

**SUBJECT:** REPORT AND RECOMENDATIONS ON THE COMMERCIAL OUTDOOR SHOOTING FACILITY WORKING GROUP.

**AGENDA OF:** August 6, 2019

**ASSEMBLY ACTION:**

presented to the Assembly 8-6-19  
*[Signature]*

**MANAGER RECOMMENDATION:** For information only.

**APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:** \_\_\_\_\_

Route To:	Department/Individual	Initials	Remarks
	Originator-A. Bradway	<i>AB</i>	
	Planning and Land Use Director	<i>EP</i>	
	Borough Attorney	<i>TS for NS</i>	
	Borough Clerk	<i>JAM</i>	7/29/19 <i>[Signature]</i>

**ATTACHMENT (S) :** IM 18-125 (2 pp)  
Ord 18-086 (8 pp)

**BACKGROUND:**

In July 2018, an Assembly member approached the Mat-Su Borough Attorney's Office and Planning Department about regulatory options to reduce the potential negative impacts of any future outdoor commercial, educational, or nonprofit shooting facilities (hereafter "shooting facilities") in the Borough. The primary impacts identified were:

- (1) Stray bullets
- (2) Lead contamination
- (3) Noise

Due to the potentially controversial nature of this topic, it was requested that the Planning Department draft a non-code ordinance forming an expert working group to research all aspects of shooting

range ordinances and advise the Assembly and administration on code changes. Ordinance 18-086 was adopted on September 4<sup>th</sup>, 2018, creating a working group of nine members who are required to have varied, relevant expertise.

To aid in filling the positions, borough staff reached out to all community councils and specific borough residents and groups with known expertise in one or more of the working group categories. Specific residents and groups contacted included all local commercial shooting ranges, City of Palmer and Wasilla Police Departments, professional environmental specialists, and the local Friends of the NRA organization. There has been interest from qualified members of the public, but all voiced concern over the time commitment required of a working group. To date, the Borough has received six applications to join the working group; all have been for the position of at-large member, leaving the remaining positions unfilled. The working group will sunset August 7, 2019.

#### **WAYS FORWARD:**

Staff offers the following options as ways forward. Options include:

1. Let the existing ordinance sunset. Draft a new, similar, non-code ordinance with a later sunset date. Replace the list of specific working group positions with general members, so the Clerk's Office can fill all positions with at-large members. After the working group completes its work and makes recommendations, allow for a comment period where individuals with relevant expertise can help shape recommendations. After recommendations are presented, direct staff to follow through on one of the options listed below as a final product.

Pros: Satisfies the need for public engagement and expert guidance while remaining sensitive to peoples' busy schedules.

Cons: Potential quality concerns by not having experts involved throughout the process. More staff time required.

2. Let the existing ordinance sunset. Direct staff to develop draft code recommendations. After staff have completed their work, allow for a comment period where individuals with relevant expertise and members of the general public can help shape recommendations. After recommendations are presented, direct staff to follow through on one of the options listed below as a final product.

Pros: Initial work can be completed much more efficiently—fewer staff hours are required, and draft code can be



completed more quickly by avoiding scheduling issues.

Cons: There may not be enough public buy-in when the Assembly decides whether to adopt code changes.

3. Do Nothing: The Borough may elect to take no action related to shooting ranges at this time.

The Assembly should also discuss and consider what they believe their final product could look like. Depending on what they wish the outcome to be, it may or may not be necessary to have a working group.

#### **FINAL PRODUCT:**

State law clarifies the Borough Assembly's ability to regulate shooting facilities:

- The authority to regulate firearms is reserved to the State, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms or knives (AS 29.35.145(a)).
- Municipalities may enact and enforce ordinances restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; ordinances enacted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others (AS 29.35.145(a)(2)).

Options for the final product include:

1. The Borough may develop a conditional use permit (CUP) process for shooting facilities. Standards may include requirements for buffering, hours of operation, bullet collection, parking, etc.

Pros: Comprehensive approach that specifically addresses all impacts. Increased public participation. There is a plethora of source material for developing effective standards.

Cons: Less certainty for residents and prospective shooting range developers regarding locations of future facilities. Requires the largest amount of staff time.

2. The Borough may develop a ministerial review process for shooting facilities. Standards should be similar to option two, above, though in a ministerial review, standards must all be objective. Ministerial determinations involve little or no personal judgment, and are issued by the Planning Director or their designee, not the Planning Commission. If the application meets all standards, their permit is granted. An example of a ministerial review is the current MSB Multifamily Development Permit.

Pros: High level of predictability, if all standards are met, the development will be approved. Able to address all impacts.

Cons: Reduced public participation. This type of permit does not allow flexibility for interpretation of standards.

3. The Borough may expand the Core-Area CUP to the entire Borough. This action would extend additional restrictions to all new, commercial and industrial developments, including shooting ranges, which exceed thresholds for noise, traffic, or hazardous substances.

