

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB TITLE 43 – SUBDIVISIONS.

AGENDA OF: November 22, 2022

ASSEMBLY ACTION:

Amended & adopted without
objection 12-8-22 (BOM)

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: WB

Route To:	Department/Individual	Initials	Remarks
	Originator - F. Wagner	FW	
	Planning Director - A. Strawn	(S)	
	Public Works Director	AS 11/02/22	
	Borough Attorney	NS	Form Only - <i>Amended after board approval</i>
	Borough Clerk	BOM for Item	

ATTACHMENT (S): Fiscal Note: YES ____ NO X

Planning Commission Resolution 22-34 (2 pp)

Platting Board Resolution 2021-149 (2 pp)

Title 43 – Subdivisions (44 pp)

Ordinance Serial No. 22-103 (15 pp)

SUMMARY STATEMENT:

On April 17, 2012 the Assembly adopted Title 43, a major revision to the subdivision code. The Assembly directed the Platting Board and Planning Commission to review the new regulations and report back findings. Platting staff worked with the two boards to identify changes, and several amendments were subsequently adopted thereafter based on the findings.

In March 2017, the Assembly directed staff to continue to compile suggested changes to Title 43. In May 2019, Platting Staff presented 29 recommendations for amendments or changes to the Platting Board for consideration. After 10 public work sessions

held between 2019 and 2022, the Platting Board approved Resolution 2021-149 to address proposed changes to Title 43 dealing with items compiled by Platting Staff.

RECOMMENDATION OF ADMINISTRATION:

Staff respectfully recommends considering adoption of Ordinance 22-103.

By: Fred Wagner
Introduced: October 3, 2022
Public Hearing: October 17, 2022
Action: Adopted

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 22-34**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING MSB TITLE 43 –
SUBDIVISIONS.

WHEREAS, On April 17, 2012 the Assembly adopted Title 43, a major revision to the subdivision code. The Assembly directed the Platting Board and Planning Commission to review the new regulations and report back findings. Platting staff worked with the two boards to identify changes, and several amendments were subsequently adopted thereafter based on the findings; and

WHEREAS, In March 2017, the Assembly directed staff to continue to compile suggested changes to Title 43; and

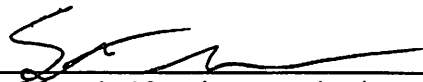
WHEREAS, In May 2019, Platting Staff presented 29 recommendations to the Platting Board for consideration of amendments correcting errors and to make code more legally defensible; and

WHEREAS, The Platting Board held 10 public work sessions between 2019 and 2022, listened to public testimony and with the assistance of staff and the public, crafted language to address amendments to Title 43; and

WHEREAS, On January 6, 2022 the Platting Board approved Platting Board Resolution 2021-149 to address proposed changes to Title 43 dealing with items compiled by Platting Staff; and

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends assembly approval of ordinance 22-103.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 17th day of October, 2022.



Stafford Glashan, Chair

ATTEST



KAROL RIESE, Planning Clerk

(SEAL)

YES: 6 Commissioner Chesbro, Allen, Glenn, Rubeo,
Glashan and Kendig

NO: 0

Introduced: December 16, 2021
Public Hearing: January 6, 2022
Action: January 6, 2022

**MATANUSKA-SUSITNA BOROUGH
PLATTING BOARD RESOLUTION NO. 2021-149**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLATTING BOARD
RECOMMENDING ASSEMBLY APPROVAL OF AMENDMENTS TO MSB TITLE 43
SUBDIVISIONS, AS OUTLINED IN THE "TITLE 43 PARKING LOT 2021" MEMO.

WHEREAS, the assembly directed platting staff to continue to compile suggested changes to Title 43 at the May 18, 2017 regular meeting; and

WHEREAS, staff prepared draft amendments for the platting board to review, the platting board held ten public hearings on the items throughout 2019 and 2021, listened to public testimony and with the assistance of staff and the public, crafted language to address amendments to Title 43; and

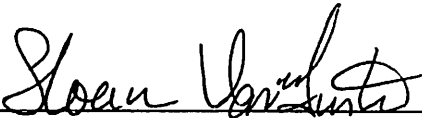
NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Platting Board hereby recommends assembly approval of amendments to MSB Title 43 Subdivisions, as outlined in the "Title 43 Parking Lot 2021" memorandum and recommends the assembly make them effective upon adoption.

ADOPTED by the Matanuska-Susitna Borough Platting Board this
6th day of January, 2022.



WILFRED FERNANDEZ, Chair or
ALAN LEONARD, Vice Chair

ATTEST



SLOAN VONGUNTEN, Platting Clerk

(SEAL)

YES: Bush, Vau Dell, Anderson, Cottini, Leonard, Shadrach

IM 22-192
OR 22-103

TITLE 43: SUBDIVISIONS

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TITLE 43: SUBDIVISIONS

Chapter

43.05 GENERAL PROVISIONS

43.10 PLATTING BOARD

**43.15 PLAT APPROVAL, ABBREVIATED PLAT
SUBDIVISIONS, AND VACATIONS**

43.20 SUBDIVISION DEVELOPMENT STANDARDS

43.25 EXISTING PLAT STATUS AND VALIDATION

43.35 RECONSIDERATION AND APPEALS

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CHAPTER 43.05: GENERAL PROVISIONS

Section

- 43.05.005 Definition of terms
- 43.05.010 General
- 43.05.015 Purpose and scope
- 43.05.030 Penalties and remedies
- 43.05.035 Fees
- 43.05.040 Violations, enforcement, and penalties
- 43.05.045 *Procedure pamphlet [Repealed]*
- 43.05.050 Owner authorization

43.05.005 DEFINITION OF TERMS.

(A) For the purpose of this title, the following definitions of terms shall apply in all cases:

- "Aliquot part" means a rectangular portion of a section created by midpoint protraction as defined by the BLM manual of survey instructions, unless historical records show otherwise.
- "Applicant." See "Petitioner."
- "Block" means a group of lots existing within well-defined and fixed boundaries, being an area surrounded by streets or other physical barriers, and having an assigned number, letter, or other name by which it may be identified.
- "Block length" means the distance between intersections of through streets measured between the right-of-way lines of the intersecting streets, which distance is the longest dimension of a block.
- "Borough" means the Matanuska-Susitna Borough.
- "Commercial" means a land use or business enterprise for the purpose of buying or selling goods or services.
- "Days" means calendar days unless otherwise stated.
- "Dedication" means the appropriation of land, or an easement therein, by the owner, for the use of the public, and accepted for such use by or on

behalf of the public.

- "Drainage easement" means an easement for the containment, construction, repair, or maintenance of storm or melt water drainage normally adjoining a public right-of-way and dedicated to the borough.

- "Easement" means any strip of land reserved by the subdivider for public utilities, drainage, sanitation, or other specified use, the title to which shall remain in the property owner, subject to the right of use designated on the subdivision plat or other document. For the purpose of this title an easement shall not be interpreted to be a fee dedication when noted or granted on a plat.

- "Ex parte" means by or for one party; done for, on behalf of, or on the application of one party only; without notice to or the presence of the other party.

- "Fee simple" means an estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.

- "Final plat" means a drawing of a subdivision which complies with this title.

- "Flag lot" means a parcel of land shaped like a flag, with a narrow staff or pole extending to a road right-of-way or other access way.

- "Governing body" means the Matanuska-Susitna Borough Assembly.

- "Interconnectivity" means the provision for legal right of access granted to adjoining properties, at a location that is practical for future road construction, to plan or provide for a safe and efficient transportation system.

- "Land surveyor" or "surveyor" means a person currently registered as a professional land surveyor with the state of Alaska.

- "Lot" means the least fractional part of subdivided lands having fixed boundaries and having an assigned number, or other name through

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which it may be identified.

- "Meander line" means a traverse of a body of water for the purpose of determining the size and location of the body of water. For riparian owners, meander lines do not represent the boundary lines; the body of water where it exists represents the true boundary line. When meander lines are nonriparian, they may become land boundary lines.

- "Monument" means a fixed physical object marking a point on the surface of the earth for commencing or controlling a survey or to establish a property corner.

- "Municipality" means a political subdivision incorporated under the laws of the state that is home rule or general law city or borough.

- "Offeror." See "Petitioner."

- "Open space" means any land or area, the preservation of which in its present use would conserve scenic, cultural, or natural resources; protect water bodies or water quality; enhance neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or increase recreation opportunities.

- "Parcel" means a fractional part of land described by metes and bounds or aliquot parts that are five acres in size or larger and identified in waivers or 40-acre exemptions by document.

- "Petitioner" means a person or a person's representative who submits a formal request or application for a platting action.

- "Plat" means a map representing a tract or parcel of land showing the subdivision of such land into lots, blocks and streets, or other divisions, and other information in compliance with the requirements of all applicable sections of this title and of local ordinances, and may include the terms "replat" or "final plat."

- "Platting authority" means the platting board, platting officer, planning and land use director, or other person making a platting decision.

- "Preliminary plat" means a map or delineated representation of a tract or parcel of land showing the prominent features of a proposed subdivision of such land submitted to an approving authority for the purpose of preliminary approval.

- "Public improvements" can include but are not limited to: roads, drainage, ditching, signage, cut/fill slopes, trails, bike paths, walkways, public parks and recreation facilities, monumentation, authorized encroachments,

utilities, and areas needed for snow storage and other improvements as necessary.

- "Public use easement" provides the rights for ingress, egress, roadways, rights-of-way, public utilities, and slopes for cuts and fills. The rights are to the public in general, and public utilities governed by permits required under federal, state, and local laws and regulations. May also be known as public access easements and rights-of-way.

- "Record owner" means the person or persons listed as the owner on the property tax records of the borough assessor.

- "Replat" means the redelineation of an existing lot, block, or tract of a previously recorded subdivision involving the change of property lines and, after vacation, the altering of dedicated streets, easements, or public areas.

- "Right-of-way" means a strip of land reserved, used or to be used for a street, alley, walkway, airport, railroad, or other public or private purpose.

- "Slope easement" means an easement for the construction, repair, or maintenance of a sloped area of ground adjoining a public right-of-way.

- "Snow storage easement" means an easement for snow storage normally adjoining a road right-of-way.

- "Street" means and includes all access ways for common use, such as traveled ways, roads, lanes, highways, avenues, boulevards, alleys, parkways, viaducts, circles, courts, and cul-de-sacs, and includes all the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved.

- "Subdivider" means a person holding any legal or equitable interest in land being subdivided. The term shall also include all heirs, assigns, or successors in interest, or representatives of the subdivider.

- "Subdivision" means the division of a tract or parcel of land into two or more lots, sites, or other divisions, or the combining of two or more lots, tracts, or parcels into one lot, tract, or parcel for the purpose, whether immediate or future, of sale, or lease for more than ten years including any re-subdivision, and, when appropriate to the context, the process of subdividing of the land actually subdivided.

- "Tract" means an area of land which has been defined, but has not been designated by lot

and block numbers.

- "Trail" means a traveled way which provides recreational, aesthetic, alternate transportation, or educational opportunities and may also provide access for subdividing properties.

- "Usable building area" means area outside of minimum usable septic area and easements where building is prohibited, and outside of setbacks from the following: rights-of-way, easements for public use, section line easements, water bodies, and lot lines.

- "Usable open space area" means that portion within a plat-designated open space which meets the requirements of MSB 43.20.281.

- "Usable septic area" means that portion of a lot, tract, or parcel that provides septic function on the property and as further defined in MSB 43.20.281.

- "Utility easement" means an area in which the rights to construct, install, repair, and maintain utility distribution and service facilities are exercised.

- "Walkway" means a right-of-way or easement dedicated for pedestrian access.

- "Water body" means a discrete and significant element of surface water, including all or part of lakes, reservoirs, streams, rivers, canals, and coastal waters.

- "Watercourse" means a depression formed by water moving over the earth; any natural or artificial channel through which water flows perennially or intermittently. Includes natural waterways that have been channelized, but does not include manmade channels, ditches, or underground drainage and sewage systems.

(B) In instances where a word is not included in this section nor in the applicable section, reference will be made first to the most recent publication of "The Illustrated Book of Development Definitions," then to "Webster's New Universal, Unabridged Dictionary."

(Ord. 17-033, § 2, 2017; Ord. 15-036, § 2, 2015; Ord. 11-072, § 3 (part), 2012)

43.05.010 GENERAL.

(A) This title shall be referred to and cited as the "Matanuska-Susitna Borough Platting Regulations." The platting officer shall provide copies of this title and the department of public works Subdivision Construction Manual to any

person upon request at a reasonable charge.

(Ord. 17-033, § 3, 2017; Ord. 11-072, § 3 (part), 2012)

43.05.015 PURPOSE AND SCOPE.

(A) This title is to promote the common good and welfare with regard to platting of subdivisions. This title establishes consistent minimum guidelines for the regulation of the subdivision and platting of lands within the borough. The purpose of this title is to incorporate AS 29.40.070, which includes but is not limited to the control of:

- (1) form, sizes, and other aspects of subdivision, dedications, and vacations of land;

- (2) dimensions and design of lots;

- (3) street width, arrangement, and rights-of-way, including requirements for public access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage, and other public utility facilities and improvements; and

- (4) dedication of streets, rights-of-way, public utility easements, and areas considered necessary by the platting authority for other public uses.

(B) The following list of documents are to be incorporated within this title as if fully set forth in this title:

- (1) BLM manual of survey instructions; and

- (2) *[Repealed by Ord. 17-033, § 40, 2017]*

- (3) Subdivision Construction Manual.

(C) Each manual, excepting for the BLM manual of survey instructions, may be modified by the platting board subject to review by the planning commission and adoption by the assembly.

(Ord. 17-033, § 40, 2017; Ord. 11-072, § 3 (part), 2012)

43.05.030 PENALTIES AND REMEDIES.

(A) The owner or agent of the owner of land who publicly offers by any means to sell, transfer, or who sells or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and filed in accordance with this title is guilty of an infraction, and upon conviction is punishable by a fine of not more than \$500 for each lot or parcel offered for sale, transferred, sold, or included in a contract to be sold.

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(B) No person may file or seek to have a plat filed unless it has been approved in accordance with this title. A person who knowingly violates this subsection is punishable upon conviction by a fine of not more than \$500.

