

**MATANUSKA-SUSITNA BOROUGH****Planning and Land Use Department**

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Date: May 26, 2017

To: Borough Assembly

Thru: John Moosey, Borough Manager

From: Eileen Probasco, Planning and Land Use Director 

RE: Supplemental information for Ordinance 17-033.

Ordinance 17-033, the remainder of amendments to Title 43 from the March 1, 2013 Memorandum, was up for public hearing at the assembly's April 4, 2017 meeting. The assembly voted unanimously to continue public hearing to the June 6 regular meeting, and directed staff to prepare an amendment for that meeting, which would incorporate the items listed in the March 2017 Title 43 Parking Lot items. An amendment was drafted and reviewed over several meetings by the platting board. They held four special meetings on the draft amendments, and enlisted assistance from other surveyors. The Platting Officer made presentations on the amendments at several functions, including the Mat-Su and Anchorage Chapters of the Alaska Society of Professional Land Surveyors, the City of Houston PC, and several RSA and FSA meetings. Following their May 11 meeting, the platting board then forwarded their recommendations to the planning commission for consideration. The Planning Commission held a public hearing on May 15 and adopted resolution 17-20 recommending assembly approval of those changes. The resolution and attachment are included for the assembly's consideration.

Following the May 15 planning commission meeting, the platting board met one more time, and made minor refinements to the sections on flag lots, shown in the **Platting Board Approved Changes to Title 43 concerning Flag Lots, as of 5/18/2017**, included with this memorandum. In addition, after much discussion, the platting board suggested that the effective date of the ordinance should be October 15, 2017.

Staff recommends incorporation of these changes into assembly Ordinance 17-033. Should the assembly agree with this recommendation, the appropriate motions would be:

1. Move to amend ordinance 17-033 by including the changes outlined in Planning Commission Resolution 17-20.
2. Move to amend ordinance 17-033 by including the minor changes to the sections on flag lots, as shown in the **Platting Board Approved Changes to Title 43 concerning Flag Lots, as of 5/18/2017**.
3. Move to amend the final section to read: Effective date. This ordinance shall take effect on October 15, 2017.

Attachments:

PC Resolution 17-20 (59 pages)

PB Approved changes concerning flag lots (4 pages)

By: Fred Wagner
Introduced: May 1, 2017
Public Hearing: May 15, 2017
Action: Approved

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 17-20

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING ASSEMBLY APPROVAL OF AMENDMENTS TO ORDINANCE 17-033 AMENDING MSB TITLE 43 SUBDIVISIONS, TO ALSO INCLUDE AMENDMENTS OUTLINED IN THE "TITLE 43 PARKING LOT MARCH 2017" MEMO.

WHEREAS, the final ordinance addressing amendments to MSB Title 43 Subdivisions as outlined in the March 2013 Platting staff memorandum was up for public hearing at the assembly's April 16, 2017 regular meeting; and

WHEREAS, the assembly unanimously approved a motion to continue the public hearing to June 6, 2017 and directed staff to prepare an amendment to address the issues in the March 2017 Title 43 Parking Lot memorandum, for review by the platting board and planning commission prior to the June 6 meeting; and

WHEREAS, staff prepared draft amendments for the platting board review, and the platting board has held several worksessions on the items; and

WHEREAS, platting staff has made presentations on the draft amendments to several organizations and borough boards and invited them to the worksessions; and

WHEREAS, the planning commission held a public hearing on May 15, 2017, listened to public testimony and reviewed the platting board's resolution, and recommends amendments shown in the planning commission approved draft.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends assembly approval of supplemental amendments to Ordinance 17-033 amending MSB Title 43 Subdivisions, to also include amendments outlined in the "Title 43 Parking Lot March 2017" memorandum, as shown in the planning commission approved draft.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 15th day of May, 2017.


COLLEEN VAGUE, Chair

ATTEST


SLOAN VONGUNTEN, Acting
Planning Clerk

(SEAL)

PASSED UNANIMOUSLY: Vague, Anderson, Chesbro, Elder,
Rauchenstein

MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION APPROVED CHANGES TO
TITLE 43 ON 5/15/2017

Section 1. Amendment of subsection. MSB 43.05.005(A), General,
is hereby amended as follows:

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

- "Applicant" [.] See "Petitioner."
- "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.
- "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.
- "Lot" means the least fractional part of subdivided lands having [LIMITED] fixed boundaries and having an assigned number, or other name through 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.

• "Offeror"[.] See ["SUBDIVIDER."] "Petitioner."

