICS AND ISSUES TO BE DISCUSSED AT REGULAR TRUCK DRIVER SAFETY MEETINGS;

(2) IDENTIFY HAULING TIME-PERIOD LIMITATIONS THAT MAY BE NECESSARY FOR TRAFFIC SAFETY OR NOISE ABATEMENT;

(3) IDENTIFY VEHICLE OPERATOR ACTIONS SUCH AS REDUCED SPEED WHERE ROAD CONDITIONS OR OTHER USES WARRANT; AND

(4) IDENTIFY THE MEANS OF PUBLIC INFORMATION TO BE TAKEN BY THE PERSON TO NOTIFY THE PUBLIC ABOUT TIMBER HARVEST PLAN OF OPERATIONS AND MITIGATING ACTIONS THAT WILL BE TAKEN IN THE TRAFFIC SAFETY PLAN.

28.60.080 TIMBER TRANSPORT PERMIT.

(A) A TIMBER TRANSPORT PERMIT (TTP) IS REQUIRED WHEN THE PERSON WILL BE UTILIZING ROADS OUTSIDE OF THE TIMBER HARVEST AREA FOR THE TRANSPORTATION OF HARVESTED TIMBER OR TIMBER HARVEST PRODUCTS IN EXCESS OF TWO CARGO-CARRYING VEHICLES PER DAY, OR 10 CARGO-CARRYING VEHICLES IN A ONE-CALENDAR-WEEK PERIOD, WHICHEVER IS MORE.

(B) A COMPLETE APPLICATION SHALL INCLUDE A PROPOSED TRAFFIC SAFETY PLAN THAT MEETS THE CRITERIA SET FORTH IN MSB 28.60.070, AND A COPY OF THE SUMMARY PAGE OF THE FRPA DETAILED PLAN OF OPERATIONS AS SUBMITTED TO THE

STATE DIVISION OF FORESTRY, OR THE FOREST LAND USE PLAN {FLOP}.

(C) PUBLIC NOTICE.

(1) PUBLIC NOTICE SHALL BE PROVIDED WITHIN FIVE WORKING DAYS OF RECEIPT OF THE INFORMATION REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(2) PUBLIC NOTICE REQUIRED UNDER THIS CHAPTER SHALL BE GIVEN IN ACCORDANCE WITH MSB 23.05.025, PUBLIC NOTICE.

(3) THE PUBLIC NOTICE SHALL CONTAIN THE PROVISIONS OF THE TRAFFIC SAFETY PLAN; AND THE DETAILED PLAN OF OPERATIONS AS FILED WITH THE STATE DIVISION OF FORESTRY OR THE FOREST LAND USE PLAN (FLOP). THE FLOP OR THE DETAILED PLAN OF OPERATIONS SHALL NOT BE SUBJECT TO COMMENT UNDER THIS NOTICE, BUT SHALL BE PROVIDED FOR THE REVIEWERS' INFORMATION.

(4) THE BOROUGH SHALL PREPARE AND BE RESPONSIBLE FOR THE DISTRIBUTION AND PUBLICATION OF THE LEGAL NOTICE.

(5) THE PERSON SHALL BE RESPONSIBLE FOR COSTS OF DISTRIBUTION AND PUBLICATION OF THE LEGAL NOTICE.

{D) THE DIRECTOR SHALL CONSIDER THE INFORMATION SUPPLIED BY THE PERSON AND THE COMMENTS RECEIVED FROM THE PUBLIC NOTICE IN MAKING THEIR DECISION.