Pros: Can be implemented easily and on a shorter timeline. Requires less staff time than developing a new CUP. Specifically addresses noise and lead contamination concerns.

Cons: Core-Area standards were not originally intended to address shooting ranges and do not specifically address all related concerns; however, general standards and conditions of the core area CUP can be used to address such concerns. Less certainty for residents and prospective shooting range developers regarding locations of future facilities.

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ESTABLISHING THE COMMERCIAL OUTDOOR SHOOTING FACILITY WORKING GROUP.


**AGENDA OF:** August 7, 2018

**Assembly Action:**

Amended & adopted 9-4-18  
with McKee, Leonard & ~~BS~~  
Kowalko opposed

**MANAGER RECOMMENDATION:** Introduce and set for public hearing.

**APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:** 

Route To:	Department/Individual	Initials	Remarks
	Originator-A. Bradway	B	
	Planning and Land Use Director	EP	
	Borough Attorney	NS	
	Borough Clerk		

**ATTACHMENT(S):** Fiscal Note: YES \_\_\_\_\_ NO x  
Ordinance Serial No. 18-086 (7 pp)

**SUMMARY STATEMENT:**

This ordinance is coming forward at the request of Assemblymember Doty to create a commercial outdoor shooting range working group. This board will be appointed by the Mayor and approved by the Assembly. This board will consider input from the public and do volunteer research on aspects of commercial outdoor shooting range ordinance including, but not limited to, relevant case study research of ordinances in other municipalities, best management practices, environmental effects, land use and design principals, and health and safety standards. This group will offer advice and recommendations to the Assembly and administration on any issue related to the regulation of commercial outdoor shooting ranges.

The board has no authority to act on behalf of the Borough or communicate on the Borough's behalf other than to make recommendations to the Assembly and Administration. The board may only comment and offer advice to the Borough Assembly and administration.

The board will consist of 9 members and convene as often as necessary and practicable until final Assembly adoption of commercial outdoor shooting facility provisions or August 7, 2019, whichever may come first.

**RECOMMENDATION OF ADMINISTRATION:**

Staff respectfully recommends adoption of Ordinance 18-086.

NONCODE ORDINANCE

By: Borough Manager

Introduced: 08/07/18

Public Hearing held and continued to 09/04/18: 08/21/18

Public Hearing: 09/04/18

Amended: 09/04/18

Adopted: 09/04/18

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 18-086**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY  
ESTABLISHING A COMMERCIAL, EDUCATIONAL, AND NONPROFIT OUTDOOR  
SHOOTING FACILITY WORKING GROUP.

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WHEREAS, Alaska Statute 29.35.145 provides that the authority to regulate firearms and knives is reserved to the state, except as specifically provided by statute, and a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms or knives; and  
WHEREAS, AS 29.35.145(b) (2) allows municipalities to enact and enforce ordinances restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized, not abridging the right of the individual guaranteed by Art. I, sec. 19 of the Alaska Constitution to bear arms in defense of self or others; and

WHEREAS, AS 29.40.010(a) requires that a second class borough provide for land use regulation as a mandatory areawide power; and

WHEREAS, AS 29.35.145 does not preempt second-class boroughs from regulating land use concerning commercial, educational, and nonprofit outdoor shooting function of planning, platting, and zoning in the Borough; and

WHEREAS, MSB 15.04.015 provides that the Planning Commission perform the areawide function of planning, platting, and zoning in the Borough; and

WHEREAS, MSB 15.04.015 provides that the planning commission shall recommend to the Assembly a zoning ordinance to implement the comprehensive plan; and

WHEREAS, the Matanuska-Susitna Borough has experienced a substantial increase in population density in areas proximate to existing commercial, educational, and nonprofit outdoor shooting facilities and therefore has a substantial interest in ensuring the compatibility of commercial, educational, and nonprofit outdoor shooting facilities with surrounding land uses and in minimizing potential safety hazards created by the operation of commercial, educational, and nonprofit outdoor shooting facilities; and

WHEREAS, public concerns have been raised over the safety and land use compatibility of commercial, educational, and nonprofit outdoor shooting facilities located in increasingly populated areas; and



WHEREAS, the Borough has extensive rural areas where commercial, educational, and nonprofit outdoor shooting facilities may be appropriate, but where emergency services are scarce, and adopting a commercial, educational, and nonprofit outdoor shooting ordinance would promote public safety and preserve limited emergency services; and

WHEREAS, commercial, educational, and nonprofit shooting facilities benefit the Borough by providing its residents the opportunity to learn firearm safety, to practice shooting, and to participate in amateur recreational firearm sports in a safe, controlled setting; and

WHEREAS, the Assembly finds that it is in the public interest to protect and preserve the continued viability of commercial, educational, and nonprofit outdoor shooting facilities in the Borough in the face of increasing population pressure and conflicting land uses; and

