

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 17.05 ESSENTIAL SERVICE UTILITIES.

AGENDA OF: November 22, 2022

ASSEMBLY ACTION:

postponed indefinitely with
McKee, Tew + Sumner opposed
12-8-22

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: WMB

Route To:	Department/Individual	Initials	Remarks
	Originator - A. Strawn	AS	
	Planning Director - A. Strawn	AS	
	Community Development Director - E. Phillips	EP	
	Public Works Director - T. Adams	TA	PLJ Opposes
	Finance Director - C. Heindel	CH	
	Borough Attorney	NS	
	Borough Clerk	BNA for JKM	

ATTACHMENT(S): Fiscal Note: YES ☐ NO ☒ X
 Chapter 17.05: Essential Service Utilities (4 pp)
 Planning Commission Resolution 22-30 (3 pp)
 Ordinance Serial No. 22-088 (2 pp)

SUMMARY STATEMENT:

This ordinance is at the request of Assemblymember Sumner.

MSB 17.05 was originally adopted in 2007 with the stated purpose of providing for public participation in the installation of essential service utilities in such a manner that they enhance the health, safety and general welfare of borough residents and properties while minimizing negative impacts. However, while the

ordinance required a public process, it did not include any standards for approval, so did not fulfill its intended purpose.

Essential Service Utilities are necessary for the safe, reliable, and resilient transmission of power and fuel. Requiring a public involvement process increases the cost of installing essential service utilities at a time where there is very high energy costs and international instability.

RECOMMENDATION OF ADMINISTRATION:

Consider adoption of an ordinance repealing MSB 17.05 in its entirety.

CHAPTER 17.05: ESSENTIAL SERVICE UTILITIES

Section

17.05.010 Purpose

17.05.020 Applicability

17.05.030 Type I essential service utility

17.05.040 Type II essential service utility

17.05.050 Definitions

17.05.010 PURPOSE.

(A) The purpose of this chapter is to provide for public participation in the decision affecting the installation of essential service utilities in such a manner that they enhance the health, safety and general welfare of borough residents and properties while minimizing negative impacts. This chapter recognizes the importance and benefits of essential services, while ensuring that all feasible mitigation measures are taken to protect the scenic qualities of the Matanuska Susitna Borough. Essential services should be installed in cognizance of existing and projected demands for such services.

(Ord. 07-076, § 2 (part), 2007)

17.05.020 APPLICABILITY.

(A) This chapter applies to all areas of the borough except within the city boundaries of Houston, Palmer, Wasilla, and the Port MacKenzie special use district boundary. This chapter applies to municipal utilities that extend beyond city boundaries and the port district boundary into unincorporated borough lands.

(Ord. 22-062, § 2, 2022; Ord. 07-076, § 2 (part), 2007)

17.05.030 TYPE I ESSENTIAL SERVICE UTILITY.

(A) All proposed Type I essential service utilities, when installed or extended in any public way or borough-owned land, shall require a permit issued by the borough in accordance with MSB

11.30.030.

(Ord. 07-076, § 2 (part), 2007)

17.05.040 TYPE II ESSENTIAL SERVICE UTILITY.

(A) All proposed Type II essential service utilities shall require a public involvement program in accordance with a public participation plan as submitted by the utility in all areas of the borough excluding the cities of Houston, Palmer, Wasilla, and the Port MacKenzie special use district boundary.

(B) Within 20 calendar days of receipt of the proposed public participation plan, the director shall provide the applicant with written acknowledgement of receipt of the plan, along with any recommendations concerning the proposed process. The public involvement program, at a minimum, must contain the following:

(1) *Minimum requirements.*

(a) the utility's public involvement program must comply with established state and federal guidelines governing the utility including adequate public notice, public process, public meetings, or public hearings;

(b) if no established state or federal guidelines apply to the proposed action, the utility shall follow its own utility board adopted guidelines for public notification and involvement;

(c) if there are no established state, federal or utility board adopted guidelines, the public involvement program will consist of the minimum requirements outlined in subsection (B)(2) of this section, Public Involvement; and

(d) if a state, federal or utility board adopted public involvement program is used, they must at least meet or exceed the minimum guidelines in subsection (B)(2) of this section, Public Involvement.