(E) THE TIMBER TRANSPORT PERMIT SHALL BE ISSUED BY THE DIRECTOR IF THE TRAFFIC SAFETY PLAN EFFECTIVELY ADDRESSES THE FOLLOWING OBJECTIVES AND STANDARDS:

(1) THE ADEQUACY OF ACCESS TO AND FROM THE OPERATIONS AREA AND THE EFFECT ON PEDESTRIAN AND VEHICULAR CIRCULATION AND SAFETY;

(2) ADEQUACY OF THE PROPOSED TRANSPORTATION PLAN TO DEAL WITH INTERSECTIONS, ROAD CONDITIONS, SITE DISTANCES, TRAFFIC VOLUMES, TYPES OF EQUIPMENT, EXISTING ROAD USE, AND MAY INCLUDE, UNDER CERTAIN CIRCUMSTANCES, DUST CONTROL AND SNOW REMOVAL;

(3) THE EFFECT OF THE PROPOSED TRANSPORTATION ON RECREATIONAL USES AND TOURISM-RELATED ACTIVITIES; AND

(4) THE EFFECT THE PROPOSED TRANSPORTATION WILL HAVE ON GENERAL PUBLIC HEALTH, SAFETY, AND WELFARE.

(F) THE PERMIT WILL CONTAIN:

(1) TIME(S) OF DAY CARGO-CARRYING VEHICLE USE IS PERMITTED TO OCCUR;

(2) TYPE, GROSS VEHICLE WEIGHT AND OVERALL LENGTH OF CARGO-CARRYING VEHICLES THAT MAY BE UTILIZED;

(3) MAXIMUM NUMBER OF TRIPS BY CARGO-CARRYING VEHICLES THAT SHALL OCCUR PER DAY OR PER WEEK;

- (4) PRESENCE OF SCHOOL BUS ROUTES, TIMES THAT BUSES ARE PICKING UP OR DROPPING OFF STUDENTS ALONG THE ROUTE, SPECIFIC STOPS WHERE LINE OF SIGHT TO A BUS IS LIMITED;
- (5) PRESENCE OF KNOWN "WALK TO SCHOOL" OR "PEDESTRIAN" CROSSING AREAS, TRAILS, OR OTHER USES ON OR ADJACENT TO THE ROAD SURFACE;
- (6) IDENTIFY VEHICLE OPERATOR ACTIONS SUCH AS REDUCED SPEED WHERE ROAD CONDITIONS OR OTHER USES WARRANT;
- (7) IDENTIFY THE MEANS OF PUBLIC INFORMATION TO BE TAKEN BY THE PERSON TO NOTIFY THE PUBLIC ABOUT TIMBER HARVEST OPERATIONS AND ACTIONS THAT WILL BE TAKEN TO IMPLEMENT A TRAFFIC SAFETY PLAN;
- (8) TRAFFIC SIGNS OR WARNING SIGNS THAT SHALL BE POSTED DURING TIMBER HAULING OPERATIONS; AND
- (9) ANY ROAD MAINTENANCE THAT SHALL BE REQUIRED DURING AND AFTER TIMBER HAULING OPERATIONS.
- (G) AN APPLICATION FOR A TTP SHALL BE ISSUED OR REJECTED BY THE DIRECTOR WITHIN FIVE WORKING DAYS FOLLOWING COMPLETION OF THE PUBLIC NOTICE AS REQUIRED UNDER THIS SECTION.
- (H) THE TIME PERIOD FOR ISSUANCE OR DENIAL OF THE PERMIT MAY BE EXTENDED BY EITHER THE DIRECTOR OR THE PERSON FOR A PERIOD OF TIME MUTUALLY DECIDED BY THE DIRECTOR AND THE PERSON, BUT NOT TO EXCEED 30 DAYS.

(I) A TTP MAY BE AMENDED, SUSPENDED OR REVOKED BY THE DIRECTOR BASED ON SIGNIFICANT CHANGES TO THE:

1) VOLUME OF TIMBER, TIMING OF HARVEST, OR SIZE OF AREA BEING HARVESTED; OR

(2) CHANGES IN VOLUME OF TRAFFIC OR OTHER CONDITIONS THAT REQUIRE CHANGES TO THE TRAFFIC SAFETY PLAN; OR

(3) CHANGES, DAMAGES, OR WEAR TO BOROUGH ROADS.