(C) The borough or any aggrieved person may bring a civil action to enjoin any violation of this title, any transfer or sale of an unlawfully subdivided parcel and the violation of any term or condition of any plat or other entitlement approved under this title, and to obtain damages for any injury the plaintiff suffered as a result of the violation. In addition to injunctive and compensatory relief, each violation shall be subject to a civil penalty not to exceed \$500. An action for injunction under this section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of an existing or threatened violation, the superior court shall enjoin the violation.

(D) Each act or condition in violation of this title, or any term or condition of any plat or other entitlement under this title, and every day during which the act or condition occurs shall constitute a separate violation of this title.
(Ord. 11-072, § 3 (part), 2012)

43.05.035 FEES.

(A) The assembly shall establish a schedule of fees for applications and appeals under this title by resolution. The schedule of fees shall be posted in the borough offices and may be altered or amended only by the assembly.
(Ord. 17-033, § 4, 2017; Ord. 11-072, § 3 (part), 2012)

43.05.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

(A) Except as otherwise specified in this title, violations of this title are infractions.

(B) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.
(Ord. 11-072, § 3 (part), 2012)

43.05.045 Procedure Pamphlet. [Repealed by Ord. 17-033, § 5, 2017]

43.05.050 OWNER AUTHORIZATION.

(A) All platting entitlement applications must be made by the owner, or authorized agent of the owner, of the property subject to the entitlement. The authorization must be in writing, executed by the owner, and include the names, mailing addresses, and telephone numbers for both the owner and the authorizing agent.

(B) A certificate to plat or a preliminary commitment for title insurance prepared by a title company is to be submitted with an application for a vacation, abbreviated plat, preliminary plat, public use easement, waiver, or 40-acre exemption. The title report or preliminary commitment for title insurance must be current within 120 days of submittal of the application.

(C) The platting action will be unaffected if ownership changes during the platting process; provided, that an updated certificate to plat, or preliminary commitment for title insurance, is received by the platting division.
(Ord. 16-018, §§ 2, 3, 2016; Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.10: PLATTING BOARD

Section

- 43.10.010 Board established; delegation
- 43.10.015 Composition, appointment, and qualifications
- 43.10.020 Term
- 43.10.025 Vacancies
- 43.10.030 Compensation
- 43.10.035 Officers
- 43.10.036 Seal
- 43.10.037 Staff assistance
- 43.10.040 Meetings; quorum
- 43.10.045 Rule of procedure
- 43.10.050 Action on application or appeal
- 43.10.055 Conflict of interest; ex parte contact
- 43.10.060 Platting authority procedure
- 43.10.065 Notice; public hearing

43.10.010 BOARD ESTABLISHED; DELEGATION.

(A) There is established a platting board which, pursuant to A.S. 29.40.080, is delegated the platting function of the borough. The platting board shall hear and decide applications for approval of preliminary plats, variances, public use easements, plat note amendments, and vacations of public interest in accordance with this title.
(Ord. 16-018, § 4, 2016; Ord. 11-072, § 3 (part), 2012)

43.10.015 COMPOSITION, APPOINTMENT, AND QUALIFICATIONS.

(A) The platting board shall consist of seven members with two additional at-large alternates.

(B) The mayor shall appoint board members subject to assembly confirmation. Representation from as many assembly districts as is feasible shall be sought on the board.

(C) Each board member shall be a registered voter of the borough.

(Ord. 11-072, § 3 (part), 2012)

43.10.020 TERM.

(A) A board member's term shall be three years, with staggered expiration dates. An unexpired term that began before the effective date of the ordinance codified in this title shall continue until the time for its expiration under the law in effect when the term began. A board member's term shall be governed by MSB 4.05.050.

(Ord. 11-072, § 3 (part), 2012)

43.10.025 VACANCIES.

(A) A vacancy on the board shall be filled as provided in MSB 43.10.015 for the remainder of the term of the former member.

(B) A vacancy occurs as provided in MSB 4.05.030(B).

(Ord. 11-072, § 3 (part), 2012)

43.10.030 COMPENSATION.

(A) Board members shall be compensated at a rate of \$50 per meeting for regular and special meetings, not to exceed four meetings in a calendar month. All requests for reimbursement shall be for actual expenses incurred on authorized board business.

(Ord. 15-036, § 3, 2015; Ord. 11-072, § 3 (part), 2012)

43.10.035 OFFICERS.

(A) The board annually shall select from its membership a chairperson and vice-chairperson. The chairperson shall preside at meetings of the board and shall represent the board as directed by its

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membership. The vice-chairperson shall act in the absence of the chairperson. The platting officer shall act as secretary to the board.
(Ord. 11-072, § 3 (part), 2012)

43.10.036 SEAL.

(A) The board shall adopt a seal of two concentric circles within which appear the words "Matanuska-Susitna Borough Platting Board," "Seal," and "State of Alaska." It shall be retained in the custody of the platting officer.
(Ord. 11-072, § 3 (part), 2012)

43.10.037 STAFF ASSISTANCE.

(A) The platting board shall be assisted by the platting officer and the platting officer's staff.
(Ord. 11-072, § 3 (part), 2012)

43.10.040 MEETINGS; QUORUM.

(A) The platting board shall hold a regular meeting twice a month. The chairperson or three board members may call a special meeting of the board.

(B) A majority of the authorized membership of the board constitutes a quorum. All board actions shall be by vote of a majority of the board's authorized membership who are qualified to vote on the question under MSB 43.10.055.
(Ord. 11-072, § 3 (part), 2012)

43.10.045 RULE OF PROCEDURE.

(A) The 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 such rules or this title, the current edition of Robert's Rules of Order, Newly Revised, shall govern.
(Ord. 11-072, § 3 (part), 2012)

43.10.050 ACTION ON APPLICATION OR APPEAL.

(A) The board shall take formal action by voting on an application or to grant an appeal from the platting officer's decision. The board's decision shall be recorded in a notice prepared by the secretary to the board. The notice shall include

separate finding of fact supporting the decision, based upon the facts presented to the board and the board's debate on the matter. A notice is adopted as a decision of the board when it is signed by the chairperson, or the board's authorized representative if the chairperson is not available.
(Ord. 17-033, § 6, 2017; Ord. 15-036, § 4, 2015; Ord. 11-072, § 3 (part), 2012)

43.10.055 CONFLICT OF INTEREST; EX PARTE CONTACT.

(A) A board member shall not participate in deliberation or vote on a question if:

(1) the board member or a member of the board member's immediate family has a substantial financial interest in any property affected by the decision; and

(2) the board member or a member of the board member's immediate family could foreseeably profit in any material way through a favorable or unfavorable decision.

(B) Board members shall be impartial in all administrative decisions, both in fact and in appearance. No board member may receive or otherwise engage in ex parte contact with the applicant or appellant, or other parties interested in the application or appeal, or members of the public, concerning the application or appeal or issues presented in an application or notice of appeal, either before the hearing or during any period of time the matter is submitted for decision or subject to reconsideration.
(Ord. 11-072, § 3 (part), 2012)

43.10.060 PLATTING AUTHORITY PROCEDURE.

(A) The platting board shall act on an application for preliminary plat, variance, public use easement, plat note amendment, elimination or modification of platted utility, drainage, sanitation, slope, snow storage, buffer, and screening easements, or vacation of public interest only after holding a public hearing on the application. The platting board shall hear applications for vacations at the hearing on the preliminary plat to which they pertain if an application for plat approval has been filed or is required. The platting board shall consider any preliminary or final plat affected by the vacation of public interest.

(B) The platting authority shall, within 60 days of the submission of an application for preliminary plat approval, approve or disapprove the preliminary plat or return it to the applicant for modification or correction. If the platting authority fails to act within a 60-day period, the preliminary plat shall be considered approved and a certificate of approval shall be issued on demand, unless the applicant consents to an extension of the 60-day period. An application for preliminary plat approval is submitted to the platting authority when it is submitted in proper form in accordance with MSB 43.15.016.

(C) The platting authority shall approve an application after finding that the application conforms to the standards set forth in this title and other applicable statutes and ordinances. The findings of the platting authority shall be set forth in the notice approving or disapproving the application.

(D) The platting authority may approve an application subject to conditions that it finds necessary to implement the purposes of this title. The conditions shall be set forth in the motion and notice approving the application.

(E) Unless the conditions of approval resolve the violation, the platting authority shall not approve an application where it finds that the property that is the subject of the application currently is in violation:

- (1) of this title;
- (2) of any condition of approval of a variance;
- (3) of a subdivision plat;
- (4) of any other land use entitlement granted under this title;
- (5) of the terms of any other agreement with the borough;
- (6) except where multiple violations exist and the platting action is remedying one or more of these violations.

(F) Written notification of platting authority's decision approving or disapproving an application shall be mailed to the applicant within ten days of the platting authority meeting at which the decision was made. If the application is approved, a final plat or a resolution setting forth the decision of the platting authority shall be filed with the district recorder after all conditions of approval have been met. The failure of any person to receive any notice required under this section, where borough records

indicate the notice was mailed, shall not affect the validity of any proceeding under this title. (Ord. 17-033 §§ 7, 8, 41, 2017; Ord. 16-018, § 5, 2016; Ord. 15-036, § 5, 2015; Ord. 11-072, § 3 (part), 2012)

43.10.065 NOTICE; PUBLIC HEARING.

(A) Notice of any public hearing required under this title shall be given in accordance with this section.

(B) Forms of notice are as follows:

(1) publication in a newspaper of general circulation in the borough one week prior to the public hearing.

(2) notices shall be mailed at least 21 days before the public hearing to:

(a) all record owners of property within a distance of 1,200 feet of the exterior boundary of the property that is the subject of the application, or to the record owners of at least the five tax parcels nearest the property that is the subject of the application, whichever is the greater number of persons; and

(b) if the property described in the application lies within a recorded subdivision, to all record owners within that subdivision.

(c) *Exception for abbreviated plats, right-of-way acquisition plats, waivers, or elimination or modification of easements described in MSB 43.15.032.* Public notices shall be mailed to all record owners of property within a distance of 600 feet of the exterior boundary of the property that is the subject of the application, or to the record owners of at least the five tax parcels nearest the property that is the subject of the application, whichever is the greater number of persons.

(i) Mailing notices to all record owners within a recorded subdivision is not a requirement for public hearings involving abbreviated plats, right-of-way acquisition plats, waivers, or elimination or modification of easements described in MSB 43.15.032.

(d) All notices shall be mailed to the record owner at the address stated in the current property tax record of the borough assessor.

(3) When the property that is the subject of an application lies within the boundaries of a community council recognized by the assembly, notice shall be mailed to the community council at least 21 days before the public hearing.

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(4) The platting officer may direct that additional notice of the public hearing be given. The platting board, at its discretion, may also direct additional notice of the public hearing be given. However, the failure to give additional notice shall not affect the validity of any proceeding under this title.

(C) Every notice required by this section shall state the date, time, and location of the public hearing, a description of the action requested, a description of the property that is the subject of the application, the names of the applicants, and owners of the subject property.

(D) From the time of filing an application or an appeal until the time of the hearing on the application, the application or appeal, together with all plans, data, and other supporting material, shall be available for public inspection at the platting division.

(E) The failure of any person to receive any notice required under this section, where the records of the borough indicate the notice was provided in a timely and proper manner, shall not affect the validity of any proceeding under this title.

(F) Notice of vacation of a public right-of-way which has been approved and recommended by the platting board shall be sent to the public body having the jurisdiction to approve or veto the vacation. The public body shall make their finding within 30 days to approve or veto the platting board action or the action of the platting board shall automatically be approved.

(G) Notice of right-of-way, public use easement, section line easement, or RS-2477 easement vacation requests shall be posted and maintained by the applicant 30 days prior to the public hearing. The notices shall state the date, time, and place of the public hearing and be located in a manner clearly visible to the public. These notices must be posted along the boundary of the property at all common points of access to that portion of the easement or right-of-way that is subject of the application. The notices shall be in the format approved by the platting officer. The applicant shall submit an affidavit verifying that this posting has been made.

(Ord. 16-018, § 6, 2016; Ord. 15-036, § 6, 2015; Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.15: PLAT APPROVAL, ABBREVIATED PLAT SUBDIVISIONS, AND VACATIONS

Section

- 43.15.005 General administration
- 43.15.010 Preapplication conference
- 43.15.012 Forty-acre exemption
- 43.15.015 *Preliminary plat [Repealed]*
- 43.15.016 Preliminary plat submittal and approval
- 43.15.021 Public use easement acceptance procedure
- 43.15.022 Waivers
- 43.15.025 Abbreviated plats
- 43.15.032 Elimination or modification of utility, drainage, sanitation, slope, snow storage, buffer, and screening easements
- 43.15.035 Vacations
- 43.15.040 Section line and state recognized RS-2477 easement vacations
- 43.15.045 *Plat approval [Repealed]*
- 43.15.049 Final plat; general provisions
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- 43.15.054 Final plat; surveyor requirements
- 43.15.055 Final plat; dedications, improvements, recording
- 43.15.065 Waiver of standards for resubdivision of substandard lots
- 43.15.070 Right-of-way acquisition plats
- 43.15.075 Variance; standards for approval

43.15.005 GENERAL ADMINISTRATION.

(A) The platting board shall act upon applications for preliminary plats, variances, public use easements, plat note amendments, elimination or modification of platted utility, drainage, sanitation, slope, snow storage, buffer, and screening easements, and vacations of public interest within the procedures outlined by AS 29.40.110 and this title.

(B) The platting officer shall act upon applications for abbreviated plats, waivers, 40-acre exemptions, and right-of-way acquisition plats.

(1) The platting officer shall determine whether agency, department, or public comments provided are within the regulatory authority of this chapter and whether they should apply to a platting action.

(C) Leaseholds located within municipal airports are exempt from the requirement to plat.

(D) Commercial leases of ten years or greater are exempt from this title.

(Ord. 17-033, § 42, 2017; Ord. 15-036, § 7, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.010 PREAPPLICATION CONFERENCE.

(A) Before submitting an application requiring platting authority approval, a petitioner shall attend a conference with the platting staff. The purposes of the conference are to inform the staff of the petitioner's development plans, and to inform the petitioner of the borough's development policies, public improvements, and platting procedures and requirements as they pertain to the proposed application. Borough staff may recommend modifications to conform the proposed application to those policies, procedures, and requirements. The platting officer may waive a preapplication conference if the platting officer finds that it is not necessary to accomplish these purposes.