WHEREAS, the Assembly finds that uniform provisions for the establishment and operation of all commercial, educational, and nonprofit outdoor shooting facilities in the Borough would provide assurance of the safe conduct of recreational and educational shooting activities in the Borough, provided these provisions: (1) promote safety by establishing a permitting procedure and rules for the siting, design, and operation of commercial, educational, and nonprofit outdoor shooting facilities that safeguard

participants, spectators, neighboring properties and the public;  
(2)do not prohibit or expressly regulate the discharge of firearms;  
(3)involve measures designed to make the discharge of firearms  
safe; (4)protect from lead contamination; (5) ensure compatibility  
with neighboring land use; and (6)promote the continued  
availability of commercial, educational, and nonprofit shooting  
facilities; and

WHEREAS, the Borough recognizes the technical expertise and  
research required to perfect a code providing for the establishment  
and operation of commercial, educational, and nonprofit outdoor  
shooting facilities; and

WHEREAS, the Assembly is creating a temporary working group,  
known as the Commercial, Educational, and Nonprofit Outdoor  
Shooting Facility Working Group, to utilize technical expertise  
and research in advising the Assembly and Administration on any  
and all aspects, effects and concerns related to commercial,  
educational, and nonprofit outdoor shooting ranges. Research  
topics include, but are not be limited to, relevant case study  
research of ordinances in other municipalities, best management  
practices, environmental effects, land use and design principles,  
and health and safety standards; and

WHEREAS, the Commercial, Educational, and Nonprofit Outdoor  
Shooting Facility Working Group has no authority to act on behalf

of the Borough or communicate on the Borough's behalf other than to make recommendations to the Assembly and Administration.

BE IT ENACTED:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Establishment. There is established a commercial, educational, and nonprofit outdoor shooting facility working group, to be provided secretarial and staff support principally from the Borough Planning Department.

Section 3. Composition. The Commercial, Educational, and Nonprofit Outdoor Shooting Facility Working Group shall be comprised of nine members who are appointed by the Mayor and approved by the Assembly. As feasible, they shall be drawn from the following broad categories:

- Two representatives of commercial, educational, and nonprofit outdoor shooting facilities in the Matanuska-Susitna Borough;
- One senior official in law enforcement, or their designee;
- One with expertise in environmental protection;
- One from the National Rifle Association;
- One from a local sport shooting or fish & game organization;

- Two residents within mile from an existing commercial, outdoor shooting facility; and
- One at-large member.

Section 4. Functions and duties. The Outdoor Commercial, Educational, and Nonprofit Shooting Facility Working Group shall conduct research pertaining to relevant aspects of commercial, educational, and nonprofit outdoor shooting facilities to inform recommendations to the Assembly. Research topics include, but are not be limited to, case study research of ordinances in other municipalities, best management practices, environmental effects, land use and design principles, and health and safety standards.

The Commercial, Educational, and Nonprofit Outdoor Shooting Facility Working Group shall advise the Assembly and Administration regarding uniform provisions for the establishment and operation of commercial, educational, and nonprofit outdoor shooting facilities in the Borough to provide assurance of the safe conduct of recreational and educational shooting activities. Recommendations shall inform Assembly adoption of an ordinance that:

(1) provides for and promotes safety by establishing a permitting procedure and rules for the siting, design and operation of commercial, educational, and nonprofit shooting range facilities that safeguards participants, spectators, neighboring properties and the public;



(2) does not prohibit or expressly regulate the discharge of firearms;

(3) involves measures designed to make the discharge of firearms safe;

(4) protects from lead contamination;

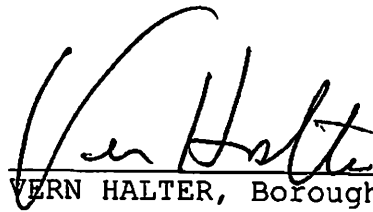
(5) ensures compatibility with neighboring land use; and,

(6) promotes the continued availability of shooting facilities for firearm education, practice in the safe use of firearms, and recreational firearm sports.

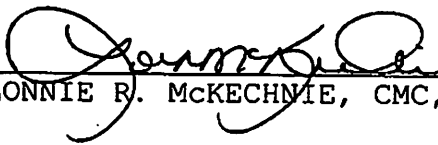
Section 5. Sunset clause. The Commercial, Educational, and Nonprofit Outdoor Shooting Facility Working Group will disband upon final Assembly adoption of commercial, educational, and nonprofit outdoor shooting facility provisions or August 7, 2019, whichever may come first.

Section 6. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 4 day  
of September, 2018.

  
VERN HALTER, Borough Mayor

ATTEST:

  
LONNIE R. McKECHNIE, CMC, Borough Clerk  
(SEAL)

YES: Sykes, Beck, Mayfield, and Doty

NO: McKee, Leonard, and Kowalke