Section 2. Amendment of subsection. MSB 43.05.010(A), General, is hereby amended as follows:

(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[, AND THE PLATTING DIVISION'S PROCEDURE PAMPHLET CREATED PURSUANT TO MSB 43.05.045] to any person upon request at a reasonable charge.

Section 3. Amendment of paragraph. MSB 43.05.015(B)(2), Purpose and Scope, is hereby amended as follows:

(B) The following list of documents are to be incorporated within MSB Title 43 as if fully set forth in this title:

[(2) PLATTING PROCEDURES PAMPHLET;] and

Section 4. Amendment of subsection. MSB 43.05.035(A), Fees, is hereby amended as follows:

(A) The assembly shall establish a schedule of fees for [PLAT, VARIANCE, WAIVER AND VACATION]

applications and [FOR] 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.

Section 5. Repeal of section. MSB 43.05.045, Procedure Pamphlet, is hereby repealed:

[(A) THE APPLICATION PROCESS FOR ALL ACTIONS REQUESTED UNDER THIS TITLE SHALL BE PUBLISHED IN A PROCEDURES PAMPHLET WHICH SHALL SPECIFY:

(1) FEES;

(2) FORMS;

(3) PROCEDURES;

(4) A BASIC CHECKLIST OF ITEMS REQUIRED FOR EACH ACTION REQUIRING APPROVAL BY THE PLATTING AUTHORITY;

(5) TIMELINES SPECIFIC TO EACH MATTER;

(6) MEETING DATES FOR THE APPROVING BOARDS;

AND

(7) A LIST OF OTHER DIVISIONS OR AGENCIES THE SUBDIVIDER MAY BE REQUIRED TO CONTACT.]

Section 6. Amendment of subsection. MSB 43.10.050(A), Action on Application or Appeal, is hereby amended as follows:

(A) The board shall take formal action by voting on [A MOTION TO APPROVE] an application or to grant an

appeal from the platting officer's decision [AT AN ABBREVIATED PLAT HEARING]. The board's decision shall be recorded in a notice [APPROVING OR DENYING THE ACTION IN QUESTION,] prepared by the secretary to the board. The notice shall include separate findings 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.

Section 7. Amendment of subsection. MSB 43.10.060(E), Platting Authority Procedure, is hereby amended as follows:

(E) Unless the conditions of approval resolve the violation, [T] 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 [OF THIS TITLE, ANY CONDITION OF APPROVAL OF A VARIANCE, SUBDIVISION PLAT, OR OTHER LAND USE ENTITLEMENT GRANTED UNDER THIS TITLE, OR THE TERMS OF ANY OTHER AGREEMENT WITH THE BOROUGH, UNLESS THE CONDITIONS OF APPROVAL RESOLVE THE VIOLATION, EXCEPTING THAT WHERE MULTIPLE VIOLATIONS EXIST AND THE PLATTING ACTION IS

REMEDYING ONE OR MORE OF THESE VIOLATIONS. THIS SECTION SHALL NOT APPLY TO A LEGAL NONCONFORMING USE.]

- (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.

Section 8. Amendment of subsection. MSB 43.10.060(F), Platting Authority Procedure, is hereby amended as follows:

(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, [MAY] shall not affect the validity of any proceeding under this title.

Section 9. Repeal of subsection. MSB 43.15.010(C), Preapplication Conference, is hereby repealed as follows:

[(C) THE PREAPPLICATION CONFERENCE IS NOT INTENDED TO BE A THOROUGH REVIEW, RATHER TO PROVIDE THE PETITIONER WITH THE PROCESS AND STEPS REQUIRED TO COMPLETE THEIR PROPOSED PLATTING ACTION. STAFF SHALL NOT EXPEND BOROUGH RESOURCES ON SITE VISITS, TAKE SITE PHOTOS, OR PERFORM EXTENSIVE DEPARTMENTAL AND AGENCY REVIEWS FOR THIS PROCESS.]

Section 10. Amendment of subparagraph. MSB 43.15.012(B)(8)(a), Forty-Acre Exemption, is hereby amended as follows:

(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) USGS MAPPING;]

(iii) topographic mapping; and

(iv) other available data.

Section 11. Amendment of subparagraph. MSB 43.15.012(B)(8)(c), Forty-Acre Exemption, is hereby amended as follows:

(c) For the purpose of this subsection, "suitability" is defined as the ability of the legal access to contain a borough standard road.

(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 [43.20.055(B)(5)] 43.20.060(G)(5); however, no trail construction is required for 40-acre exemption approval.

Section 12. Repeal of paragraph. MSB 43.15.012(C)(1), Forty-Acre Exemption, is hereby repealed:

[(1) THE INTENT OF THIS PROVISION IS TO ALLOW PROMPT APPROVAL OF A 40-ACRE EXEMPTION.]

Section 13. Repeal of subsections. MSB 43.15.016(A) & (B), Preliminary Plat Submittal and Approval, are hereby repealed:

[(A) AN APPLICATION FOR CONCEPTUAL PLAT APPROVAL SHALL BE SUBMITTED WITH PLAT COPIES AS NEEDED, WITH THE FOLLOWING DATA AND APPROPRIATE FEES:

(1) MAPS OF THE PROPOSED SUBDIVISION AND THE AREA, WHICH ADEQUATELY DISPLAY SURROUNDING DEVELOPMENT OF THE PROPOSED SUBDIVISION BOUNDARIES (MINIMUM OF 50 FEET FROM PROPOSED BOUNDARY) TO A SCALE OF NO LESS THAN ONE INCH EQUALS 100 FEET, WHICH INCLUDES THE FOLLOWING INFORMATION:

(A) THE LOCATION OF ALL PROPERTY LINES, UTILIZING THE PRELIMINARY PLAT AS BASE MAP;

(B) TOPOGRAPHIC CONTOUR INTERVALS OF FIVE FEET IF THE GROUND SLOPE IS LESS THAN 10 PERCENT, AND TEN FEET IF THE GROUND SLOPE IS GREATER THAN 10 PERCENT;

(C) PRELIMINARY HORIZONTAL LOCATION OF STREETS, WATER SUPPLY, SEWAGE DISPOSAL SYSTEMS, AND OTHER PUBLIC IMPROVEMENT DETAILS, TO INDICATE CONFORMANCE WITH BOROUGH AND STATE STANDARDS;

(D) THE LOCATION OF WATER BODIES AND DRAINAGE COURSES, INCLUDING THE LOCATION OF FEMA MAPPED SPECIAL FLOOD HAZARD AREAS, AND FLOOD HAZARD INFORMATION REQUIRED UNDER MSB 17.29.160, GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION, WHEN REQUIRED;

(E) THE LOCATION OF EXISTING FACILITIES AND STRUCTURES WITHIN THE PROPOSED SUBDIVISION, SUCH AS ROADWAYS, DRIVEWAYS, BUILDINGS, SEWAGE

SYSTEMS, WELLS, UTILITY POLES AND LINES, EXCAVATIONS, BRIDGES, AND CULVERTS; AND

(2) THE SUBDIVIDER SHALL SUBMIT SUPPORTING WRITTEN INFORMATION INCLUDING ALL SOILS AND ENGINEERING DATA AS REQUIRED BY THIS TITLE. APPLICATIONS PROPOSING COMMUNITY OR MUNICIPAL WATER SUPPLY SYSTEMS OR WASTEWATER DISPOSAL SYSTEMS OR BOTH SHALL SUBMIT A CONCEPTUAL PLAN PRIOR TO FINAL PLAT APPROVAL, STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REVIEW AND APPROVAL IS REQUIRED FOR COMMUNITY OR MUNICIPAL WATER SUPPLY SYSTEMS AND COMMUNITY OR MUNICIPAL WASTEWATER DISPOSAL SYSTEMS. FINAL PLAT APPROVAL WILL REQUIRE AS-BUILTS OR RECORD DRAWINGS FOR ANY COMMUNITY OR MUNICIPAL WATER AND WASTEWATER DISPOSAL SYSTEMS INSTALLED.

(B) CONTENTS. 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 PARCEL BEING SUBDIVIDED;
(9) SHEET NUMBER;
(10) FIELD BOOK REFERENCE;
(11) TOTAL AREA;
(12) 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, OR AS NECESSARY TO INDICATE THE SUBDIVISION AND
ADJACENT PROPERTY (WITHIN URBAN AREA);

(B) TOWNSHIPS, RANGES, AND SECTIONS;
AND

(C) PRINCIPAL ROAD SYSTEMS, MAJOR WATER
BODIES AND WATERCOURSES, AND LOCATION OF SUBDIVISION;

(13) DEDICATED RIGHTS-OF-WAY, PATENT
RESERVATIONS, ROAD EASEMENTS, SECTION LINE EASEMENTS,
AND OTHER EASEMENTS OR RESERVATIONS PUBLIC OR PRIVATE,
WITHIN THE PROPOSED SUBDIVISION BOUNDARIES,
SHOWING LOCATION, DIMENSIONS, AND PURPOSES;

(14) ADJACENT PROPERTY LINES SHALL BE SHOWN
WITH DASHED LINES TO SHOW THEIR GENERAL RELATION

TO THE PROPOSED PLAT;

(15) PROPOSED LOT LINES, TRACT LINES, AND RIGHTS-OF-WAY, INCLUDING APPROXIMATE DIMENSIONS AND AREAS OF ALL LOTS AND TRACTS, APPROXIMATE CURVE RADII, TANGENT LENGTHS, AND SIMILAR INFORMATION; AND

(16) DESIGNATION OF PROPOSED PUBLIC AREA.]

Section 14. Adoption of subsections. MSB 43.15.016(A) & (B), Preliminary Plat Submittal and Approval, is hereby adopted as follows:

(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 2000 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 septic systems 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) Subdividers 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 approximate dimensions and area of all lots and

tracts, approximate curve radii, tangent lengths, and similar information;

(16) Proposed public or open space areas.

Section 15. Repeal of subsection. MSB 43.15.016(E), Preliminary Plat Submittal and Approval, is hereby repealed:

[(E) ANY HEARING FOR APPROVAL SHALL OCCUR WITHIN 45 DAYS OF THE DATE THE APPLICATION IS ACCEPTED.]

Section 16. Amendment of paragraph. MSB 43.15.016(H)(2), Preliminary plat approval; effect and duration, is hereby amended as follows:

(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[. THE 72-MONTH PERIOD SHALL BEGIN ON THE DATE OF THE WRITTEN NOTICE OF THE PLATTING AUTHORITY ACTION];

Section 17. Amendment of paragraph. MSB

43.15.016(H) (7), Preliminary plat approval; effect and duration, is hereby amended as follows:

[(7) STAFF REVIEW TIME OF THE SUBMITTED FINAL PLAT SHALL BE DEDUCTED FROM THE 72-MONTH APPROVAL PERIOD;] and

Section 18. Amendment of subsection. MSB 43.15.021(B), Public Use Easement Acceptance Procedure, is hereby amended as follows:

(B) The legal description or drawing shall be reviewed for accuracy and completeness. If [DISCREPANCIES] deficiencies are found, [THE OFFEROR SHALL BE NOTIFIED OF THE DISCREPANCIES AND SHALL RESUBMIT THE APPLICATION FOR APPROVAL] 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.

Section 19. Adoption of Subsection. MSB 43.15.021(I), Public Use Easement Acceptance Procedure, is hereby adopted as follows:

(I) 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 subsection 43.15.016(H) (2).

Section 20. Amendment of Paragraph. MSB 43.15.022(A)(1),
Waivers, is hereby amended as follows:

(1) [THE APPLICANT FOR APPROVAL OF THE PLAT
WAIVER PROVES THAT THE ROAD UTILIZED FOR ACCESS]
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.

Section 21. Amendment of Paragraph. MSB 43.15.022(A)(5),
Waivers, is hereby amended as follows:

(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
[REGISTERED] land surveyor, or any combination of the
preceding;

Section 22. Repeal of paragraph. MSB 43.15.022(A)(6),
Waivers, is hereby repealed as follows:

[(6) EACH LOT OR TRACT SHALL HAVE LEGAL AND PHYSICAL ACCESS TO A PUBLIC HIGHWAY OR STREET;]

Section 23. Amendment of Subparagraph. MSB 43.15.032(A)(1)(a), Elimination Or Modification Of Utility, Drainage, Sanitation, Slope, Snow Storage, Buffer, And Screening Easements, is hereby amended as follows:

(a) however, if the beneficiary of an easement refuses to authorize a vacation, the platting officer 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 [BY DOCUMENT ON THE PLAT]; and

(iii) findings of facts support granting the vacation;

Section 24. Adoption of subsection. MSB 43.15.032(D), Elimination Or Modification Of Utility, Drainage, Sanitation, Slope, Snow Storage, Buffer, And Screening Easements, is hereby adopted as follows:

(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 subsection 43.15.016(H) (2).

Section 25, Amendment of Paragraphs. MSB 43.15.035(B) (3) & (4), Vacations, are hereby amended as follows:

(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. [; AND

(4) THE PLATTING BOARD SHALL NOT ROUTINELY APPROVE ANY VACATION OF A PUBLIC INTEREST IN LAND WHERE 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, EXCEPTING IF THE BENEFICIARY OF AN EASEMENT REFUSES TO AUTHORIZE A VACATION, THE PLATTING BOARD MAY APPROVE THE VACATION IF THE FOLLOWING CONDITIONS ARE MET:

(A) 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;

(B) IF NECESSARY A SUBSTITUTE EASEMENT IS PROVIDED BY DOCUMENT ON THE PLAT; AND

(C) FINDINGS OF FACTS SUPPORT GRANTING THE VACATION.]

Section 26. Amendment of Paragraph. MSB 43.15.035(B)(2), Vacations, is hereby amended as follows:

(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.

Section 27. Amendment of Paragraph. MSB 43.15.035(C)(2), Vacations, is hereby amended as follows:

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

Section 28. Adoption of Subsection. MSB 43.15.035(F),

Vacations, is hereby adopted as follows:

(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 subsection 42.15.016(H) (2).

Section 29. Amendment of subsection. MSB 43.15.049(C), Final Plat; General Provisions, is hereby amended as follows:

(C) Dedication and adoption. [WHEN A TRACT OR PARCEL OF LAND HAS BEEN SUBDIVIDED AND THE PLAT BEARS ACKNOWLEDGEMENT OF THE OWNER AND THE APPROVAL OF THE PLANNING AND LAND USE DIRECTOR HAS BEEN RECORDED IN COMPLIANCE WITH THIS TITLE, A] 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) owners 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,

Section 30. Adoption of subsection. MSB 43.15.049(I),

General Provisions, is hereby adopted as follows:

(I) Prior to final plat approval, State of Alaska Department of Environmental Conservation (ADEC) review and approval is 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 beyond 125 feet is deemed unusable for septic area.

Section 31. Amendment of subsection, MSB 43.15.051(C), Final Plat; Submitted, is hereby amended as follows:

(C) The sheet sizes shall be 18 inches by 24 inches, 24 inches by [35] 36 inches, [OR] 31.5 inches by 34 inches, or 32 inches by 36 inches, in accordance

with the State Recorder's Office requirements.

Section 32. Amendment of subsection. MSB 43.15.051(L), Final Plat; Submitted, is hereby amended as follows:

(L) Curve data shall be stated in terms of radius, central angle, tangent, length of curve, chord length and [CHORD] bearing. [CURVE DATA FOR STREETS OF UNIFORM WIDTH MAY BE SHOWN ONLY WITH REFERENCE TO THE CENTERLINE, AND LOTS FRONTING ON THE CURVES MAY SHOW ONLY THE ARC DISTANCE OF THE PORTION OF THE CURVE INCLUDED IN ITS BOUNDARY. IN ALL CASES, THE C] Curve data shall be shown for the line affected, and the information shall be tabulated with proper reference.

Section 33. Amendment of subsection. MSB 43.15.053(F), Final Plat; Certificates, is hereby amended as follows:

(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 [CURRENT] 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 is 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, hereon 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, hereon have been
paid.

Tax Collection Official (City)

Section 34. Amendment of subsection. MSB 43.15.054(A),
Final Plat; Surveyor Requirements, is hereby amended as follows:

(A) *Qualifications of persons making survey and
plat; certification.* Any subdivision of land within
the borough shall be surveyed by a [REGISTERED] 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 [REGISTERED] land surveyor [LICENSED IN ALASKA].

Section 35. Amendment of subsection, MSB 43.15.054(B), Final Plat; Surveyor Requirements, is hereby amended as follows:

(B) *Monuments of record; permanent control monuments.* Prior to offering any subdivision [LOT] 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.

Section 36. Amendment of Subsections. MSB 43.15.055(A) & (B), Final Plat; Dedications, Improvements, Recording, are hereby amended as follows:

(A) Offers to dedicate rights-of-way, roadways, easements, or other public areas to the public on a final plat are accepted [AUTOMATICALLY] by the [BOROUGH] 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 [BOROUGH] agency assumes no obligation to establish, operate, or maintain any public service, improvement, or facilities in the area dedicated.

(B) [EXCEPT FOR PLATS WITHIN INCORPORATED CITIES, T] 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]; AND

(3) FOR SUBDIVISIONS SERVED BY A COMMUNITY WATER AND/OR SEWER SYSTEM(S) THAT ARE SUBJECT TO REGULATORY APPROVAL BY THE REGULATORY COMMISSION OF ALASKA (RCA), A CERTIFICATE OF APPROVAL TO OPERATE FROM THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION IS PROVIDED. THIS PROVISION APPLIES TO SUBDIVISIONS, PHASES OF MASTER PLANS, AND PREVIOUSLY APPROVED MASTER PLAN PHASES THAT ARE SUBJECT TO RCA JURISDICTION].

Section 37. Amendment of section. MSB 43.15.075, Variance; Standards for Approval, is hereby amended as follows:

(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 [UPON WHICH THE VARIANCE APPLICATION IS

BASED DO NOT APPLY GENERALLY TO PROPERTIES FOR WHICH THE VARIANCE IS SOUGHT] 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) [WHEN APPLYING FOR MULTIPLE VARIANCES, THERE SHALL BE 0] Only one variance fee shall be charged per platting action when multiple variances are requested.

Section 38. Repeal of section. MSB 43.20.055, Rural and Remote Access, is hereby repealed:

[43.20.055 RURAL AND REMOTE ACCESS.

(A) THE PROVISIONS OF THIS SUBSECTION PROVIDE A DIFFERENT SET OF ACCESS AND ROAD CONSTRUCTION STANDARDS FOR RURAL AND REMOTE ACCESS AND SUPERSEDE OTHER PROVISIONS OF THIS TITLE. THE FOLLOWING PROVISIONS ARE INTENDED TO PROVIDE FOR DEVELOPMENT OF RECREATIONAL LOTS AND ALLOW HOMESTEADERS OR

FAMILIES THAT HAVE ACCESS TO THEIR PROPERTY AND DO NOT NEED MAINTENANCE THE ABILITY TO DIVIDE THEIR PROPERTY TO PASS ON TO HEIRS OR OTHERS:

(1) IF THE SUBJECT PROPERTY IS INTENDED FOR USE PRIMARILY AS A RECREATIONAL OR SEASONAL USE SUBDIVISION AND IS OUTSIDE OF A ROAD SERVICE AREA, PIONEER ROADS ARE ALLOWED FOR PHYSICAL ACCESS; PROVIDED, THAT:

(A) A NOTE BE PLACED ON THE PLAT THAT NO BOROUGH FUNDS WILL BE EXPENDED TO UPGRADE THE ROADS; AND

(B) BEFORE BOROUGH MAINTENANCE WILL BE PROVIDED, THE ROAD WILL HAVE TO BE UPGRADED BY SOMEONE OTHER THAN THE BOROUGH AND ACCEPTED FOR MAINTENANCE BY THE PUBLIC WORKS DEPARTMENT; AND

(C) 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.

(2) THE PETITIONER WILL NOT BE REQUIRED TO UPGRADE ANY ROAD PRIOR TO THE SUBJECT PARCEL THAT IS OR HAS BEEN MAINTAINED BY THE STATE OR AN INCORPORATED MUNICIPALITY. THE PETITIONER WILL NOT BE DENIED A SUBDIVISION APPROVAL IF THERE IS AN

EXISTING LEGAL AND PHYSICAL ACCESS TO THE SUBJECT PARCEL.

(3) ALL SUBDIVISIONS MUST CONTAIN A 60-FOOT RIGHT-OF-WAY PLUS A 15-FOOT UTILITY EASEMENT. ONLY A 50-FOOT RIGHT-OF-WAY IS REQUIRED TO ACCESS THE SUBJECT PARCEL. ANY EXISTING LEGAL AND PHYSICAL ACCESS TO THE SUBJECT PARCEL LESS THAN 50 FEET MAY BE APPROVED WITH A VARIANCE.

(A) THE PROVISIONS OF THIS SUBSECTION ARE INTENDED FOR REMOTE AREAS OF THE BOROUGH WHERE NO OR FEW SERVICES ARE PROVIDED. FOR A PLAT OF FOUR LOTS OR LESS OUTSIDE OF A ROAD SERVICE AREA, LEGAL ACCESS SHALL BE PROVIDED TO ALL OF THE 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 FOUR ORIGINAL LOTS CREATED, A ROAD MUST BE CONSTRUCTED TO PIONEER STANDARDS AND UNTIL ACCEPTED BY THE BOROUGH, NO BOROUGH MAINTENANCE WILL BE PROVIDED NOR ANY BOROUGH FUNDS SHALL BE SPENT ON UPGRADES.

(B) FOR A PLAT OR WAIVER OF FOUR LOTS OR LESS WITHIN A ROAD SERVICE AREA CREATED FOR CONVEYANCE

TO HEIRS, FAMILY MEMBERS, OR OTHERS, PHYSICAL ACCESS TO THE LOTS MAY BE BY A PIONEER STANDARD ROAD WITHIN A 50-FOOT RIGHT-OF-WAY; PROVIDED, THAT:

(I) A NOTE SHALL BE PLACED ON THE PLAT OR WAIVER STATING:

(AA) TO FURTHER SUBDIVIDE ANY OF THE LOTS OR PARCELS, THE ROAD(S) MUST BE CONSTRUCTED TO RESIDENTIAL STANDARDS; AND

(BB) UNTIL ACCEPTED BY THE BOROUGH, NO BOROUGH MAINTENANCE WILL BE PROVIDED NOR ANY BOROUGH FUNDS SHALL BE SPENT ON UPGRADES.

(B) 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 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 LOTS OR PARCELS CREATED UNDER THIS PROVISION.

(C) 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.

(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) ADD A PLAT NOTE:

1) THE BOROUGH IS NOT RESPONSIBLE FOR MAINTENANCE OR UPGRADES OF ANY ACCESS IMPROVEMENTS TO PARCELS CREATED UNDER THIS PROVISION.

(D) 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 WHICH OCCURRED BEFORE AND AFTER ENACTMENT OF THIS CODE PROVISION.

(1) SAID PARCELS MAY BE SUBDIVIDED INTO NOT MORE THAN THREE LOTS WITH EACH HAVING A MINIMUM LOT SIZE OF APPROXIMATELY TWO AND ONE-HALF ACRES (PLUS OR MINUS ONE-HALF ACRE).

(2) LOTS CREATED HEREIN ARE EXEMPT FROM OTHER LEGAL AND PHYSICAL ACCESS PROVISIONS CONTAINED WITHIN THIS CODE.

(3) A NOTE SHALL BE PLACED ON THE PLAT THAT WASTEWATER DISPOSAL SYSTEMS SHALL COMPLY WITH ADEC REGULATIONS.

(E) FOR A RURAL OR REMOTE SUBDIVISION IN A ROAD

SERVICE AREA WHERE THE PHYSICAL ACCESS TO A PROPOSED SUBDIVISION WILL BE IMPROVED, CONNECTIVITY WILL BE IMPROVED, AND THE PRIMARY PURPOSE OF THE PROPOSED SUBDIVISION IS FOR SEASONAL OR RECREATIONAL USE.

(1) THE PLATTING BOARD MAY APPROVE A REDUCTION IN ROAD STANDARDS TO A PIONEER STANDARD ROAD WITHIN AND LEADING TO A SUBDIVISION; PROVIDED, THAT:

(A) A NOTE BE PLACED ON THE PLAT THAT NO BOROUGH FUNDS WILL BE EXPENDED TO UPGRADE THE ROADS;

(B) BEFORE BOROUGH MAINTENANCE WILL BE PROVIDED, THE ROADS WILL HAVE TO BE UPGRADED AND ACCEPTED FOR MAINTENANCE BY THE PUBLIC WORKS DEPARTMENT; AND

(C) 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.]

Section 39. Adoption of subsections. MSB 43.20.100(F), (G),

(H) & (I), Access Required, are hereby adopted as follows:

(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 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.

(I) 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.

Section 40. Amendment of section. MSB 43.20.120, Legal Access, is hereby amended as follows:

(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 [STATE OR MUNICIPAL

HIGHWAY SYSTEM OR A REGULARLY SERVED PUBLIC AIRPORT] constructed public transportation system and one of the following is met:

(a) The applicant's [REGISTERED] 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) [(3)] The applicant proves that the proposed access can be constructed practically and economically within the legal access documented.

Section 41. Adoption of section. MSB 43.20.130, Major Road Corridors, is hereby adopted as follows:

(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 pre-existing conditions and pre-existing 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 pre-existing 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.

Section 42. Repeal of subdivision. MSB

43.20.281(A)(1)(a)(viii), Area, is hereby repealed:

[(VIII) THIS SUBSECTION

(A)(1)(A) MAY BE CHANGED TO A MINIMUM OF SIX FEET BELOW SURFACE IF ALL OF THE FOLLOWING CRITERIA ARE MET:

(AA) THERE ARE SPECIAL CONSIDERATIONS WHICH WOULD PRECLUDE REASONABLY CREATING USABLE AREA BY PLACING SUITABLE FILL TO PROVIDE EIGHT FEET WATER TABLE CLEARANCE;

(BB) A STANDARD DESIGN IS PROVIDED WHICH IS CERTIFIED TO MEET APPLICABLE ADEC REQUIREMENTS AT THE TIME OF RECORDING BY A STATE OF ALASKA LICENSED PROFESSIONAL ENGINEER; AND

(CC) A NOTE IS PROVIDED ON THE PLAT STATING AN ENGINEER DESIGNED AND CERTIFIED WASTEWATER DISPOSAL SYSTEM OR PACKAGED TREATMENT

PLANT MEETING ADEC REQUIREMENTS WILL BE REQUIRED ON
SUBJECT LOTS (L#B#).]

Section 43. Amended of subparagraph. MSB
43.20.281(A)(1)(i), Area, is hereby amended as follows:

(i) The platting authority shall exempt
the submission requirements of MSB 43.15.016(A)(2)
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 [A
DISTANCE OF TEN FEET OR LESS] , provided the aggregate
square footage affected is 2000 square feet or less.

Section 44. Amendment of subsection. MSB 43.20.300(A), Lot
and Block Design, is hereby amended as follows:

(A) [FOR RURAL DISTRICTS, T] 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.

Section 45. Repeal of subsection. MSB 43.20.300(D), Lot and Block Design, is hereby repealed as follows:

[(D) FLAG LOTS.

(1) FLAG LOTS ARE ALLOWED WITH A MAXIMUM POLE LENGTH OF 2,640 FEET.

[(D) FLAG LOTS.

(1) FLAG LOTS ARE ALLOWED WITH A MAXIMUM POLE LENGTH OF 2,640 FEET.

(A) FOR POLES UP TO 1,320 FEET OR UPON SURVEY WHERE A ONE-QUARTER SECTION ALIQUOT PART DIMENSION EXCEEDS 1,320 FEET, THE WIDTH OF THE POLE PORTION MUST BE A MINIMUM OF 30 FEET WIDE AND 60-FOOT ROAD FRONTAGE REQUIREMENT DOES NOT APPLY;

(B) FOR A POLE LENGTH GREATER THAN 1,320 FEET AND NOT EXCEEDING 2,640 FEET, THE POLE WIDTH MUST BE A MINIMUM OF 60 FEET WIDE.

(C) THE FLAG POLE PORTION SHALL NOT COUNT IN THE AVERAGE WIDTH OR THE AVERAGE DEPTH CALCULATIONS.]

Section 46. Adoption of subsection. MSB 43.20.300(E), Lot and Block Design, is hereby adopted as follows:

(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 are 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 past the furthest point at which the pole portion connects to the flag portion of the proposed lots and shall

contain a turnaround designed to Subdivision Construction Manual standards;

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

(a) 30 feet where two or more pole portions are adjoining;

(b) 40 feet for a single pole portion;

(i) 45 feet if access is onto a cul-de-sac;

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

(a) 30 feet where two or more pole portions are adjoining;

(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 five 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 one-half or greater, and rounded to the lesser number in case of a fraction of less than one-half.

Section 47. Amendment of subsection. MSB 43.20.320, Frontage, is hereby amended as follows:

(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).

Section 48. Amendment of section. MSB 43.35.003, Platting Officer Decision, is hereby amended as follows:

(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[, AND AIRPORT 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 [CALENDAR] 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 [CALENDAR] 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 [CALENDAR] 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 [CALENDAR] days then the decision of the platting officer stands.

Section 49. Amendment of subsection. MSB 43.35.005(I), Reconsideration by Platting Board, is hereby amended as follows:

(I) The timely filing of a petition for reconsideration from the granting of a vacation shall suspend the 30-[CALENDAR]-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.

MATANUSKA-SUSITNA BOROUGH
PLATTING BOARD APPROVED CHANGES TO TITLE 43
CONCERNING FLAG LOTS AS OF 5/18/2017

Section 1. Repeal of subsection. MSB 43.20.300(D), Lot and Block Design, is hereby repealed as follows:

[(D) FLAG LOTS.

(1) FLAG LOTS ARE ALLOWED WITH A MAXIMUM POLE LENGTH OF 2,640 FEET.

(A) FOR POLES UP TO 1,320 FEET OR UPON SURVEY WHERE A ONE-QUARTER SECTION ALIQUOT PART DIMENSION EXCEEDS 1,320 FEET, THE WIDTH OF THE POLE PORTION MUST BE A MINIMUM OF 30 FEET WIDE AND 60-FOOT ROAD FRONTAGE REQUIREMENT DOES NOT APPLY;

(B) FOR A POLE LENGTH GREATER THAN 1,320 FEET AND NOT EXCEEDING 2,640 FEET, THE POLE WIDTH MUST BE A MINIMUM OF 60 FEET WIDE.

(C) THE FLAG POLE PORTION SHALL NOT COUNT IN THE AVERAGE WIDTH OR THE AVERAGE DEPTH CALCULATIONS.]

Section 2. Adoption of subsection. MSB 43.20.300(E), Lot and Block Design, is hereby adopted as follows:

(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 are 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) when a common access point is a requirement for subdividing, a public use easement shall be created to provide sufficient access to subject parcels;

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

(a) 30 feet where two or more pole portions are adjoining;

(b) 40 feet for a single pole portion;

(i) 45 feet 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 two or more pole portions are adjoining;

(i) 45 feet 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 six 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 one-half or greater, and rounded to the lesser number in case of a fraction of less than one-half.

Section 3. Amendment of section. MSB 43.20.320, Frontage, is hereby amended as follows:

(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).

Section 4. Amendment of section. MSB 43.35.340, Lot Dimensions, is hereby amended as follows:

(A) Exclusive of flag lots, 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.

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