(B) At least ten business days before the preapplication conference, the petitioner shall submit to the platting staff the proposed platting action with enough detail so the platting officer can gain a full understanding of the petitioner's intentions.

(C) *[Repealed by Ord. 17-033, § 9, 2017]*

(D) No proceeding under this section binds the platting authority in their review of any plat, or

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relieves a petitioner of the responsibility of independently becoming familiar with the procedures and standards for approval of an application under this title.
(Ord. 17-033, § 9, 2017; Ord. 15-036, § 8, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.012 FORTY-ACRE EXEMPTION.

(A) *Purpose clause.* The purpose of this section is to allow the land owner to divide or combine large parcels of land by document in an expedited manner.

(B) *Exemptions.* The platting officer shall exempt parcels from the provisions of this title where all the following conditions are met:

(1) The smallest parcel created is 40 acres in size, or is one-sixteenth of a section as defined by "aliquot part";

(2) The parcel is to be conveyed by deed;

(3) The parcels or tracts created can be described by:

(a) aliquot part; or

(b) a metes and bounds description, provided the description is under the seal of a land surveyor;

(4) The document does not alter:

(a) an existing plat of record, including tracts on a cadastral plat; or

(b) parcels created via the waiver process;

(5) A certificate to plat shall be required, consistent with the requirements of MSB 43.15.053(E);

(6) Signatures of consent are provided on affidavits from all parties holding a legal or equitable interest in the property to be recorded with the document;

(7) No more than four parcels shall be created from the parent parcel(s);

(8) The applicant demonstrates that legal access as defined by MSB 43.20.120 exists to all parcels or tracts created and is suitable for future borough standard road construction.

(a) The suitability of legal access for future road construction shall be documented by the applicant based on the following information available from existing records within the Matanuska-Susitna Borough:

(i) air photos;

(ii) [Repealed by Ord. 17-033,

§ 43, 2017]

(iii) topographic mapping; and
(iv) other available data.

(b) The platting officer shall review within ten working days the legal access documentation and its "suitability" for future road construction.

(c) [Repealed by Ord. 17-033, § 43, 2017]

(i) Access for parcels located two miles beyond the limits of the core comprehensive planning area may be from a trail shown to be constructible to the trail standards listed in MSB 43.20.060; however, no trail construction is required for 40-acre exemption approval.

(d) The applicant shall be required to submit plan, profile, and cross-sections if existing grades along proposed route exceed 10 percent, or if existing utilities or other land/water features appear to create impediments to road design meeting Subdivision Construction Manual standards;

(9) An as-built of all structures or improvements within the parcel boundaries is provided, or a letter from a land surveyor stating that no setback violations exist or will be created by this platting action; and

(10) For parcels described by metes and bounds, all parcel corners shall be surveyed and monumented and a record of survey or a detailed sealed drawing prepared by a land surveyor shall be recorded with the 40-acre exemption document. The survey shall be tied to at least two platted subdivision corners or two aliquot part corners set by the state or federal government, or land surveyor, or any combination of the preceding.

(C) *Exemption document.* The document exempting a parcel from the provisions of this title shall be reviewed by the platting officer. The platting officer shall approve the exemption document within ten working days once the exemption submittal meets the conditions of this subsection. Upon approval of the document, the platting officer shall execute the approved document, signed by the planning director, and it shall be affixed with the platting board seal. It is the responsibility of the applicant to pay all appropriate fees.

(D) The decision of the platting officer in this matter is final unless appealed in accordance with

MSB 43.35.

(Ord. 17-033, § 43, 2017; Ord. 16-018, §§ 7, 8, 2016; Ord. 15-036, § 9, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.015 Preliminary Plat. [Repealed by Ord. 15-036, § 10, 2015]

43.15.016 PRELIMINARY PLAT SUBMITTAL AND APPROVAL.

(A) An application for conceptual plat approval shall be submitted with plat copies as needed, with the following data and appropriate fees:

(1) topographic information of the proposed subdivision and surrounding area within 100 feet relative to existing and proposed property lines. Contours shall be a minimum five feet if the ground slope is less than 10 percent and ten feet if the ground slope is greater than 10 percent;

(a) Topographic information shall be stamped by a land surveyor verifying current conditions;

(b) Platted subdivision lots are exempt from providing topographic information when:

(i) eliminating a lot line; or

(ii) moving a lot line where the aggregate amount affected by the move is less than 2,000 square feet;

(2) public rights-of-way and platted easements within 100 feet of the proposed subdivision boundary;

(3) adjacent property lines shown with dashed lines to show their general relationship to the proposed subdivision;

(4) approximate locations of visible existing roadways, driveways, sewage systems, wells, above-ground utilities, excavations, bridges, and culverts within 100 feet of the proposed subdivision boundary unless access is denied to the surveyor;

(5) preliminary horizontal location of streets, water supply, sewage disposal systems, or other public improvement details to indicate conformance with municipal standards;

(6) soils and engineering data as required by this title.

(a) Applications proposing community or municipal water supply and/or

wastewater disposal systems shall submit a conceptual plan.

(b) Wells and septs on any property within the protective well radius of a proposed community or municipal water system shall be shown relative to the existing and proposed property lines.

(B) All plats, maps, drawings, or other illustrations required for conceptual review under these regulations shall show the following:

(1) title block;

(2) subdivision name;

(3) scale;

(4) north arrow;

(5) date;

(6) subdivider's name and address;

(7) surveyor's or other preparer's address;

(8) description of the parcel being subdivided;

(9) sheet number;

(10) total area; and

(11) vicinity map which includes the following:

(a) scale of one inch equals one mile showing a 20-square-mile area minimum (rural); one inch equals 300 feet showing a one-sixteenth-square-mile area (urban), or as necessary to indicate the subdivision and adjacent property;

(b) townships, ranges, and sections; and

(c) principal road systems, major water bodies and watercourses, and location of subdivision;

(12) dedicated rights-of-way, patent reservations, section line easements, and other easements or reservations, public or private, within the proposed subdivision boundaries showing location, dimensions, and purposes;

(13) the location of existing improvements within the proposed subdivision, such as structures as defined in MSB 17.55, roadways, driveways, sewage systems, wells, above-ground utilities, excavations, bridges, and culverts relative to the existing and proposed property lines;

(14) the location of water bodies, drainage courses, and, when required by MSB 17.29.160, flood hazard information, within the proposed subdivision;

(15) proposed lot lines, tract lines, utility and other easements, rights-of-way, including

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approximate dimensions and area of all lots and tracts, approximate curve radii, tangent lengths, and similar information;

(16) proposed public or open space areas.

(C) Within ten business days of submittal, the application shall be accepted or rejected for failure to meet the requirements of subsections (A) and (B) of this section. The rejection shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be immediately accepted.

(D) The statutory 60-day period for approval or nonapproval begins on the date the application is accepted for public hearing.

(E) *[Repealed by Ord. 17-033, § 12, 2017]*

(F) Public hearings for vacations may occur at the same time as the preliminary plat approval hearing.

(G) The applicant may acquire any required "other agency" review.

(H) *Preliminary plat approval; effect and duration.* The effect of the approval of the preliminary plat is as follows:

(1) The approval of a preliminary plat does not constitute approval of the subdivision or the acceptance of any dedication within the subdivision, but only authorizes the applicant to prepare the final plat. Application for approval of a final plat, including any final plat submitted under a phased development master plan, may be submitted only after approval of the preliminary plat, and only while the approval of the preliminary plat remains effective;

(2) Approval of a preliminary plat expires 72 months after the date of the written notice of platting authority action, unless the platting authority first extends its duration at the request of the applicant. The platting officer may grant two extensions, not to exceed two years each. Only the platting board has authority to grant additional extensions. The platting authority may approve an extension only if it finds that the conditions supporting approval of the preliminary plat have not materially changed;

(3) Where a subdivider intends to develop a subdivision in phases, approval of the preliminary plat shall be conditioned upon the subdivider's compliance with a phased development master plan prepared by a subdivider and approved by the platting board. Approval of a master plan for phased development expires 72 months after the date of the

written notice of platting board action unless an extension is approved by the platting authority in the same manner extensions of preliminary plats are approved under subsection (H)(2) of this section;

(4) An appeal from the decision of the platting authority regarding plat approval shall follow MSB 43.35, Reconsideration and Appeals. Filing an appeal or reconsideration shall extend the 72-month approval period until the appeal or reconsideration is resolved;

(5) A subdivider may proceed upon an expired preliminary plat or master plan for phased development only with a new application;

(6) An applicant may seek modification of a preliminary plat or phased development master plan prior to expiration of the plan or plan approval or prior to the expiration of an extension granted pursuant to MSB 43.10.060(B). The applicant seeking modification shall pay a public hearing fee and meet the requirements of MSB 43.10.065. There shall be no petitions to modify vacations approved by the assembly unless the petition to modify involves an area of land not affected by the approved vacation; and

(7) *[Repealed by Ord. 17-033, § 14, 2017]*

(8) A plat (master plans for phased development, abbreviated plats, regular plats) approved under provisions of the former MSB Titles 16 and 27 shall be granted an administrative extension of an additional five years effective from the date of adoption of the ordinance codified in this section. This five-year extension is in addition to all previously granted extensions and starts at the end of the previously approved expiration date of the extension or original plat expiration date, whichever is later.

(I) The platting authority's action on an approved preliminary plat shall be noted on the final plat, with a reference to the date by which that action was taken.

(Ord. 17-033, §§ 10 – 14, 2017; Ord. 16-018, § 9, 2016; Ord. 15-036, § 11, 2015)

43.15.021 PUBLIC USE EASEMENT ACCEPTANCE PROCEDURE.

(A) Prior to acceptance by the borough and recordation, the offeror for a public use easement shall submit a legal description of the proposed easement together with a drawing depicting the

location of the proposed easement. If the proposed easement is in the form of a metes and bounds description, the description shall be submitted under the seal of a land surveyor. In lieu of a written legal description, a drawing showing the location and dimensions of the public use easement under the seal of a land surveyor shall be submitted.

(B) The legal description or drawing shall be reviewed for accuracy and completeness. If deficiencies are found, a written explanation of any deficiencies will be returned to the offeror within ten working days of the date the application is received. Once the deficiencies have been corrected, the public use easement will be processed.

(C) The offeror shall prove that the public use easement is in a practical location where road construction is feasible in accordance with the Subdivision Construction Manual. The offeror shall be required to submit plan, profile, and cross-sections if existing grades along proposed route exceed 10 percent, or if existing utilities or other land/water features appear to create impediments to road design meeting Subdivision Construction Manual standards.

(D) If road construction is proposed, all permits and approvals from federal, state, or other municipal regulatory agencies applicable to the construction of the road shall be submitted to platting staff.

(E) Public use easements shall be surveyed, monumented on the exterior, or the centerline if approved by the platting officer, and either shown on a record of survey, an associated plat, or a detailed sealed drawing prepared by a land surveyor which shall be recorded with the public use easement document.

(F) It is the responsibility of the offeror to pay all applicable fees.

(G) In acting on applications under this section the platting authority shall use the standards and procedures of MSB 43.10.060. Public noticing shall be in accordance with MSB 43.10.065.

(H) Upon compliance with subsections (A) through (G) of this section, a public use easement form with the approved legal description, bearing acknowledgment of acceptance by the borough and being signed by all individuals holding a legal or equitable interest in the property involved, shall be recorded. This provision does not require the signatures of holders of subsurface estate interests in the land being dedicated.

(I) Approval of an application under this

section expires 72 months after the date of the written notification of the platting authority action, unless an extension is approved by the platting authority in the same manner extensions of preliminary plats are approved under MSB 43.15.016(H)(2).

(Ord. 17-033, § 44, 2017; Ord. 16-018, §§ 10—12, 2016; Ord. 11-072, § 3 (part), 2012)

43.15.022 WAIVERS.

(A) Those portions of this title specifically addressing the preparation, submission for approval, and recording of a plat shall not apply to waiver subdivisions for which the preparation, submission for approval, and recording of a plat has been waived, upon proof that:

(1) each parcel has legal and physical access to a constructed public road, and that the road utilized for access meets the following minimum requirements, unless the state or local government has accepted responsibility for construction and maintenance:

(a) Roads shall be constructed to a residential standard unless superseded by other provisions elsewhere within this title;

(b) The roadway, including any slopes, cuts, and fills actually used for access, is located entirely within the easement or right-of-way dedicated to the public or over other legal access, as defined in MSB 43.20.120.

(c) If a waiver is proposed along an existing maintained borough road, the petitioner shall not be required to upgrade said road;

(2) each lot or tract created is five acres in size or larger and the waiver of subdivision requirements will create no more than four parcels, an unlimited number of waivers from the original parent parcel are allowed;

(3) no dedication of public right-of-way, easement or other public area is required;

(4) proof has been submitted demonstrating that reasonable utility easements are provided;

(5) prior to recordation, all parcel corners shall be surveyed and monumented. A record of survey shall be recorded in the State Recording District Office. The survey shall be tied to at least two platted subdivision corners or two aliquot part corners set by the state or federal government, or land surveyor, or any combination of the preceding;

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(6) *[Repealed by Ord. 17-033, § 17, 2017]*

(7) the parcels or tracts created can be described by:

- (a) aliquot part; or
- (b) a metes and bounds description,

provided the description is under the seal of a land surveyor; and

(8) the applicant for approval of the plat waiver provides supporting written information including all soils and engineering data as required by this title.

(B) All waiver requests shall be made to the platting officer and shall be accompanied by:

(1) one completed waiver application form with tax official certification and notarized signature of the owner, and notarized signature of the mortgagee, if applicable;

(2) a neat, legible drawing on a sheet of 8.5-inch by 11-inch paper, or even increment of paper, showing location of markers, recorded easements, improvements, parent parcel boundaries, severed parcel boundaries, arrow indicating north, section, township and range;

(3) a review and reservation, if applicable, of utility easements;

(4) The proof of ownership shall be a certificate to plat or a preliminary commitment for title insurance in accordance with MSB 43.05.050.

(5) All waiver subdivision requests shall be submitted to the platting officer for approval. Within ten business days of submittal, the application shall be accepted, or rejected for failure to meet the requirements of the afore subsections.

(C) Public notice of waiver subdivisions shall follow the procedures of MSB 43.10.065, pertaining to actions requiring a public hearing, and written comments on the waiver application shall be accepted. A public hearing is not required for waiver subdivisions.