(J) IF A CHANGE IS DETERMINED TO BE SIGNIFICANT BY THE DIRECTOR, OR A PERMIT IS TO BE SUSPENDED OR REVOKED, A NEW PUBLIC NOTICE SHALL BE REQUIRED.

(K) IF A PROPOSED CHANGE IS DETERMINED TO BE SIGNIFICANT BY THE DIRECTOR, THE ORIGINAL TERMS AND CONDITIONS OF THE TTP SHALL BE FOLLOWED UNTIL THE PROPOSED TERMS AND CONDITIONS OF THE TTP ARE ACCEPTED, AMENDED OR DENIED.

(L) ADMINISTRATIVE APPEAL.

(1) A DECISION BY THE DIRECTOR INCLUDING AMENDMENT, SUSPENSION OR REVOCATION OF A TIMBER TRANSPORT PERMIT MAY BE APPEALED IN WRITING TO THE MANAGER WITHIN 10 WORKING DAYS OF BEING APPROVE OR DENIED IN WRITING BY THE DIRECTOR. A COPY OF THE WRITTEN DECISION SHALL BE MAILED TO THE APPLICANT AND TO ANY PERSON WHO MEANINGFULLY PARTICIPATED DURING THE PUBLIC NOTICE AND COMMENT PERIOD.

(2) THE 10 WORKING DAYS BEGINS ON THE DATE THE DECISION IS POSTMARKED OR PERSONALLY DELIVERED.

(3) AN APPEAL MUST BE POSTMARKED OR RECEIVED BY THE MANAGER WITHIN THE 10-DAY PERIOD. THE APPEAL MUST SPECIFICALLY STATE THE REASONS FOR THE APPEAL AND A PROPOSED RESOLUTION.

(M) THE MANAGER MAY UPHOLD, AMEND, OR OVERTURN THE DECISION BY THE DIRECTOR. THE DECISION OF THE MANAGER IS THE FINAL DECISION OF THE BOROUGH.

28.60.090 TRAFFIC SAFETY SIGNS.

(A) WHEN CONDITIONS WARRANT, THE DIRECTOR, AS PART OF THE TIMBER TRANSPORT PERMIT, MAY REQUIRE WARNING SIGNS FOR TRAFFIC SAFETY BEYOND THAT NORMALLY REQUIRED BY STATE LAW.

(B) SIGNS POSTED BY THE PERSON SHALL MEET STATE AND BOROUGH STANDARDS FOR TRAFFIC SAFETY.

28.60.100 ROAD MAINTENANCE.

(A) IF BOROUGH-OWNED OR MANAGED ROADS UTILIZED BY THE PERSON ARE DEEMED NOT TO BE SAFE, ARE DAMAGED, OR ARE AT RISK TO DAMAGE BEYOND THAT ASSOCIATED WITH REGULAR ROAD SERVICE AREA MAINTENANCE BECAUSE OF THE ADDITIONAL SURFACE TRAFFIC ASSOCIATED WITH THE PERSON'S ACTIVITIES, THE BOROUGH MAY REQUIRE THAT THE PERSON

PERFORM MAINTENANCE OR CONSTRUCTION WORK AS NECESSARY TO MEET OR EXCEED THE CONDITIONS OF THE ROAD WHEN FOREST HARVEST OPERATIONS BEGAN. ANY SUCH PROVISION MAY BE PART OF THE TIMBER TRANSPORT PERMIT AND MAY INCLUDE DUST CONTROL, GRADING, OR PLOWING FOR SAFETY.

(B) THE BOROUGH MAY REQUIRE THAT A BOND OR OTHER FORM OF SECURITY BE PROVIDED TO ENSURE PERFORMANCE WITH THIS SECTION.]

Section 3. Effective date. This ordinance shall take effect upon adoption.