

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 17.06: ELECTRICAL GENERATING AND DELIVERY FACILITY IN ITS ENTIRETY

AGENDA OF: June 21, 2022

ASSEMBLY ACTION:

*Adopted with Assembly members
Ade & Nowers opposed 11-22-22*

MANAGER RECOMMENDATION: Refer to Planning Commission.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:

WB

Route To:	Department/Individual	Initials	Remarks
	Originator	<i>SNB</i>	<i>for Sumner</i>
	Planning Director	<i>(S)</i>	
	Finance Director	<i>OK</i>	
	Borough Attorney	<i>SNB</i>	
	Borough Clerk	<i>SNB</i>	<i>for Frank</i>

ATTACHMENT (S) : Fiscal Note: YES ___ NO X
 Ordinance Serial No. 22-083 (3 pp)
 Chapter 17.06: Electrical Generating and Delivery Facility (6 pp)
PC Resolution 22-29 (3pp)

SUMMARY STATEMENT:

The intent of this repeal is to make power generation more affordable. The current ordinance requires new electrical generation facilitates to apply for a permit that will be considered by the planning commission. The application process alone is a significant investment in both time and money. With

very high energy costs and international instability, there is a concern the current ordinance hinders cost effective energy production, even sustainable alternative energy facilitates.

RECOMMENDATION OF ADMINISTRATION: Repeal MSB 17.06 in its entirety.

By: A. Strawn
Introduced: July 18, 2022
Public Hearing: August 1, 2022
Approved: October 3, 2022

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 22-29**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING THE ASSEMBLY FAIL AN ORDINANCE REPEALING MSB 17.06 -
ELECTRICAL GENERATING AND DELIVERY FACILITY IN ITS ENTIRETY.

WHEREAS, the Matanuska-Susitna Borough Planning Commission held a public hearing on August 1, 2022 to consider recommending an ordinance which would repeal MSB 17.06 - Electrical Generating and Delivery Facility, in its entirety; and

WHEREAS, the motion to recommend repeal of MSB 17.06 failed to garner support from a majority of the commissioners; and

WHEREAS, repealing this code would make it so there is not a conditional use permit required under the Borough Code or public input that occurs as part of that process; and

WHEREAS, the stated purpose of MSB 17.06 is to allow for the location, construction, and operation of new electrical generating facilities and those associated transmission lines necessary to connect the facilities to any electrical grid within the borough while protecting the public health, safety, convenience, welfare, and environmental surroundings of borough residents. These protections include, but are not limited to: public health, noise,

water resources, air quality, socioeconomics, visual resources, cultural resources, land use, traffic and transportation, hazardous materials handling, waste management, biological resources, soils, geological hazards and resources, and transmission safety; and

WHEREAS, the cost and time associated with obtaining a conditional use permit for an electrical generating facility over ten megawatts is minimal compared to the overall cost of the facility; and

WHEREAS, poorly situated electrical generating facilities have the potential to negatively impact surrounding land uses.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends the Assembly fail Ordinance Serial No. 22-083, an ordinance repealing MSB 17.06 - Electrical Generating And Delivery Facility, in its entirety.

ADOPTED by the Matanuska-Susitna Borough Planning Commission
this 3rd day of October, 2022.

Patricia Chesbro
~~Stafford Glashan, Chair~~
Patricia Chesbro, vice chair

ATTEST

Karol Riese
KAROL RIESE, Planning Clerk

(SEAL)

YES: Glenn, Allen, Chesbro, Ruben, Kandig

NO:

CHAPTER 17.06: ELECTRICAL GENERATING AND DELIVERY FACILITY

Section

17.06.010 Intent

17.06.020 Jurisdiction of chapter provisions

17.06.030 General procedures

17.06.040 Electrical generating facility permit application requirements

17.06.060 Modifications and preexisting uses.

17.06.100 Right to enter

17.06.110 Review of applications; action by planning commission

17.06.120 Application; submittal procedure

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17.06.010 INTENT.

(A) It is the borough's intent to allow for the location, construction, and operation of new electrical generating facilities and those associated transmission lines necessary to connect the facilities to any electrical grid within the borough while protecting the public health, safety, convenience, welfare, and environmental surroundings of borough residents. These protections include, but are not limited to: public health, noise, water resources, air quality, socioeconomics, visual resources, cultural resources,

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land use, traffic and transportation, hazardous materials handling, waste management, biological resources, soils, geological hazards and resources, and transmission safety.

(Ord. 14-144, § 3 (part), 2015)

17.06.020 JURISDICTION OF CHAPTER PROVISIONS.

(A) This chapter shall apply to the location, construction, and operation of all new electrical generating facilities producing ten megawatts or more on lands within the borough outside of incorporated cities with land use planning power.

(B) Where this chapter is in conflict with the conditions of a special land use district or other borough regulation, the most restrictive conditions apply.

(Ord. 14-144, § 3 (part), 2015)

17.06.030 GENERAL PROCEDURES.

(A) Electrical generating facilities with a generating capacity equal to ten or more megawatts within the borough shall be subject to the provisions of this chapter and any other applicable regulations of the borough, as well as any state or federal agencies having jurisdiction over such activity.

(B) Construction, installation, and operation of electrical generating facilities shall not commence until approval has been granted by the planning commission. The Matanuska-Susitna Borough Planning and Land Use Director, hereinafter referred to as "director," shall serve as the authorized representative of the planning commission to implement the planning commission's approval.

(Ord. 14-144, § 3 (part), 2015)

17.06.040 ELECTRICAL GENERATING FACILITY PERMIT APPLICATION REQUIREMENTS.

(A) An application for a permit for new electrical generating facilities shall be filed by the company(ies) or person(s) seeking to operate such a facility. Application for a permit shall be made in writing on a form or forms provided by the Matanuska-Susitna Borough Planning and Land Use Department, and shall include all of the elements listed in this section.

(B) *Information requirements for an application.*

(1) *Project overview.*

(a) A general description of all project components including the electrical generating facility, the proposed site and related facilities, including the location of the site and substations, switchyards, or other associated transmission equipment serving the facility, the

type, size, and capacity of the generating or transmission facilities, fuel type, fuel supply routes and storage facilities, water supply routes and facilities, pollution control systems, and other general characteristics.

(b) A brief summary description of the type of fuel(s) and generating technology to be used at the proposed facility; and the decision-making process and rationale used for choosing the same.

(c) Provide a brief summary of the forecasted demand for electrical energy.

(2) *Project schedule.* For each major project component, the proposed dates of initiation and completion of construction, initial start-up, and full-scale operation of the proposed facilities.

(3) *Project ownership.* A list of all owners and legally responsible entities with more than 9.9 percent interest in the site(s), and the electrical generating facilities.

(4) *Certified site plan.*

(5) *Facility closure/decommissioning.* A brief discussion of how the electrical generating facility closure will be accomplished in the event of permanent cessation of operations.

(6) *Other applicable permits.* A list of all other permits for which the project must apply and receive approval.

(Ord. 14-144, § 3 (part), 2015)

17.06.060 MODIFICATIONS AND PREEXISTING USES.

(A) Approval granted for electrical generating facilities shall expire or be considered revoked if commencement of construction has not occurred within five years of the date of approval.

(B) Where an electrical generating facility permit has been approved and the applicant desires to modify the subject permit due to material changes in the project, an amendment to the original application shall be required. Material changes include, but are not limited to:

(1) the footprint of the project expands beyond the permitted development;

(2) a fuel type or generating technology is used which was not specified as part of the approved development; or

(3) the change is in conflict with a condition placed on the permit by the approving body.

(C) If the director determines that there are substantive impacts caused by the modification, the modification shall be reviewed by the planning commission in accordance with this chapter.

(D) The provisions of this chapter shall apply to all facilities for which construction has not commenced or a permit has not been issued as of the effective date.

(Ord. 14-144, § 3 (part), 2015)

17.06.100 RIGHT TO ENTER.

(A) For the purpose of implementing and enforcing this chapter, the director or designee may enter onto subject property during normal business hours upon reasonable notification.

(Ord. 14-144, § 3 (part), 2015)

17.06.110 REVIEW OF APPLICATIONS; ACTION BY PLANNING COMMISSION.

(A) The director shall review such applications and forward a recommendation for approval, conditional approval, or denial with appropriate findings to the planning commission for final action. Final actions of the planning commission shall contain appropriate findings based upon evidence in the record before the planning commission.

(Ord. 14-144, § 3 (part), 2015)

17.06.120 APPLICATION; SUBMITTAL PROCEDURE.

(A) The application shall consist of all items identified in MSB 17.06.040. Prior to formal submittal of the application, the director shall meet with the applicant to discuss and identify any information required to adequately review the proposed facility.

(Ord. 14-144, § 3 (part), 2015)

17.06.130 DETERMINATION OF COMPLETENESS.

(A) The director will review the application for completeness. If the application is incomplete, the applicant will be notified of the deficiency in writing within 30 days of submittal. If the director determines the application is complete, a public hearing shall be scheduled in accordance with this chapter.

(Ord. 14-144, § 3 (part), 2015)

17.06.140 PUBLIC NOTICE.

(A) Notification shall be in accordance with the standards of MSB 17.03, except the notification area will be one-half mile and the notification period will be 45 days.

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(Ord. 14-144, § 3 (part), 2015)

17.06.160 PERMIT CRITERIA.

(A) The planning commission decision to approve or deny an application for an electrical generating facility permit shall be made and determined based on consideration of the following criteria:

- (1) the degree of compatibility of the proposed site plan and land uses with applicable comprehensive plans;
- (2) the compatibility and suitability of the project, including fuel storage or delivery routes where applicable, and the site design with surrounding buildings, land uses, ownership and physical characteristics, its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon human health, impacts upon air and water quality, vibration levels, fire protection and emergency response access requirements, visual impacts, fish and wildlife impacts, cultural resources impacts, and traffic safety;
- (3) the adequacy of access to and from the project, including to the source of fuel (where applicable) and proposed delivery methods, the effect on pedestrian and vehicular circulation and safety, and mitigation measures proposed to minimize impacts. Factors and impacts to be considered include, but are not limited to, existing and proposed road alignment, intersections, condition, structure, and site distances along all routes; traffic volumes and types of equipment, dust control, and existing road uses;
- (4) the impact that the proposed project may have on the need and availability of public services within the area; and
- (5) the compatibility of the project to the site conditions, cultural resources, and environmental setting.

(B) The planning commission decision shall be based upon evidence in the record. Within 30 days following the conclusion of the public hearing, a written resolution shall be adopted as its decision on the application. The resolution shall set forth findings based upon evidence in the record of proceedings before the planning commission.

(Ord. 14-144, § 3 (part), 2015)

17.06.165 REQUIRED COMPLIANCE WITH STATE AND FEDERAL LAWS.

(A) All applicants for permits for electrical generating facilities are required to demonstrate compliance with state and federal law. The permit shall be conditioned upon the applicant or agent

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