(D) The decision of the platting officer in this matter is final unless appealed in accordance with MSB 43.35.

(Ord. 17-033, §§ 15 – 17, 2017; Ord. 16-018, § 13, 2016; Ord. 11-072, § 3 (part), 2012)

43.15.025 ABBREVIATED PLATS.

(A) The platting officer shall review and act upon all preliminary plats that shall only move or eliminate lot lines, or create no more than four tracts

or lots, and that shall not:

(1) deny legal and physical access to and from all lots or tracts created by, or adjacent to, the subdivision, or require construction of improvements necessary for access, other than the improvement of an existing, publicly dedicated right-of-way to current standards; nor

(2) alter a dedicated street or right-of-way, or require any dedication; nor

(3) require a vacation of a public dedication; nor

(4) require a variance from a subdivision regulation.

(B) Plats to remove lot lines on a subdivision plat of record are exempt from provisions of the code which require:

(1) usable area report submittals;

(2) legal and physical access;

(3) as-built survey; and

(4) topographic information.

(C) In acting on an application under this section, the platting officer shall use the standards and procedures used by the platting board in acting on applications under MSB 43.10.060. The platting officer shall approve or disapprove the plat within 30 days of the submission of the application.

(D) The decision of the platting officer in this matter is final unless appealed in accordance with MSB 43.35.

(E) Public notice of abbreviated plats shall follow the procedures of MSB 43.10.065, pertaining to actions requiring a public hearing.

(Ord. 16-018, § 14, 2016; Ord. 15-036, § 12, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.032 ELIMINATION OR MODIFICATION OF UTILITY, DRAINAGE, SANITATION, SLOPE, SNOW STORAGE, BUFFER, AND SCREENING EASEMENTS.

(A) The platting board shall review and act upon all petitions requesting elimination or modification of platted utility, drainage, sanitation, slope, snow storage, buffer, and screening easements; provided, that:

(1) the authority having jurisdiction over the easement consents;

(a) however, if the beneficiary of an easement refuses to authorize a vacation, the platting board may approve the vacation if the following conditions are met:

(i) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;

(ii) if necessary a substitute easement is provided; and

(iii) findings of facts support granting the vacation;

(2) if the elimination or modification of easement is due to an encroachment, an as-built survey must be submitted with the original petition; and

(3) a vacation resolution is recorded along with a graphic representation showing the specific area eliminated and any alternate easements proposed.

(B) In acting on applications under this section the platting board shall use the standards and procedures under MSB 43.10.060. The platting board shall act upon the application within 60 days of the acceptance for public hearing.

(C) Public noticing shall be in conformance with MSB 43.10.065.

(D) Approval of an application under this section expires 72 months after the date of the written notification of platting authority action, unless an extension is approved by the platting authority in the same manner extensions of preliminary plats are approved under MSB 43.15.016(H)(2).

(Ord. 17-033, § 45, 2017; Ord. 16-018, § 15, 2016; Ord. 11-072, § 3 (part), 2012)

43.15.035 VACATIONS.

(A) All applicants and actions for vacations shall conform to AS 29.40.120 through 29.40.160.

(B) A dedication to public use of land or interests in land may be vacated if the dedication is no longer necessary for present or future public use. The platting board shall review applications for vacations as follows:

(1) The platting board shall ordinarily approve vacations of public rights-of-way if:

(a) the vacation is conditioned upon the final approval of a plat affecting the same land which provides equal or better access to all areas affected by the vacation; or

(b) the surrounding area is fully developed and all planned or needed rights-of-way

and utilities are constructed; or

(c) the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided;

(2) The platting board shall not ordinarily approve vacations of public interests in land if:

(a) the surrounding area in which the vacation is sought is undeveloped or is developing and equivalent or better access is not provided;

(b) the vacation is of a public right-of-way providing access to a lake, river, or other area with public interest or value, unless alternate or better access is provided or exists;

(c) the proposed vacation would limit opportunities for interconnectivity with adjacent parcels, whether developed or undeveloped;

(d) objections to the vacation are made by persons with an interest in land adjacent to or affected by the vacation, or by any government agency or department which has a responsibility to the public which may be affected by the vacation;

(i) the platting board may approve the vacation if the following conditions are met:

(aa) there are currently no existing improvements within the subject easement of the easement beneficiary or a portion of the easement will remain which includes the improvements;

(bb) if necessary a substitute easement is provided; and

(cc) findings of facts support granting the vacation;

(3) In other cases, the platting board shall review requested vacations on a case-by-case basis to determine whether the property is necessary or desirable for present or future public use. Public rights-of-way in areas shall be assumed to have a public use unless proven otherwise.

(C) Title to a vacated area shall be determined as follows:

(1) Title attaches to the lot or lands bordering on the vacated area in proportionate amounts, except that if the area originally was dedicated by different persons, original boundary lines shall be adhered to so that the area which lies on one side of the boundary line shall attach to the abutting property on that side, and the area which lies on the other side of the boundary line shall

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attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. However, if a public square is vacated, the title to it vests in the city, if it lies within a city, or in the borough if it lies within the borough area outside cities, and if the property vacated is a lot or tract, title vests in the rightful owner.

(2) If a municipality acquired the vacated area for legal consideration or by express dedication to and acceptance by the municipality other than as a prerequisite to plat approval, the fair market value of the vacated area shall be deposited with the platting authority before the final act of vacation, to be paid over to the municipality upon final vacation.

(3) Other provisions of this subsection notwithstanding, the platting board may determine all or a portion of a vacated area should be dedicated to another public purpose, and if so, title to the area vacated and held for another public purpose remains in the borough or city, as applicable.

(D) A decision to grant a vacation is not effective unless approved by the city council if the vacated area is a street or public land of a city, or by the assembly in other cases. The platting board shall immediately give notice to the council or assembly of a vacation which is approved. The council or assembly shall have 30 days from the date of the notice to either consent to the vacation or veto it. Notice of veto of the vacation shall be immediately given to the platting board. Failure to act on the vacation within 30 days shall be considered to be consent to the vacation.

(E) Public noticing shall be in conformance with MSB 43.10.065. Notice of platting authority approval shall be sent to the public body having jurisdiction in accordance with MSB 43.10.065.

(F) Approval of an application under this section expires 72 months after the date of the written notification of platting authority action, unless an extension is approved by the platting authority in the same manner extensions of preliminary plats are approved under MSB 43.15.016(H)(2).

(Ord. 17-033, §§ 18 – 21, 2017; Ord. 16-018, § 16, 2016; Ord. 15-036, § 13, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.040 SECTION LINE AND STATE RECOGNIZED RS-2477 EASEMENT VACATIONS.

(A) This title provides standards for the vacation of section line easements and state recognized RS-2477 easements, also referred to as rights-of-way acquired under former 43 U.S.C. 932.

(B) An application for vacation of a section line easement or RS-2477 easement shall contain the following:

(1) a preliminary finding of approval from the appropriate agency of the state of Alaska;

(2) documentation by a land surveyor establishing the existence of a valid section line easement or RS-2477 easement within the area to be vacated, stating the width of the section line easement or RS-2477 easement and verifying the existence and width of any adjoining section line easements or RS-2477 easements;

(3) legal description of the section line easement or RS-2477 easement proposed for vacation;

(4) reason for vacation request;

(5) plat copies, as needed, of a section line or RS-2477 vacation plat, drawn to the requirement of the state of Alaska;

(6) current Alaska State Department of Transportation and Public Facilities and Department of Natural Resources final approval required prior to recordation pursuant to AS 19.30.410;

(7) *[Repealed by Ord. 16-018, § 17, 2016]*

(8) demonstration that a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses pursuant to AS 19.30.410. In making this determination, the platting board shall consider comments from utilities concerning the adequacy of alternative access to provide for utility facilities and services; and

(9) demonstration that the vacation shall meet the standards set forth under MSB 43.15.035.

(C) Public notice of the vacation shall follow the procedures of MSB 43.10.065. Notice of platting authority approval shall be sent to the public body having jurisdiction in accordance with MSB 43.10.065.

(Ord. 17-033, § 46, 2017; Ord. 16-018, §§ 17, 18, 2016; Ord. 11-072, § 3 (part), 2012)

43.15.045 *Plat Approval. [Repealed by Ord. 15-036, § 14, 2015]*

43.15.049 FINAL PLAT; GENERAL PROVISIONS.

(A) *Board review.* The platting officer shall review all plats subdividing lands within the borough boundaries.

(B) *Review for deficiencies.* The platting officer shall review and check all final plats for deficiencies. Where deficiencies are found, the plat shall be returned to the subdivider for alteration or correction by the land surveyor responsible for the survey and the plat. The platting officer shall approve or disapprove the final plat within 20 days of submittal of the plat. If disapproved, the final plat shall be returned to the subdivider with specification of the deficiencies. The platting officer shall approve or disapprove the second final plat within ten days of resubmittal.

(C) *Dedication and adoption.* All streets and other public areas shown on the plat shall be dedicated to the public for the use and purpose specified in the plat upon:

- (1) owner's signature on the plat or affidavit;
- (2) planning and land use director's approval; and
- (3) recordation of the plat in compliance with this title.

(D) *Duplication of names.* Road and subdivision names may not duplicate existing road or subdivision names in spelling or sound to avoid confusion with existing names.

(E) *Service area boundary requirements.* It shall be a condition of subdivision approval that no lot, tract, or parcel be split by a service area boundary. Proposals to create a lot, tract, or parcel that would be split by a service area boundary must realign the service area boundary prior to final plat approval.

(F) *Utility easements.*

- (1) A snow storage easement if granted can be placed within a utility easement if there is no overriding surface conflict.
- (2) A utility easement can be placed within a slope easement.

(G) *Minor plat alterations.*

- (1) The purpose of this subsection is to resolve platting issues and/or improve the

subdivision design and function without burdening staff, the petitioner, and the board with the additional time and costs to rehear the case.

(2) The platting officer is authorized to approve minor changes to an approved preliminary plat or master plan during review of the final plat for the following items. Any amendment or modification of the preliminary plat shall be limited to the following:

- (a) The total number of lots may be reduced;
- (b) The total number of lots may not be increased;
- (c) Individual lot sizes may not be reduced by more than 20 percent per lot, and at no point to less than the minimum requirements that the preliminary plat was approved under. The aggregate of the proposed reductions shall not exceed one acre;
- (d) Proposed rights-of-way or easements may be moved up to 25 feet if approved by the platting officer;
- (e) *[Repealed by Ord. 17-033, § 47, 2017]*
- (f) Approved external accesses cannot be changed; and
- (g) Amendments and modifications cannot create setback violations.

(H) Prior to final plat recordation, all permits and approvals from federal, state, or municipal regulatory agencies shall be submitted to platting staff.

(I) Prior to final plat approval, State of Alaska Department of Environmental Conservation (ADEC) review and approval are required for community or municipal water supply systems or wastewater disposal systems (certificate to operate, if required by ADEC).

(1) As-builts or record drawings for any community or municipal water and wastewater disposal systems installed are required.

(2) Wells used for community or municipal water systems shall be shown with their protective well radius.

- (a) Protective well radii extending more than 125 feet on adjoining property are prohibited unless:
 - (i) an easement is obtained; or
 - (ii) that portion of the adjoining property that is inside the well radius and

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beyond 125 feet is deemed unusable for septic area. (Ord. 17-033, § 47, 2017; Ord. 11-072, § 3 (part), 2012)

43.15.051 FINAL PLAT; SUBMITTED.

(A) The final plat shall be prepared in substantial conformance with this section and the preliminary plat as approved.

(B) The subdivider shall submit the original of the final plat, which shall be reproducible, drawn to scale, on mylar or equivalent, and be of good drafting in ink, with lettering by template instrument or equivalent.

(C) The sheet sizes shall be 18 inches by 24 inches, 24 inches by 36 inches, 31.5 inches by 34 inches, or 32 inches by 36 inches, in accordance with the State Recorder's Office requirements.

(D) If more than one sheet is necessary to accurately portray the lands subdivided, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines to show where other sheets adjoin. When more than one sheet is submitted, all sheets shall be the same size.

(E) A readable standard scale shall be used of one inch equals 50 feet, 100 feet, or increments of 100, or as allowed by the platting officer. In all cases, the scale used shall be clearly stated.

(F) The name of the subdivision shall be shown in bold letters in the title block of each sheet included.

(G) A prominent north arrow shall be drawn on every sheet. The basis of bearing shall be clearly stated. No magnetic bearings shall be allowed.

(H) All monuments to be of record shall be adequately described and clearly identified on the plat.

(I) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, and other areas shown on the plat, as well as the other boundaries of the lands subdivided.

(J) All distances shall be shown in feet and to the nearest one-hundredth foot, and in accordance with the definition of a United States survey foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

(K) The course of every boundary line shown on the plat shall be indicated by a direct bearing reference. All bearings shown shall be given to the nearest degree, minute, and second of arc.

(L) Curve data shall be stated in terms of radius, central angle, tangent, length of curve, chord length and bearing. Curve data shall be shown for the line affected, and the information shall be tabulated with proper reference.

(M) The true boundary shall be clearly indicated on the plat by bold line.

(N) All interior excepted parcels shall be clearly indicated and labeled "not a part of this plat."

(O) All adjoining properties shall be identified, and where the adjoining properties are a part of a recorded subdivision, the name of that subdivision and the plat number shall be shown. If the subdivision platted is a resubdivision of a part or whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. The fact it is a resubdivision shall be stated as a subtitle following the name of the subdivision wherever it appears on the plat.

(P) The plat shall clearly show the location, dimension, and uses of all plottable easements created by this plat and those easements of record as indicated in the certificate to plat. If unplotable, the easements shall be referenced within a plat note.

(Q) No strip of land shall be reserved by the subdivider unless the strip of land is of sufficient size and shape to be of some practical use or service, as determined by the platting officer.

(R) All blocks shall be numbered in consecutive order. All lots within each block shall be numbered in consecutive order. All streets shall be named, numbered, or lettered in a manner acceptable to the platting officer and in compliance with MSB 11.20.

(S) The purpose of all area dedicated to the public or private shall be clearly indicated or stated on the plat.

(T) A vicinity map is required which shall include the following:

(1) scale of one inch equals one mile, showing a 20-square-mile area minimum (rural); one inch equals 300 feet showing a one-sixteenth-square-mile area, or as necessary to indicate the subdivision and adjacent property or as approved by the platting officer;

(2) townships, ranges, and sections; and

(3) principal road systems, major water

bodies and watercourses, and location of subdivision substantially centered within the vicinity map.

(U) Two blue lines shall be submitted for final review.

(Ord. 17-033, §§ 22, 23, 48, 2017; Ord. 15-036, § 15, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.052 FINAL PLAT; PLAT NOTE.

(A) *Written notes.* Written notes may not ordinarily appear on any subdivision plat except as explicitly provided in this title or as reasonably necessary to accomplish the purposes of this title. Notes relating to land use may not appear unless otherwise required by law. Notes relating to land use which appear on any plat shall be effective only to the extent that the notes do not conflict with land use regulations adopted by the borough.

(B) *Flood hazard area identification.* All lots, blocks, tracts, or parcels affected by the floodplain regulations adopted by the borough shall be noted on the face of the plat. The notification shall be a written statement, stating the affected lots, blocks, and tracts by description and the reports and date of the reports and date of the report used to make the determination of the floodplain. A flood hazard area, if identified, shall be labeled "Flood Hazard Area" in bold, solid, one-inch-high letters. The base flood elevation and floodplain shall be shown as required by MSB 17.29.160, General standards for flood hazard reduction.

(C) *Water supply and sewage disposal note.* No individual water supply system or sewage disposal system shall be permitted on any lot unless the system is located, constructed, and equipped in accordance with the requirements, standards, and recommendations of the State of Alaska Department of Environmental Conservation, which governs those systems.

(D) *Other federal, state, or local requirements.* There may be federal, state, and local requirements governing land use. The individual parcel owner shall obtain a determination whether these requirements apply to the development of parcels shown on the plat to be recorded.

(E) *Restrictive covenants.* Covenants, conditions, and restrictions may be submitted with the final plat for recordation. All reservations or restrictive covenants shall be referenced by the book, page, or serial number and recording district

on the plat in the following form:

Restrictive covenants were recorded in the _____ recording district on _____, 20____, in book _____, page _____ (or serial number) _____.

(Ord. 16-018, § 19, 2016; Ord. 15-036, § 16, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.053 FINAL PLAT; CERTIFICATES.

(A) *Certificates of ownership.* Each plat of a subdivision filed for record shall contain a certificate of ownership. The certificate shall be signed in black ink and acknowledged by all parties having any legal and equitable interest in the lands subdivided before an officer duly authorized to take acknowledgements of deeds, in the same manner in which deeds are required to be acknowledged. If the title interest is vested in a corporation, it shall also be signed and acknowledged by the designee of the corporation with the authority of its board of directors. Where any person holding any mortgage, lien, or other legal or equitable interest in the lands has not signed the certificate of ownership, the affidavit or title opinion shall be accompanied by the written consent, properly signed and acknowledged, of the person to the approval of the plat. This subsection does not require the signatures of holders of subsurface estate interests in the land being subdivided or dedicated. The ownership and dedication certificate shall be substantially as follows:

(I) (We) certify that (I am) (we are) the owner(s) of the property shown and described in this plan and that (I) (We) adopt this plan of subdivision by (my) (our) free consent(,)(.) (dedicate) (all rights-of-way) (and public areas) (to the Matanuska-Susitna Borough) and (grant all easements to the use shown). (delete inapplicable phrases)

Owner's name and address

Date

(B) *Notary's acknowledgments.* A notary acknowledgment shall be substantially as follows:

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NOTARY'S ACKNOWLEDGMENT

This is to certify that on the ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the state of Alaska, duly commissioned and sworn, personally appeared _____, to me known to be the persons described in and who executed the above instrument; and who acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

Notary for the state of Alaska

My commission expires: _____

Or:

NOTARY ACKNOWLEDGEMENT

Subscribed and sworn to before me this ____ day of _____, 20____, for _____.

Notary for the state of Alaska

My commission expires: _____

(C) *Surveyor's certificate.* A surveyor's certificate shall be substantially in one of the forms that follow, whichever is appropriate:

I, (surveyor's name and land surveyor number), hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat represents a survey made by me or under my direct supervision, and that the monuments shown on the plat actually exist as described, and that all dimensional and other details are true and correct to the best of my knowledge.

(SEAL)

I, (surveyor's name and land surveyor number), hereby certify that I am a registered

professional land surveyor in the state of Alaska and that this plat was prepared by me or under my direct supervision using record dimensions from Plat # _____.

(SEAL)

(D) *Planning and land use director's certificate.* A certificate of approval for signature by the planning and land use director shall be substantially in a form as follows:

I certify that this subdivision plan has been found to comply with the land subdivision regulations of the Matanuska-Susitna Borough, and that the plat has been approved by the platting authority by plat resolution number _____, dated _____ 20____, and that this plat has been approved for recording in the office of the recorder in the _____ district, Third Judicial District, State of Alaska in which the plat is located.

_____, 20____

Planning and Land Use Director

ATTEST:

Platting Clerk

(E) *Certificate to plat.* Every final plat of a subdivision submitted for recording shall be accompanied by a certificate to plat or a preliminary commitment for title insurance, executed no more than seven days prior to recording, by a title insurance company, confirming that the title of the land described and shown on the plat is in the name of the person signing the certificate of ownership as it is shown on the plat, or in the name of the corporation as shown in the certificate of ownership.

(F) *Certificate of payment of taxes.* Every final plat of a subdivision submitted for recording shall be accompanied by a certificate from the tax collecting official or city treasurer stating that all special assessments and borough real property taxes levied against the property are paid in full. In the case of real property taxes, if approval is sought between January 1st and the tax due date, the certificate shall

state there are certified funds on deposit with the borough in an amount sufficient to pay estimated real property taxes for the current year at the time of recording. The certificate shall be as follows:

CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that all current taxes and special assessments through _____, 20____, against the property, included in the subdivision or resubdivision, have been paid.

Tax Collection Official (Borough)

I hereby certify that all current taxes and special assessments through _____, 20____, against the property, included in the subdivision or resubdivision, have been paid.

Tax Collection Official (City)

(Ord. 17-033, §§ 24, 49, 50, 2017; Ord. 16-018, §§ 20, 21, 2016; Ord. 15-036, § 17, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.054 FINAL PLAT; SURVEYOR REQUIREMENTS.

(A) *Qualifications of persons making survey and plat; certification.* Any subdivision of land within the borough shall be surveyed by a land surveyor or by persons under the surveyor's direct supervision who shall certify on the subdivision plat that the plat is a true and correct representation of the lands surveyed. The certification shall bear the signature, registration number, and the official seal of the surveyor. Nothing in this section shall be construed to prevent the preparation of preliminary plats by any person. In all cases, the certification required on the final plat shall be signed by a land surveyor.

(B) *Monuments of record; permanent control monuments.* Prior to offering any subdivision plat for recording, the land surveyor shall establish or confirm the prior establishment of at least two permanent control monuments on the boundaries of the land being subdivided. Permanent control monuments shall consist of a magnetized aluminum

or brass-capped pipe, 30 inches in length, and a minimum of two inches in diameter. Drive-in rods and monument caps are allowable when a dig-in type monument is impractical. The monument shall be marked to identify its location, and shown and described on the final plat. The monument shall also have stamped on the cap the registration number of the land surveyor and the year it is set. Other existing monuments such as GLO monuments, rocks, and trees, which do not meet these specifications, shall be acceptable only if they can be verified as to location. This requirement shall not apply when the subdivision is a replat and the boundary has been previously monumented.

(C) *Other markers.* Additional markers for lot corners may be galvanized iron pipe of no less than one-half-inch inside diameter, 24 inches in length, or five-eighths-inch by 24-inch steel reinforcing rod with self-identifying markers that clearly identify marker location, year of setting, and the land surveyor's state of Alaska registration number.

(D) *[Repealed by Ord. 17-033, § 51, 2017]*

(E) *Additional markers required.* Required additional markers shall be of types prescribed in subsection (C) of this section, and, whether set prior to or subsequent to the recording of the plat, shall be set at all of the following locations:

(1) at every corner and angle point of every lot, block, or parcel of land created;

(2) at every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way; and

(3) at every point of curve, point of tangency, point of reversed curve, or point of compounded curve on each and every right-of-way line established.

(F) *Destruction of survey monuments.* Any person who willfully disturbs or destroys a record survey monument shall be responsible for its replacement or be guilty of an infraction punishable by a fine of \$250 for each occurrence.

(G) *Exemption.* A subdivision plat, the sole purpose of which is to eliminate lot lines on a subdivision plat of record, shall be exempt from the survey and monumentation requirements of this section.

(Ord. 17-033, §§ 25, 26, 51, 2017; Ord. 15-036, § 18, 2015; Ord. 11-072, § 3 (part), 2012)

IM 22-192
OR 22-103

43.15.055 FINAL PLAT; DEDICATIONS, IMPROVEMENTS, RECORDING.

(A) Offers to dedicate rights-of-way, roadways, easements, or other public areas to the public on a final plat are accepted by the appropriate governmental agency upon approval and recordation of the final plat by the borough in compliance with subsection (C) of this section. Unless otherwise provided, by accepting an offered dedication, the agency assumes no obligation to establish, operate, or maintain any public service, improvement, or facilities in the area dedicated.

(B) The platting officer may not approve the final plat and no final plat may be recorded until:

(1) the subdivider completes and obtains the borough's or city's final acceptance of all the public improvements required in the subdivision; or

(2) the subdivider has entered into a subdivision agreement with the appropriate municipal government.

(C) Upon the subdivider's compliance with subsection (B) of this section, and also the acceptance of the dedications offered on the approved final plat, the platting officer shall submit the plat to the district recorder upon approval of the planning and land use director in accordance with AS 40.15. The cost of the recording shall be borne by the subdivider.

(Ord. 17-033, § 27, 2017; Ord. 15-036, § 19, 2015; Ord. 11-072, § 3 (part), 2012)

43.15.065 WAIVER OF STANDARDS FOR RESUBDIVISION OF SUBSTANDARD LOTS.

(A) The standards applicable to the subdivision of land may be waived by the platting officer for the resubdivision of substandard lots if the following conditions are met:

(1) one or more lots involved in the resubdivision are substandard lots, as defined in subsection (B) of this section;

(2) because of separate ownerships, unavailability of sufficient additional land, and similar reasons, it is not reasonable to require the replat of the lot in a manner that will bring the lot into conformance with all the requirements applicable to the replat;

(3) one or more of the conditions that make the lot substandard under the present code would be reduced or eliminated under the proposed replat;

(4) the number of substandard lots after the replat may not be more than before the replat; except, if one or more conforming lots would be made nonconforming under the proposed replat, the platting officer may waive the requirement of this paragraph if:

(a) the number of conforming lots that shall be made nonconforming is the minimum that could be reasonably included to minimize or eliminate the existing nonconformity;

(b) the new nonconforming conditions do not create a significant violation of the purposes and policies behind the standard violated;

(5) overall, the benefits to the public from the reduction or elimination of the prohibited conditions would outweigh the disadvantages of any increase in the number or extent of prohibited conditions. The creation of a new condition that violates the applicable provisions of borough code, or expansion of an existing condition, is strongly discouraged and shall be permitted only for compelling reasons.

(B) For the purpose of this section, a "substandard lot" is a lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one or more of the applicable standards of MSB Title 17 or this title. (Ord. 11-072, § 3 (part), 2012)

43.15.070 RIGHT-OF-WAY ACQUISITION PLATS.

(A) *Alternate procedure.* A plat for a subdivision created by a government agency's acquisition of a road, street, highway, right-of-way, railroad right-of-way, or airport parcel is subject to approval under this section and is not subject to any other approval procedure for plats under this chapter.

(B) *Submission requirements.* A government right-of-way acquisition plat submitted under this section shall contain the following information:

(1) the location, name, and number of the project for which the acquisition is required;

(2) the proposed timetable for acquisition and construction;

(3) the dimensions and area of the parcels

to be acquired and of each remainder parcel; and

(4) the names of the property owners identified by parcel.

(C) *Right-of-way acquisition plat.* A right-of-way acquisition plat shall conform to the submission requirements of subsection (B) of this section and to the other provisions of this title; provided, that:

(1) a right-of-way acquisition plat is not subject to any of the other submission requirements for plats under this title;

(2) a right-of-way acquisition is not subject to the Subdivision Construction Manual;

(3) survey requirements of this title are not applicable to a right-of-way acquisition plat unless otherwise provided by written agreement between the borough and the government agency applying for the plat; the borough shall require remonumentation or reference monumentation of subdivision control monuments, aliquot part section corner monuments, and government survey control monuments that will be disturbed, destroyed, or lost as a result of the proposed project; and

(4) the state, its agencies, instrumentalities, or political subdivision and the Matanuska-Susitna Borough may acquire or obtain conveyances, including dedication of lots or tracts of a right-of-way acquisition plat, before submittal of a right-of-way acquisition plat for approval by the Matanuska-Susitna Borough. A right-of-way acquisition conveyance may be recorded before approval and recording of the right-of-way acquisition plat.

(D) *Action.* Actions necessary prior to approval of a final plat include:

(1) The platting officer and the appropriate government agency shall review the right-of-way acquisition plat for completeness. If the proposed plat does not meet the requirements of this section, it shall be returned to the submitting agency with an explanation of the deficiencies.

(2) The platting officer shall make the decisions required by this section unless a government agency applying for the plat requests a public hearing before the platting board.

(3) The public notice and hearing requirements applicable to plats submitted for approval by the platting authority apply to right-of-way acquisition plats submitted to the borough for action. If the submitting agency requests a public hearing before the platting board, or if the agency appeals the borough decision under subsection

(D)(6) of this section, the public notice and hearing requirements applicable to other plats submitted to the platting board shall apply.

(4) The preliminary approval of a right-of-way acquisition plat is effective for 120 months. The platting authority may grant an extension of up to 120 months for recording the final plat upon the finding that it is in the public interest to do so.

(5) The platting authority, as appropriate, may require as a condition of final plat approval any action it finds appropriate under the circumstances of the proposed plat or project, insofar as those actions are consistent with state law, including, but not limited to, the acquisition of remainder parcels that will not meet the applicable minimum requirements for lot size or dimensions. The platting authority may also require the realignment or reconstruction of any abutting or intersecting road or street right-of-way adversely affected by the acquisition or project.

(6) The decision of the platting officer in this matter is final unless appealed in accordance with MSB 43.35. An appeal under this subsection is treated as an original subdivision application.

(7) Unless otherwise agreed to in writing by the platting officer, all monumentation, remonumentation, right-of-way alignment, and reconstruction and other requirements of the borough or of this title shall be met before approval of the final plat unless it is clearly impractical or legally impossible to accomplish prior to final plat approval. Any action required as a condition of final plat approval, but not to be accomplished prior to the approval, shall be completed under the terms and conditions as are set out in writing by the borough. Any survey markers that control the length or direction of any property line shall be reset according to the new location. Secondary monumentation of all property corners, points of curves and angle points along the new right-of-way shall be required.

(E) *Application.* Except to the extent otherwise agreed to in writing by the platting officer, the provisions of this title other than those specifically excepted under this section shall apply to right-of-way acquisition plats.

(Ord. 16-018, § 22, 2016; Ord. 15-036, § 20, 2015; Ord. 11-072, § 3 (part), 2012)

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43.15.075 VARIANCE; STANDARDS FOR APPROVAL.

(A) A variance from the requirements of MSB 43.20 may be granted only if the platting board finds all of the following:

(1) the granting of the variance shall not be detrimental to the public health, safety, or welfare, or injurious to adjacent property;

(2) the variance request is based upon conditions of the property that are atypical to other properties;

(3) Because of unusual physical surroundings, shape, or topographical conditions of the property for which the variance is sought, or because of the taking of a part of the property through condemnation or because of surrounding development or conditions, the strict application of MSB 43.20 shall result in undue substantial hardship to the owner of the property; and

(4) Only one variance fee shall be charged per platting action when multiple variances are requested.

(Ord. 17-033, § 28, 2017; Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.20: SUBDIVISION DEVELOPMENT STANDARDS

Section

- 43.20.020 Standards; general
- 43.20.040 Development standards districts
- 43.20.055 *Rural and remote access [Repealed]*
- 43.20.060 Dedication to public
- 43.20.100 Access required
- 43.20.120 Legal access
- 43.20.130 Major road corridors
- 43.20.140 Physical access
- 43.20.280 *Area [Repealed]*
- 43.20.281 Area
- 43.20.300 Lot and block design
- 43.20.320 Frontage
- 43.20.340 Lot dimensions

43.20.020 STANDARDS; GENERAL.

(A) This chapter establishes general design standards for subdivision development which, except as provided otherwise, govern all subdivisions in the borough.

(B) Construction of improvements within subdivision shall also comply with official construction standards for public improvements under the Subdivision Construction Manual.

(Ord. 17-033, § 52, 2017; Ord. 11-072, § 3 (part), 2012)

43.20.040 DEVELOPMENT STANDARDS DISTRICTS.

(A) It is the purpose of this section to provide a means of establishing different development requirements for the subdivision of land in recognition of the diverse conditions in the borough, ranging from highly urbanized to undeveloped, remote areas without conventional road access; to provide a means of establishing different development requirements in identified areas that are tailored more to the needs of the areas; and to provide a means in individual cases of reducing

certain requirements in remote areas where the requirements are inconsistent with the public need for access, subdivision improvements, and other platting requirements.

(B) Cities to which the assembly has delegated by ordinance the authority to administer specific design and construction standards shall administer the standards pursuant to the delegation.

(C) The assembly, by ordinance, may establish one or more development standards districts in which there are subdivision development standards in addition to, or different from, those specified in this chapter. The ordinance may be adopted only after the planning commission has considered the ordinance and made its recommendation to the assembly, and after a public hearing on the ordinance before the assembly, notice of which shall be given as provided in MSB 43.10.065.

(Ord. 15-036, § 21, 2015; Ord. 11-072, § 3 (part), 2012)

43.20.055 Rural and Remote Access. [Repealed by Ord. 17-033, § 29, 2017]

43.20.060 DEDICATION TO PUBLIC.

(A) All roads shall be dedicated to the public, except as provided in MSB 43.20.100(C); provided, that a subdivider shall be required only to provide the designated right-of-way width within the subdivision, and one-half of the designated right-of-way width of the street on the exterior boundary of the subdivision with the dedication secured from the adjacent property owner before final plat approval.

(B) When accepting roadway dedication, the platting authority shall conduct a public hearing.

(C) Roads shall be dedicated for access to all lots within the subdivision and parcels of land adjacent to the subdivision except that access to adjoining lands does not have to be provided where

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legal and constructible alternative access is available. Dedications shall be a minimum of 60 feet wide and sufficient to carry all traffic generated by the subdivision and to provide residential rights-of-way for projected traffic through the subdivision. Sixty-foot radius rights-of-way shall be dedicated at temporary and permanent cul-de-sacs.

(D) Subdivisions shall provide through connecting rights-of-way of residential collector standard minimum (as defined in the MSB Subdivision Construction Manual) to all adjoining stub rights-of-way and unsubdivided parcels, where feasible, to improve interconnectivity and/or public safety. If it is shown by the applicant to be unnecessary for future development and/or public safety, then a reduction to a lesser road right-of-way standard or an elimination of the requirement to provide access shall be applied to all of (or a portion of) the right-of-way that is being considered for a reduced standard.

(E) The platting board may require the dedication or improvement, or dedication and improvement, of rights-of-way, tracts, or easements no narrower than ten feet in width to accommodate the construction of walkways up to eight feet in width in any of the following circumstances:

(1) if a walkway is indicated as appropriate in the borough's comprehensive plan or other ordinance, i.e., special land use district (SPUD);

(2) if the walkway is reasonably necessary to provide safe and efficient pedestrian access to a school, playground, park, shopping center, public cemetery, transportation, or other community facility; or

(3) if the walkway is reasonably necessary to provide connectivity to a dedicated right-of-way in an adjoining subdivided or unsubdivided parcel.

(4) The above requirements for dedication of additional right-of-way for a walkway shall apply only where a walkway cannot be contained within the legal right-of-way reserved for a street.

(a) Plats or master plans of 20 lots or less shall be exempt from requirements to construct a walkway, unless evidence is presented supporting the need for pedestrian safety or the walkway will provide connectivity to other

pedestrian facilities.

(Ord. 17-033, § 53, 2017; Ord. 16-018, § 24, 2016; Ord. 11-072, § 3 (part), 2012)

43.20.100 ACCESS REQUIRED.

(A) There shall be legal and physical road access provided to all subdivisions and to all lots within subdivisions, except as allowed by subsection (B) of this section and any other exemption within this title.

(B) Upon finding that no practical means of providing road access to a proposed subdivision exists and upon a showing that permanent public access by air, water, or railroad is both practical and feasible, the platting board shall waive the road requirements of subsection (A) of this section. If other than road access is approved, the mode of access shall be noted on the plat.

(C) Gated subdivisions and private roads shall be approved, provided they meet the following criteria:

(1) Internal roads conform to the requirements of the Subdivision Construction Manual for residential standards minimum except as allowed in this section;

(2) Emergency services shall be provided access to deliver services within the private subdivision;

(3) There is no possibility or public necessity to provide for public through traffic because alternate legal access to adjoining properties is available and that access is constructible in accordance with Subdivision Construction Manual standards;

(4) Private road maintenance is guaranteed.

(a) The applicant shall submit a documented plan stating the following:

(i) what seasons road maintenance will be performed,

(ii) contact information for road maintenance,

(iii) length of the maintained roads in feet, and

(iv) surface type;

(5) Existing lots created within subdivisions recorded with platted private roads may be subdivided using the private roads as the legal and physical access.

(D) [Repealed by Ord. 17-033, § 30, 2017]

(E) A subdivision plat whose sole purpose is to separate/divide a home/headquarters site in a Matanuska-Susitna Borough agricultural rights parcel under former MSB Title 13 is exempt from the road construction standards of the MSB Subdivision Construction Manual; provided, that the following conditions are fulfilled:

(1) prior to preliminary plat submittal the agriculture rights property owner is to obtain assembly approval of the sale of the home/headquarters site through an application made to the borough land and resource management division;

(2) the maximum parcel size is five acres for the home/headquarters site;

(3) only two parcels can be created from the farm unit parcel, the home/headquarters site and the remainder;

(4) the applicant demonstrates that legal access as defined in MSB 43.20.120, Legal Access, exists to all parcels or tracts created, and the suitability of the legal access for future residential road construction is documented by a land surveyor or civil engineer hired by the applicant;

(5) the property is to be surveyed and monumented and a plat submitted in conformance with MSB 43.15.016, Preliminary plat submittal and approval, 43.15.049, Final plat; general provisions, and 43.15.051, Final plat; submitted;

(6) a plat note declaring that the borough is not responsible for road construction or road maintenance; and

(7) a plat note restricting further subdivision of the parcels being created.

(F) *Rural and remote access.* The provisions of this subsection provide a different set of access and road construction standards for rural and remote subdivisions:

(1) If the subject property is outside of a road service area, legal access to all lots shall be required and pioneer standard road construction is allowed for physical access.

(a) For subdivisions greater than ten lots, a parking area of sufficient size shall be reserved and constructed if no provisions are made for winter maintenance of the subdivision roads.

(b) For a plat of four lots or less outside of a road service area, legal access shall be provided to all lots and construction of a road is not required; provided, that:

(i) a note shall be placed on the plat to state that if any of the lots or parcels are

further subdivided which would create more than the original lots created, a road must be constructed to minimum pioneer standards to provide physical access to the lots being further subdivided.

(2) For a plat or waiver of four lots or less within a road service area, legal access must be provided to all lots and physical access to the lots may be by a pioneer standard road; provided, that:

(a) A note shall be placed on the plat to state that if any of the lots or parcels are further subdivided which would create more than the original lots created, a road must be constructed to minimum residential standards to provide physical access to the lots being further subdivided.

(b) This provision of code will not require the petitioner to upgrade any road prior to the subject parcel that is or has been maintained by the state or an incorporated municipality.

(G) *Remote subdivision access for parcels outside of a road service area.* The purpose of this subsection is to allow for recreational use and subdivision of lands outside of road service areas where road access to a proposed remote subdivision is not practicable given the size of the subdivision, the cost of subdividing, assessed value of the property, and the cost of providing access due to the location, topographical constraints, and terrain, and it is not the desire of the subdivider to have road access, and proposed access is via trails, creeks, rivers, or lakes by snowmobile, on foot, skis, dog team, off-road vehicle, boat, railroad, or airplane. The following legal and physical access requirements apply:

(1) Legal access shall be provided for internal roads or trails to all parcels, and internal rights-of-way shall be a minimum of 60 feet wide. Legal access can be provided for by plat or by a recorded public use easement document, or other public access easement such as a section line easement.

(2) External legal access to a remote subdivision can be provided by any of the following and shall be a minimum of 100 feet wide for terrestrial access to accommodate reroutes of trails within the right-of-way or easement, excepting that for subdivisions of ten lots or less may be 50 feet wide:

(a) a navigable waterway;

(b) a float plane accessible lake;

(c) an airstrip as approved by applicable agencies including FAA, DOT, or other

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agencies; where an airstrip is used, a plat note shall be added that no maintenance or upgrades will be provided by the borough; or

(d) railroad.

(3) *Private property rights.* Access routes shall not trespass upon private lands, and shall avoid conflicts with adjoining and nearby private properties.

(4) Sufficient land area shall be dedicated for parking at the permanent public access point unless the applicant demonstrates that it is unnecessary to serve the proposed subdivision. Physical improvement shall be made to a required parking area to handle the average number of vehicles using the area at one time, to include clearing and grubbing, a base constructed of suitable soils, and grading and drainage improvements as necessary.

(5) *Physical access.*

(a) Internal access roads or trails shall be constructible. Internal and external physical trail access shall meet the following minimum standards:

- (i) a minimum of ten feet wide;
- (ii) avoid wetlands where possible;
- (iii) be cleared and grubbed;
- (iv) have hardened surface with a minimum of one-foot-thick gravel base or use existing soils where suitable as determined by an engineer;

(v) be shaped to drain;

(vi) provide drainage improvements such as culverts for water crossings and make grading improvements to avoid ponding in low areas:

(aa) when transiting across unavoidable natural features where improvements will be continually inundated by natural forces, a subdivider will not be required as a condition of plat approval to provide improvements that cannot be permanent due to natural circumstances. However, a subdivider must demonstrate why such areas are unavoidable, given the size of the subdivision, the expected disruption to access, and the cost of avoiding such disruption. Except that disruption which is expected to be so frequent as to render the access unusable for any significant part of a season will not be allowed;

(bb) where trails encounter

large water crossings such as creeks and rivers and it is not feasible to install culverts or construct a bridge, an open water crossing will be allowed; provided, that it is approved by the agencies having jurisdiction over the waterway and stream bank stabilization improvements are installed where needed;

(vii) for transit across wetland or marshy conditions, installation of approved matting shall be allowed to be substituted for a hardened surface as specified above.

(6) All subdivisions under this section shall have a plat note which reads:

The borough is not responsible for maintenance or upgrades of any access improvements to parcels created under this provision.

(H) *DNR remote recreational projects.* The purpose of this section is to specify the legal and physical access requirements for parcels created under the Alaska Department of Natural Resources (DNR) Remote Recreational Land Disposal Program(s) and only these standards shall apply. This program typically consists of large staking area of state land where selected entrants stake their own parcel within the staking area which is subsequently surveyed and conveyed to the entrants by the state.

(1) *Preliminary plat approval.* The DNR shall submit a preliminary plat application to the platting officer for review and approval by the platting board containing the following:

- (a) boundary of the proposed staking area;
- (b) proposed external winter and/or summer access, vehicle parking, and staging areas to the staking area;
- (c) the maximum number of proposed parcels; and
- (d) identify a proposed main trail or means of access through the staking area from the access point or points.

(i) If a trail is the main access within the staking area, it shall be within a 60-foot-wide right-of-way.

(2) *Final plat submittal and approval.*

(a) The final plat for this section shall conform with provisions of MSB 43.15.051 through 43.15.055.

(b) The final location of the main

trail or access through the staking area may be adjusted by the petitioner from the location shown on the preliminary plat.

(c) A plat note shall be added stating the borough is not responsible for maintenance or upgrades of any access improvements to parcels created under this provision.

(1) *Replatting remote recreational parcels.* The provisions of this section shall apply to the subdivision of parcels created under DNR land disposal programs including Remote Parcel, Open to Entry (AS 38.05.077), Homesteads (AS 38.09) and Remote Recreational land programs.

(1) Said parcels may be subdivided into not more than three lots with each having a minimum lot size of two and one-half acres.

(2) Lots created herein are exempt from other legal and physical access provisions contained within this code.

(3) In lieu of a usable area report, a note shall be placed on the plat that wastewater disposal systems shall comply with ADEC regulations. (Ord. 17-033, § 30, 2017; Ord. 16-018, § 25, 2016; amended during 4/15 supplement; Ord. 11-072, § 3 (part), 2012)

43.20.120 LEGAL ACCESS.

(A) The applicant shall provide the platting division a right-of-way document verifying the existence of legal access. In this title, legal access exists only if one of the following is met:

(1) An unrestricted, public right-of-way connects the subdivision to a constructed public transportation system and one of the following is met:

(a) The applicant's land surveyor submits to the platting division for review and approval documentation and an opinion demonstrating that the right-of-way exists; or

(b) The applicant provides copies of borough-accepted recorded conveyances creating the public easement or right-of-way where the access is located, or that access or right-of-way is maintained by the state of Alaska or an incorporated municipality; or

(c) The applicant provides documentation satisfactory to the borough demonstrating the legal access is guaranteed through judicial decree;

(2) The right-of-way is an easement or fee interest at least 50 feet in width dedicated or irrevocably conveyed to the public; or

(B) The applicant proves that the proposed access can be constructed practically and economically within the legal access documented. (Ord. 17-033, § 31, 2017; Ord. 15-036, § 23, 2015; Ord. 11-072, § 3 (part), 2012)

43.20.130 MAJOR ROAD CORRIDORS.

(A) Subdivisions of any lots abutting or within 100 feet of a national, state, or borough road classified as a highway or arterial road in the MSB Long Range Transportation Plan or its future updates are subject to the provisions of this section.

(B) The distance between direct accessways onto national, state, or borough roads classified as highways or arterial roads shall be maximized and shall be 650 feet or greater when measured at centerline unless preexisting conditions and preexisting nonconforming lots do not allow. Access shall be by collector street, frontage road, or shared driveways, where feasible. A property adjacent to a road described in subsection (A) of this section shall not be denied access where an existing road or driveway causes an access to have less than 650 feet of separation.

(C) Variances may be granted in the interest of public safety and in those cases where preexisting legal nonconforming lots of record cannot comply with the standard after good faith negotiation with adjacent property owners has failed to provide a shared access that would conform to the standards of this chapter. Variances will maintain the greatest possible distance between access points. Variances may be granted to allow shared access to multiple contiguous pre-existing legal nonconforming lots subject to the same criteria listed for individual lots. (Ord. 17-033, § 32, 2017)

43.20.140 PHYSICAL ACCESS.

(A) Roads used for access and internal circulation shall:

(1) conform to the existing requirements of the Subdivision Construction Manual; and

(2) be located entirely within dedicated or legal rights-of-way; and

(a) Prior to recordation, a surveyor's sealed drawing shall be submitted

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showing traveled ways within existing or proposed rights-of-way and any slopes steeper than 2.5 to 1 that extend beyond the right-of-way limits.

(b) A centerline profile shall be provided for those sections of streets exceeding 6 percent grade.

(Ord. 17-033, § 54, 2017: Ord. 11-072, § 3 (part), 2012)

43.20.280 Area. [Repealed by Ord. 15-036, § 24, 2015]

43.20.281 AREA.

(A) Unless designated otherwise by another authority having jurisdiction, minimum lot sizes shall be as follows:

(1) Except as allowed under subsections (A)(2), (3), and (4) of this section, all lots within this district shall contain at least 40,000 square feet of area with at least 10,000 square feet of usable building area and 10,000 square feet of contiguous usable septic area. Lots having 20,000 square feet or less of the total of usable building area and usable septic area shall have 10,000 square feet of contiguous usable septic area surrounded by a well exclusion area extending 100 feet from the perimeter, delineated and reserved on the plat at the discretion of the platting board.

(a) Usable septic area is that area where seasonal high water table is a minimum of eight feet below the surface. Where water is encountered at ten feet or less below the surface, the seasonal high subsurface water is to be determined between May 1st and October 30th, and:

(i) that area where slopes are less than 25 percent;

(ii) that area which is more than 100 feet from open water, surface waters, and wetlands;

(iii) that area which is located at least 50 feet from the top of a slope which is greater than 25 percent and has more than ten feet of elevation change;

(iv) that area which is not within an area dedicated to public use;

(v) that area which is outside of utility or other easements that would affect the use of the areas for on-site septic installation;

(vi) that area which is outside

of a protective well radius;

(vii) that area which is outside of any known debris burial site; and

(viii) [Repealed by Ord. 17-033, § 55, 2017]

(b) Water table and ability of soils to accept effluent shall be determined by a number of borings or test holes sufficient to indicate subsurface conditions over the entire area of the subdivision. All of the borings and test holes shall be located within the perimeter of the proposed subdivision. Borings and test holes must have the following minimum depths below the ground surface:

(i) in areas known or suspected to contain permafrost, the lesser of:

(aa) twenty feet deep; or

(bb) a depth at which permafrost or an impermeable layer is encountered; and

(ii) the least depth associated with the following conditions, where they apply:

(aa) two feet below the depth where the water table is encountered;

(bb) twelve feet deep for shallow trench or bed systems;

(cc) sixteen feet deep for areas where deep trench or seepage pits will likely be used;

(dd) the depth to bedrock, clay, or other impermeable strata with an expected percolation rate slower than 120 minutes per inch; or

(ee) As determined by the engineer, a lesser depth as required to verify usable areas is acceptable for hand-dug excavations on parcels with limited or no access for heavy equipment.

(c) The minimum number of test holes shall be determined by the engineer.

(d) When the water table is encountered in the test holes, the depth to the seasonal high water table must be determined by:

(i) monitoring test holes or soil borings at times between May and October (inclusive);

(ii) soil mottling or staining analyses;

(iii) interpretation of levels of standing open water;

(iv) local knowledge and experience, if approved by the borough; or

(v) a combination of these methods.

(e) The depth to any seeps must be noted and may require subsequent monitoring.

(f) Soils in a usable wastewater disposal area must be:

(i) clearly shown to be visually classified as GW, GP, SW, or SP under the Unified Soils Classification System and expected to have a percolation rate of 15 minutes per inch or less (faster);

(ii) clearly shown to be GM or SM under the Unified Soils Classification System by a sieve analysis; or

(iii) shown by a percolation test conducted in accordance with (ADEC) Alaska State Department of Environmental Conservation regulations to have a percolation rate of 60 minutes per inch or less (faster).

(g) These borings or test holes shall be accomplished under the direct supervision of a state of Alaska registered civil engineer, who shall submit soil logs and other findings in writing to the Matanuska-Susitna Borough certifying 10,000 square feet of contiguous usable area for septic drain field use.

(h) Where lots, tracts, or parcels exceed five acres in size, the platting authority may accept a reduced number of test holes or other supporting information, accomplished under the direct supervision of a state of Alaska registered engineer.

(i) The platting authority shall exempt the submission requirements of MSB 43.15.016(A)(6) for purposes of fulfilling usable area requirements for subdivisions of land where:

(i) the lot size is 400,000 square feet or greater and an engineer or land surveyor submits a detailed topographic narrative; or

(ii) the existing subdivision was previously approved by the Alaska State Department of Environmental Conservation or by the Borough after July 1, 1996, and the proposed subdivision action is limited to moving one or more lot lines, provided the aggregate square footage affected is 2,000 square feet or less.

(2) Lots containing at least 20,000 square feet but less than 40,000 square feet must be serviced by an approved municipal or community water or municipal or community septic system. The

platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved municipal or community water system or municipal or community wastewater system. A community wastewater disposal system shall include a common wastewater disposal site on separate lot(s) that serves the entire subdivision.

(a) Lots containing at least 20,000 square feet but less than 40,000 square feet not served by an approved municipal or community septic system must have a minimum 10,000 square feet of usable septic area and are exempt from the usable building area requirement.

(3) The platting authority may approve lots having less than 20,000 square feet but at least 7,200 square feet if served by a community or municipal water system and community or municipal sewage disposal facilities.

(4) For those areas not served by municipal sewer and water, lots less than 20,000 square feet must be approved by a planned unit development as authorized by MSB 17.36.

(B) Within jurisdictions having authority, minimum lot sizes and dimensions shall be those established under or pursuant to the applicable provisions of MSB Title 17; however, where a size or dimension has not been established under or pursuant to MSB Title 17, the applicable provision of this title applies.

(C) If a condemnation by a governmental agency reduces the area of a lot below the minimum required by this section, the area after condemnation shall be the minimum area required for that lot if that lot met the minimum requirements before the condemnation and the resulting area after the condemnation is not less than 80 percent of the minimum required.

(D) Exclusive of open space, lots designated or dedicated for a public or utility purpose with no on-lot sewer shall have no minimum lot size but shall have restrictions, requirements, designations, or dedications noted on the plat.

(E) *Open space incentive.* The intent of this subsection is to support the goals, policies, and objectives of the Matanuska-Susitna Borough Parks, Recreation, and Open Space Plan.

(1) Minimum individual lot area may be reduced up to 25 percent by the dedication of an equal area of usable open space within the subdivision; provided, that:

(a) Each non-open space lot, in

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which the lot area was reduced, has 10,000 square feet of contiguous usable septic area delineated on the plat, unless served by a municipal or community wastewater system;

(b) The open space area is connected by public access, or is attached to an existing open space or greenbelt area that has public access. If it is proposed to attach to an existing open space or greenbelt area, the access must be in an area that is feasible for the intended use; and

(c) Open space shall be irrevocably dedicated to the municipality or borough, or irrevocably dedicated to the subdivision owners and cannot be resubdivided.

(2) Additional nonusable area may be attached to the usable open space area, but shall not be used for calculations in the reduction of lot size.

(3) Open space area is exempt from lot configuration; however, the minimum width of any open space area shall be a minimum of 20 feet.

(4) Usable open space area shall be a minimum of 30,000 contiguous square feet.

(a) Usable open space area has a seasonal high groundwater table no closer than two feet below the surface, and is outside of existing or proposed utility, slope, or public use easements and does not include any other existing or proposed easements that would normally disturb the natural vegetative state.

(5) The proposed open space area shall connect to adjacent open space areas when prudent and feasible.

(6) Open space area shall be delineated and identified on the plat.

(7) Community wells and community septic systems shall not be allowed on open space dedicated to a municipality or the borough but are allowed in open space areas if accepted by the subdivision owners. Protective well radii may be allowed in open space areas.

(Ord. 17-033, § 55, 2017; Ord. 16-018, §§ 26, 27, 2016; Ord. 15-036, § 25, 2015)

43.20.300 LOT AND BLOCK DESIGN.

(A) The length of a block shall be not less than 400 feet, no more than 3,000 feet, or less than 800 feet along collector or arterial roads.

(B) No lot under 2 acres in size shall have an average depth of more than 3 times the average width, except:

(1) Lots of 40,000 square feet minimum shall have an average width of at least 125 feet when they exceed the 3-to-1 ratio due to unusable area or natural ground slope exceeding 25 percent;

(2) Lots of 20,000 square feet minimum shall have an average width at least 85 feet when they exceed the 3-to-1 ratio due to unusable area or natural ground slope exceeding 25 percent grade.

(C) Lots 2 acres to 10 acres may have an average depth of no more than 4 times its average width.

(1) Lots 2 to 10 acres shall have an average width of at least 125 feet when they exceed the 4-to-1 ratio due to unusable area or natural ground slope exceeding 25 percent.

(D) *[Repealed by Ord. 17-033, § 34, 2017]*

(E) *Flag lots.*

(1) Flag lots are defined in MSB 43.05.005 and further defined as having a pole portion which is 100 feet wide or less.

(2) The pole portion of flag lots shall:

(a) not be included in the usable area calculations;

(b) not be included in the depth-to-width ratio;

(c) not exceed a length of 2,640 feet.

(3) Utility easements and utilities shall be located outside of the length of the flag pole portion of the lot:

(a) excepting where the flag pole is greater than 75 feet wide to accommodate utilities.

(4) When served by road access, multiple flag lots within the proposed subdivision with pole portions adjoining shall:

(a) share a common access point to the road at the road right-of-way line;

(b) be overlaid with a public use easement over the width of the pole portion and extend into the flag portion an adequate distance to provide for a turnaround designed to Subdivision Construction Manual standards;

(i) applies to lots greater than 2.5 acres;

(c) be served by a public use easement created to provide sufficient access to subject parcels when a common access point is a requirement for subdividing.

(5) For flag lots containing 2.5 acres or less, the minimum pole portion width is:

(a) 30 feet where 2 or more pole

portions are adjoining;

- (b) 40 feet for a single pole portion;
- (i) 45 feet of frontage if access

is onto a cul-de-sac.

(6) For lots greater than 2.5 acres, the minimum pole portion width is:

- (a) 30 feet where 2 or more pole portions are adjoining;
- (i) 45 feet of frontage if access is onto a cul-de-sac;

- (b) 60 feet for a single pole portion.

(7) Flag lots are limited to 10 percent of the total number of lots for any subdivision of 60 or more lots, up to a maximum of 10 flag lots, and no more than 6 lots for a subdivision of less than 60 lots. The calculated amount shall be rounded to the greater number in case of a fraction of 0.5 or greater, and rounded to the lesser number in case of a fraction of less than 0.5.

(Ord. 17-033, §§ 33 – 35, 2017; Ord. 16-018, § 28, 2016; Ord. 15-036, § 26, 2015; Ord. 11-072, § 3 (part), 2012)

43.20.320 FRONTAGE.

(A) Exclusive of flag lots, lots shall contain a minimum of 60 feet of frontage, unless located on a cul-de-sac, in which case the minimum frontage may be 45 feet.

(B) Frontage for flag lots is pursuant to MSB 43.20.300(E).

(Ord. 17-033, § 36, 2017; Ord. 15-036, § 27, 2015; Ord. 11-072, § 3 (part), 2012)

43.20.340 LOT DIMENSIONS.

(A) Lots adjacent to a watercourse or body of water shall be a minimum of 125 feet in width at the waterline, as measured directly between property corners at the waterline, or a minimum of 85 feet in width if community sewerage is provided to the lot.

(1) For flag lots where water is the only legal access, water body frontage is pursuant to MSB 43.20.300(E).

(Ord. 17-033, § 39, 2017; Ord. 15-036, § 28, 2015; Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.25: EXISTING PLAT STATUS AND VALIDATION

Section

43.25.015 Existing plats validated [Repealed]

43.25.020 Recorded plats [Repealed]

43.25.025 Severability

*43.25.015 Existing Plats Validated. [Repealed by
Ord. 15-036, § 29, 2015]*

*43.25.020 Recorded Plats. [Repealed by Ord. 15-
036, § 30, 2015]*

43.25.025 SEVERABILITY.

(A) If any provisions of this title shall be declared invalid, the invalidity shall not affect any other portion of this title which can be given effect without the invalid provision, and to this end the provisions of this title are declared to be severable. (Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.35: RECONSIDERATION AND APPEALS

Section

43.35.003 Appeals of platting officer decision

43.35.005 Reconsideration by platting board

43.35.015 Appeals

43.35.003 APPEALS OF PLATTING OFFICER DECISION.

(A) Appeals to the platting board shall be filed within ten days of the platting officer's written decision on abbreviated plats, 40-acre exemptions, waivers, and right-of-way acquisition plats.

(1) A written notice of appeal shall be submitted to the platting division.

(2) The notice of the appeal shall state the reason for the appeal, which must be based on one or more of the following:

(a) the decision of the platting officer is in violation of borough code, state or federal law;

(b) there was a clerical error in the decision;

(c) there is newly discovered evidence or a change in circumstances which by due diligence could not have been discovered before the original hearing; or

(d) there was a substantial procedural error in the original proceedings.

(3) New evidence submitted after acceptance of the appeal shall not be considered or presented to the platting board.

(B) Within ten days from the date the appeal was filed the platting division shall provide the notice of the appeal to the applicant and any party who provided oral testimony at the public hearing or filed written comments prior to the platting officer's original decision.

(C) Written comments on appeal must be filed with the platting division ten days before the platting board meeting where the appeal will be considered. Only the parties filing written submittals or

requesting to be heard in writing ten days prior to the appeal hearing may testify at the appeal hearing.

(D) The appeal hearing shall be set no later than 45 days after the appeal is filed unless cause is shown by the party requesting the appeal that the hearing be expedited or continued. If the platting board does not act on the appeal within the 45 days then the decision of the platting officer stands.

(Ord. 17-033, § 37, 2017; Ord. 16-018, § 29, 2016; Ord. 11-072, § 3 (part), 2012)

43.35.005 RECONSIDERATION BY PLATTING BOARD.

(A) The platting board may reconsider its decision upon petition of any person entitled to appeal the decision under MSB 15.39.120 filed within ten days of the date the written "notification of platting board action" is issued.

(B) The platting board may reconsider its decision only if it finds:

(1) there was a clerical error in the decision;

(2) the decision resulted from fraud, misrepresentation, or mistake;

(3) there is newly discovered evidence or a change in circumstances which by due diligence could not have been discovered before the original hearing;

(4) the board acted without jurisdiction in the original proceeding; or

(5) there was substantial procedural error in the original proceedings.)

(C) The petitioner shall state one or more of the bases for reconsideration listed in subsections (B)(1) through (5) of this section in the petition for reconsideration and briefly explain why those bases for reconsideration apply to the petition.

(D) The platting board shall review the petition at its next regular meeting and decide whether to reconsider the matter. The decision to reconsider the

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matter shall be based on the petition and any oral argument of the petitioner, which the board may decide to hear.

(E) If the petition for reconsideration is granted, the platting board shall set the matter on its agenda for rehearing only after notifying all people giving testimony and all people required to receive notice of the original petition under MSB 43.10.065. Parties shall have ten days from the date of notice that a reconsideration hearing has been granted to file written comments and inform the platting division of their intent to participate in the hearing.

(F) The reconsideration hearing shall be conducted in the same manner as the original proceeding.

(G) The platting board's decision at the reconsideration hearing shall be final, and no further petitions for reconsideration shall be entertained.

(H) The timely filing of a motion for reconsideration shall suspend the time for filing an appeal until the motion for reconsideration is resolved by the platting board.

(I) The timely filing of a petition for reconsideration from the granting of a vacation shall suspend the 30-day time period required for assembly or city council approval or denial of the proposed vacation until the matter is resolved by the platting board.

(Ord. 17-033, § 38, 2017; Ord. 16-018, § 30, 2016; Ord. 11-072, § 3 (part), 2012)

43.35.015 APPEALS.

(A) Appeals from decisions of the platting board may be made under the provisions of MSB 15.39.

(Ord. 11-072, § 3 (part), 2012)

CHAPTER 43.55: SUBDIVISION AGREEMENTS

Section

- 43.55.010 Subdivision agreement required
- 43.55.015 Assembly approval required
- 43.55.020 Completion date
- 43.55.025 Cost of required public improvements
- 43.55.030 Guarantee of completion of public improvements
- 43.55.035 Release of guarantee
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43.55.010 SUBDIVISION AGREEMENT REQUIRED.

(A) *Agreement.* Where subdivision improvements are required under this title as a condition of plat approval the subdivider may enter into a subdivision agreement with the borough in accordance with this chapter. Road access must be at least 85 percent complete, all lots within the plat being recorded having access. All signage must be installed. All drainage improvements must be installed providing functioning drainage throughout the subdivision prior to entering into a subdivision agreement; minor improvements are allowed to the functioning drainage system under the subdivision agreement.

(B) *Application.* Application for a subdivision agreement shall be made to the platting division. The application shall include a tentative schedule of all proposed construction of public improvements and the subdivider's estimate of the cost of each required public improvement, itemized materials list, plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, storm water pollution prevention plans, and any other pertinent

data and information necessary for the platting division to evaluate the proposed installation. The borough may require a showing of the subdivider's financial responsibility.

(C) *Contents of agreement.* The subdivision agreement shall include, but need not be limited to, the following provision:

(1) a designation of the public improvements required to be constructed;

(2) the construction and inspection requirements of the borough for which the improvements are constructed;

(3) the time schedule for completing the improvements;

(4) the guarantee required by MSB 43.55.030;

(5) *[Repealed by Ord. 17-033, § 56, 2017]*

(6) the allocation of costs between the borough and the subdivider for required public improvements;

(7) the warranty required by MSB 43.55.037;

(8) the consent of the subdivider for the ownership of specified public improvements to vest with the municipality upon final acceptance by the borough;

(9) a warranty that the subdivider has title to the subdivision property and the authority to execute the subdivision agreement;

(10) *[Repealed by Ord. 17-033, § 56, 2017]*

(11) a provision that all work shall be performed pursuant to Matanuska-Susitna Borough specifications for subdivision improvements or, where city specifications are applicable, city specifications for such improvements;

(12) a provision that work shall not commence until plans have been approved by the

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platting division and notice to proceed is given.
(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.015 ASSEMBLY APPROVAL REQUIRED.

(A) Approval by the assembly shall be required to enter into subdivision agreements where borough participation in the cost of the required public improvements is involved, and approval by the city within which the subdivision is located shall be required to enter into subdivision agreements where city participation in the cost of the required public improvements is involved.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.020 COMPLETION DATE.

(A) The improvements required under the terms of the subdivision agreement shall be fully completed for final acceptance within two years of the date of execution of the agreement, unless upon a showing of good cause the subdivision agreement is extended by the platting division for an additional one-year period. The platting board may grant further extensions following the standards and procedures of MSB 43.10.060.

(Ord. 17-033, § 56 (part), 2017: Ord. 15-036, § 31, 2015: Ord. 11-072, § 3 (part), 2012)

43.55.025 COST OF REQUIRED PUBLIC IMPROVEMENTS.

(A) *Elements of cost.* The cost of any public improvements includes the cost of design, engineering, contract administration, inspection, testing, and surveillance as well as the work, labor, and materials furnished for the construction of the improvement. Little Davis Bacon wages shall be used to estimate costs.

(B) *Apportionment.* The subdivision agreement shall require the subdivider to pay all the costs as follows:

(1) all direct and indirect costs incurred by the borough in supplying and administering the method of public improvement guarantee provided for in MSB 43.55.030;

(2) all costs for inspection for final acceptance and warranty repairs of any required

public improvements. Surveillance shall be performed by the borough during the course of construction and up to the point of final acceptance of the completed project. Inspection shall be performed by the borough during the warranty period;

(3) all direct and indirect costs of plan review, agreement review, and administration and attendant costs;

(4) all costs of all subdivision improvements required as a condition of plat approval, except those costs of an improvement the borough has agreed to pay that are attributable to oversizing;

(5) the manager may promulgate and amend a schedule of fees and charges to recover the costs set out in subsections (B)(1) through (4) of this section.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.030 GUARANTEE OF COMPLETION OF PUBLIC IMPROVEMENTS.

(A) *Guarantee.* To assure the installation of required public improvements which are not accepted at the time the final plat is filed, the subdivision agreement shall require the subdivider to guarantee the completion of all the improvements by the method specified below. The amount of guarantee shall be determined on the basis of the borough's cost estimate and shall be adequate for the borough to complete construction of the public improvements. The guarantee shall remain in effect until final acceptance of the public improvements and successful completion of the warranty period.

(B) *Cost estimates.* The borough's estimate shall state the estimated cost of completion for each required public improvement, using Little Davis Bacon wages. Cost estimates for each required public improvement shall be approved by the borough engineer through the platting division. For purposes of establishing the amount necessary for the guarantee of completion of public improvements, a percentage of overrun allowance shall be added to the total estimated cost of public improvements as follows:

Total Estimated Cost of Improvement	Percent for Overrun Allowance
\$0 to \$500,000	25 percent

Total Estimated Cost of Improvement Over \$500,000	Percent for Overrun Allowance
	15 percent

(C) *Method of public improvement guarantee.* The subdivision agreement shall include the following method to guarantee the construction of required public improvements:

(1) *[Repealed by Ord. 17-033, § 56, 2017]*

(2) *Deposit in escrow.* The subdivider shall deposit a cash sum equal to the estimated cost of the remaining required public improvements plus overrun allowances as provided above either with the borough or in escrow with the responsible financial institution authorized to do such business in the state of Alaska. In the case of an escrow account, the subdivider shall file with the borough an escrow agreement which includes the following terms:

(a) Funds of the escrow account shall be held in trust until released by the borough and may not be used or pledged by the subdivider as security in any matter during the period other than payment for the improvements.

(b) In the case of a failure on the part of the subdivider to complete any improvement within the required time period, the institution shall immediately make all funds in the account available to the borough for use in the completion of those improvements.

(3) *[Repealed by Ord. 17-033, § 56, 2017]*

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.035 RELEASE OF GUARANTEE.

(A) The borough shall release the obligation for performance guarantees upon the final acceptance of the improvement and the successful completion of the warranty period.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.037 WARRANTY.

(A) *Warranty of improvements.* The subdivider shall warrant and guarantee that required public improvements constructed under the agreement have been constructed in accordance with the

approved plans, shall remain in good condition and meet all applicable specification for one year after final acceptance of all improvements required to be constructed. The warranty includes defects in design, workmanship, materials, and any damage to improvements caused by the subdivider, its agents, or others engaged in work to be performed under the subdivision agreement.

(B) *Security for warranty.* To secure the warranty, the guarantee of performance provided in MSB 43.55.030 shall remain in effect until the end of the warranty period.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.040 WARRANTY; CORRECTION OF DEFICIENCIES.

(A) Within a reasonable time as allowed by the borough, the subdivider shall correct, to the satisfaction of the borough, all deficiencies occurring in required improvements during the warranty period. Notification shall be made by any reasonable method. If the subdivider fails to repair or reconstruct the deficiency within the time specified above, the borough shall make the repair at the subdivider's sole expense. The borough may then bill the subdivider for the cost of the repair or declare the guarantee amount forfeited or demand payment of the note.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.050 RELEASE OF WARRANTY.

(A) Inspection shall be made by the borough at the end of the warranty period and prior to the release of the guarantee. All deficiencies shall be corrected prior to release of the guarantee. Upon satisfactory correction of all deficiencies, the borough shall release the guarantee.

(Ord. 17-033, § 56 (part), 2017: Ord. 11-072, § 3 (part), 2012)

43.55.055 DEFAULT.

(A) *Default on agreement or warranty.* In the event the subdivider defaults on any obligation to construct required public improvements, to repair the improvements under the warranty, or to pay the costs or fees to the borough as are due it, the borough

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may demand immediate payment of costs and fees or for the construction or warranty of any improvements. All funds received by the borough shall be used for any construction, repair, or reconstruction necessary to ensure:

(1) that all required public improvements are built to specifications necessary to receive final acceptance; and

(2) the improvements remain in good condition for the completion of the warranty period.

(B) *Use of proceeds.* The borough may use guarantee funds for the construction, repair, or maintenance of required public improvements from the date of initial default until three years after the funds have become available to the borough for the use, except that no use shall be made of the funds later than one year after satisfactory completion and final acceptance of the work. The borough shall pay the subdivider all guarantee funds which were not used or obligated for the completion of the improvements after either:

(1) the final acceptance of all public improvements and successful completion of the warranty period; or

(2) the three-year period provided for above.

(Ord. 17-033, § 56 (part), 2017; Ord. 11-072, § 3 (part), 2012)

43.55.060 ENFORCEMENT.

(A) All provisions of this chapter are mandatory and may not be altered by the subdivision agreement. The obligations contained in this chapter may be enforced through an action to enforce the ordinance codified in this chapter as well as an action in contract.

(Ord. 17-033, § 56 (part), 2017; Ord. 11-072, § 3 (part), 2012)

43.55.065 OTHER MUNICIPALITIES AS BENEFICIARY.

(A) Where the public improvements are to become the property of a municipality within the borough, the borough may require that the municipality be a beneficiary of any undertaking of the subdivider, and of any guarantees and warranties to secure the performance of the subdivision agreement with respect to the improvements. The term "municipality" includes the borough and cities

with the Matanuska-Susitna Borough.

(B) Where, by borough ordinance, a municipality is given authority to determine, accept, release, or take similar actions relating to subdivision improvement guarantees or warranties, or the ordinance provides for procedures or standards that are different from the provisions of this chapter, the ordinance governs to the extent of its coverage of the actions.

(Ord. 17-033, § 56 (part), 2017; Ord. 11-072, § 3 (part), 2012)