(2) *Public involvement.*

(a) a minimum of one public meeting will be held by the utility and shall be held in an area central to the area impacted by proposed action;

(b) a minimum of one formal public hearing will be held by the utility later in the process to allow for formal public testimony. The public hearing will be held in an area central to the area impacted by proposed action; and

(c) notice of the public meeting and public hearing to occur a minimum of 15 days in advance of the public meeting or public hearing. The public notice will include: 1M 22-171
OR 22-088 2/4

- (i) three notices in a newspaper of general circulation within the borough;
- (ii) public postings in local areas such as libraries, public buildings, schools, stores, laundromats, lodges, on the utility's website, and on the Matanuska-Susitna Borough's website, etc.;
- (iii) public service announcements on local radio stations starting 15 days before the public meeting; and
- (iv) mailings, as appropriate, including notification of all affected community councils.

(C) Implementation of the public involvement program shall commence within 120 days from the issuance date of written acknowledgement.

(D) Upon completion of the public involvement program elements, the applicant shall create and submit to the director a decisional document that describes how the public involvement program was implemented, the nature of public comment, the chosen course of action, timeline for construction, and the public's appeal process. Copies of all written public comments and an audio record, if available, shall be included in the decisional document.

(Ord. 22-062, § 2, 2022; Ord. 07-076, § 2 (part), 2007)

17.05.050 DEFINITIONS.

• "Type I essential service utility" means any above or below ground structures or facilities used for utility distribution including:

(1) "Electricity distribution" means medium voltage (less than 50KV) power lines, low voltage electrical substations and pole-mounted transformers; and low voltage (less than 1,000V) distribution wiring to provide service to individual customers; and

(2) "Service pipeline" means a distribution line that transports gas, oil, water, or sewage from a common source of supply to the meter set assembly or distribution endpoint to provide service to individual customers.

• "Type II essential service utility" means any aboveground or below ground structures or facilities used for utility transmission including:

(1) "Electricity transmission" means high-voltage (50KV or higher) power lines, high-voltage electrical substations and pole-mounted transformers, and high-voltage distribution or transmission wiring; and

(2) "Transmission pipeline" means pipelines installed for the purpose of transmitting gas, oil, water, or sewage from a source or sources of supply to one or more distribution centers, to one or more large volume customers, or a pipeline installed to interconnect sources of supply. In typical cases, transmission lines differ from distribution lines in that they operate at higher pressures, are longer, and the distance between connections is greater.

(Ord. 07-076, § 2 (part), 2007)

IM 22-171
OR 22-088

By: A. Strawn
Introduced: August 1, 2022
Public Hearing: August 15, 2022
Approved: Adopted

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 22-30**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING THE ASSEMBLY FAIL AN ORDINANCE REPEALING MSB 17.05 -
ESSENTIAL SERVICE UTILITIES AND ADOPTING STANDARDS OF APPROVAL FOR
NEW ESSENTIAL SERVICE UTILITY INSTALLATIONS.

WHEREAS, MSB 17.05 was originally adopted in 2007 with the
stated purpose of providing for public participation in the
installation of essential service utilities in such a manner that
they enhance the health, safety and general welfare of borough
residents and properties while minimizing negative impacts; and

WHEREAS, additional essential service utilities are likely to
be installed in the Matanuska- Susitna Borough to serve increasing
populations and will also impact larger numbers of people; and

WHEREAS, while the ordinance required a public process, it
did not include any standards for approval, so did not fulfill its
intended purpose; and

WHEREAS, essential Service Utilities are necessary for the
safe, reliable, and resilient transmission of energy; and

WHEREAS, the current process requires excessive public notifications for a process in which public involvement will not have a substantive impact; and

WHEREAS, the last time MSB 17.05 was implemented there was substantial public involvement; and

WHEREAS, significant opposition to repealing MSB 17.05 was provided during public testimony on August 15, 2022.

NOW, THEREFORE, BE IT RESOLVED, the Matanuska-Susitna Borough Planning Commission hereby recommends the assembly fail an ordinance repealing MSB 17.05 Essential Service Facilities.

BE IT FURTHER RESOLVED, the Matanuska-Susitna Borough Planning Commission recommends the assembly adopt an ordinance adding standards of approval to MSB 17.05. Standards of approval should include meaningful responses to relevant public comments, means to minimize impacts to the natural environment, screening requirements, and other measures that can be reasonably implemented without significant, unnecessary cost to the applicant.

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

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

ATTEST

Karol Riese
KAROL RIESE, Planning Clerk

(SEAL)

YES: Glenn, Allen, Chesbro, Rubeo, Kendig

NO: