

SUBJECT: AN ORDINANCE ADOPTING MSB 2.29.110, PROCEDURES FOR APPEALS, REQUESTS FOR CORRECTION, OR REQUESTS FOR EXEMPTION UNDER MSB 17.11, SEX OFFENDERS; AND AMENDING MSB 17.11.080, APPEALS, TO REFERENCE THE APPEAL PROCEDURES FOR MSB 2.29.110.

AGENDA OF: October 17, 2023

ASSEMBLY ACTION: Adopted without objection 11/21/23 - BJH

AGENDA ACTION REQUESTED: Introduce and set for public hearing.

Route To	Signatures
Originator: BJH for Office of Administrative Hearings and Assemblymember Bernier	<div>10/13/2023</div> <div>X Brenda J. Henry</div> <div>Signed by: Brenda Henry</div>
Planning and Land Use Director	<div>10/13/2023</div> <div>X Alex Strawn</div> <div>Signed by: Alex</div>
Borough Attorney	<div>10/13/2023</div> <div>X Nicholas Spiropoulos</div> <div>Signed by: Nicholas Spiropoulos</div>
Borough Manager	<div>10/13/2023</div> <div>X Michael Brown</div> <div>Signed by: Michael Brown</div>
Borough Clerk	<div>10/13/2023</div> <div>X Lonnie McKechnie</div> <div>Signed by: Lonnie McKechnie</div>

ATTACHMENT (S) : Ordinance Serial No. 23-086 (8 pp)
 MSB 2.29: Office of Administrative Hearings (6 pp)
 PC Resolution No. 23-34

SUMMARY STATEMENT: This legislation is coming forward at the request of the Office of Administrative Hearings and Assemblymember Bernier. It has been reviewed by the Planning Commission, per the Law Department directive.

On July 18, 2023, the Assembly adopted Ordinance Serial No. 23-048, which established residency restrictions on sex offenders residing in the Borough.

With the adoption of Ordinance Serial No. 23-048 and pursuant to MSB 17.11.080, Appeals, the Office of Administrative Hearings will have original jurisdiction to hear appeals of notice of violations, requests for correction, or requests for exemption, under this chapter.

The Office of Administrative Hearings has either appellate or original jurisdiction over the following: bid appeals, forfeiture of animals, relocation benefits appeals, and level 5 classifications of animals. The Office of Administrative Hearings also has a duty to act as chairperson of the Ethics Board if a complaint rises to the level of probable cause. The Hearing Officer is not a full-time employee dedicated to only Borough issues and relies heavily on the Clerk's Office to provide staff support.

There are hearing procedures for each of the items listed above, which provides certainty for appellants and requestors and direction for the Hearing Officer. The Hearing Officer has the authority to change deadlines and to conduct hearings as to ensure that appellants and requestors receive proper due process when cases are deemed complex. Cases are not always complex, and it could cause unnecessary delay if the hearing officer must always determine calendaring deadlines.

Having clear and concise procedures will facilitate processing of appeals and requests in a consistent and timely manner and will not eliminate the authority of the Hearing Officer to ensure due process and administrative economy are preserved.

MSB 17.11.080, Appeals needs to be amended. That portion of code refers to MSB 2.29.080, which speaks specifically to bid appeal and animal forfeiture procedures. This portion of code is only being amended so that code will direct appellants and/or respondents to the appropriate procedures.

RECOMMENDATION OF ADMINISTRATION: Adoption of legislation providing for appeal, request for correction, or request for exemption procedures under MSB 17.11.

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

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 23-34**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE ADOPTING MSB 2.29.110, PROCEDURES FOR APPEALS, REQUEST FOR CORRECTION, OR REQUEST FOR EXEMPTION UNDER MSB 17.11, SEX OFFENDERS; AND AMENDING MSB 17.11.080, APPEALS, TO REFERENCE THE APPEAL PROCEDURES FOR MSB 2.29.110.

WHEREAS, On July 18, 2023, the Assembly adopted Ordinance Serial No. 23-048, which established residency restrictions on sex offenders residing in the Borough; and

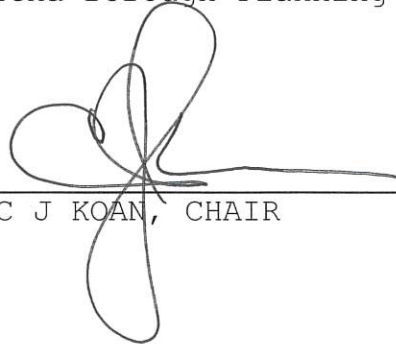
WHEREAS, with the adoption of Ordinance Serial No. 23-048 and pursuant to MSB 17.11.080, Appeals, the Office of Administrative Hearings will have original jurisdiction to hear appeals of notice of violations, requests for correction, or requests for exemption, under MSB 2.29; and

WHEREAS, MSB 2.29 speaks specifically to bid appeal and animal forfeiture procedures and does not have a clear and concise procedures for appeals of this nature; and

WHEREAS, having clear and concise procedures will facilitate processing of appeals and requests in a consistent and timely manner and will not eliminate the authority of the Hearing Officer to ensure due process and administrative economy are preserved.

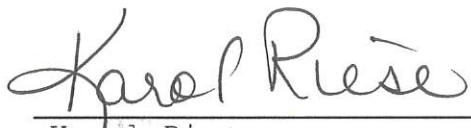
NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 23-086.

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 Shane, Fernandez, Allen, Scoggin,
McCabe & Koan

NO: (0)