

CODE ORDINANCE

Sponsored by: Borough Manager

Introduced: 03/21/17

Public Hearing: 04/04/17

Public Hearing Continued to 06/06/17: 04/04/17

Public Hearing: 06/06/17

Postponed to 11/07/17: 06/06/17

Amended: 11/07/17

Adopted: 11/07/17

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 17-033**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING TITLE 43 SUBDIVISIONS, TO ADDRESS SUBSTANTIAL ITEMS OUTLINED IN THE PLANNING DEPARTMENT STAFF MEMORANDUM DATED MARCH 1, 2013.

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BE IT ENACTED:

**Section 1. Classification.** This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

**Section 2.** 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 righ 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 ["SUBDIVIDR."] "Petitioner."

**Section 3.** 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 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 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 boards' 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©, Preapplication Conference, is hereby repealed as follows:

[(C) THE PREAPPLICATION CONFERENCE IS NOT INTENDED TO BE A THROUGH 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.** Repeal of subsections. MSB 43.15.016(A)and(B), are hereby repealed 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) 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 11.** Adoption of subsections. MSB 43.15.016(A)and(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 12. 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 13. 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 14.** 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 15.** 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 16.** 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 17.** 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 18.** 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 19.** 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 20.** 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 21.** 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 22.** 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 23.** 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 24.** 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 1<sup>st</sup> 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 25.** 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 26.** 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 27.** 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 28.** 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 29.** 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 30.** Adoption of subsections. MSB 43.20.100, Access Required, are hereby adopted as follows:

(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) [ROADS ARE CONSTRUCTED TO THE REQUIRED BOROUGH STANDARDS] 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[. BOROUGH MAINTENANCE SHALL BE PROVIDED ACCESS TO GET THROUGH THE SUBDIVISION TO PROVIDE SERVICES BEYOND 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) A SUBDIVIDER PROPOSING TO CREATE ROADS SHALL ENSURE ACCESS TO ADJOINING PARCEL(S) BEYOND A PROPOSED SUBDIVISION AS FOLLOWS:

(1) LEGAL ACCESS SHALL BE PROVIDED ALONG A CONSTRUCTIBLE ALIGNMENT;

(A) GEOMETRICAL ALIGNMENT SHALL MEET A

MINIMUM OF SUBCOLLECTOR STANDARDS UNLESS THE APPLICANT  
DEMONSTRATES THAT IT IS NOT NECESSARY;

(B) PROVIDED THAT CONSTRUCTING PHYSICAL  
ACCESS TO SAID ADJOINERS SHALL NOT BE A CONDITION OF  
PLAT APPROVAL.]

(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; and

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

(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 [REGISTERED] 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 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 31. 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 32.** 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 33.** 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 34.** 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 35.** 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 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 two 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 two 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 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 36.** 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 37.** 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 38.** 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.

**Section 39.** Amendment of section. MSB 43.20.340, Lot Dimensions, is hereby amended as follows:

(A) [EXCLUSIVE OF FLAG LOTS, 1] 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.

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

**Section 40.** Amendment of subsection. MSB 43.05.015, Purpose and Scope, is hereby amended as follows:

[(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 IN ACCORDANCE WITH STATE STATUTES.]

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 Alaska Statutes 29.40070, 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;

(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 MSB Title 43 as if fully set forth in this title:

- (1) BLM manual of survey instructions; and
- (2) [PLATTING PROCEDURES PAMPHLET; AND]
- (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.

**Section 41.** Amendment of subsection. MSB 43.10.060(A), Platting Authority Procedure, is hereby amended as follows:

(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.

**Section 42.** Amendment of section. MSB 43.15.005, General Administration, is hereby amended as follows:

(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 A.S. 29.40.110 and this title.

[(1) THE PLATTING BOARD SHALL NOT MAKE CONDITIONS OF PLAT APPROVAL BEYOND THE AUTHORITY AND SPECIFIC PROVISIONS OF THIS TITLE.]

(B) The Platting Officer shall act upon applications for abbreviated plats, waivers, 40-acre exemptions, and right-of-way acquisition plats [, AND ELIMINATION OR MODIFICATION OF UTILITY EASEMENTS AS DESCRIBED IN MSB 43.15.032].

(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.

[(2) THE PLATTING OFFICER SHALL NOT RECOMMEND OR IMPOSE CONDITIONS OF APPROVAL FOR PLATTING ACTIONS THAT ARE NOT WITHIN THE SPECIFIC AUTHORITY OF THIS TITLE.]

[(3) THE PLATTING OFFICER SHALL DETERMINE WHETHER UTILITY EASEMENT REQUESTS ARE REASONABLE AND ONLY REQUIRE REASONABLE REQUESTS AS RECOMMENDATIONS TO THE BOARD OR AS CONDITIONS OF APPROVAL. THE PLATTING OFFICER SHALL PROVIDE FINAL APPROVAL ON THE ADEQUACY OF AN EASEMENT(S) PROVIDED FOR PLATTING ACTIONS ON FINAL PLATS AND PLATTING ACTIONS DELEGATED AS BY THIS TITLE, WITHIN 20 DAYS OF ACCEPTANCE OF SUBMISSION.]

(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.

**Section 43.** Amendment of section. MSB 43.15.012, is hereby amended as follows:

(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); and

(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) USGS MAPPING;]
- (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) 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)**; however, no trail

construction is required for 40-acre exemption approval.

(d) The applicant [BOROUGH SHALL NOT REQUIRE THE PETITIONER TO PROVIDE A DESIGNED ROAD OR TRAIL TO MEET THE REQUIREMENTS OF THIS SUBSECTION] shall be required to submit plan, profile, and cross-sections if existing grades along proposed route exceed 10%, 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;

(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.

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

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

**Section 44.** Amendment of section. MSB 43.15.021, Public Use Easement Acceptance Procedure, is hereby amended as follows:

(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 [REGISTERED] 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 [REGISTERED] land surveyor shall be submitted.

(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 10 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 NOT] shall be required to submit [ROAD DESIGNS] plan, profile, and cross-sections if existing grades along proposed route exceed 10%, 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. [THE OFFEROR SHALL DEMONSTRATE THAT THE PHYSICAL ROAD IS FEASIBLE WITHIN THE PUBLIC USE EASEMENT AND THAT ALL APPROVALS REQUIRED FROM FEDERAL, STATE, BOROUGH, AND OTHER REGULATORY AGENCIES HAVE BEEN ISSUED OR FINAL RECORDING WILL BE CONTINGENT UPON OTHER PERMITS AND APPROVALS.]

(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.

[(E)] (H) Upon compliance with subsections (A) through [(D)] (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.

[(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.]

(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).

**Section 45.** Amendment of section. MSB 43.15.032, Elimination or Modification of Utility, Drainage, Sanitation, Slope, Snow Storage, Buffer, and Screening Easements, is hereby amended as follows:

(A) The Platting [OFFICER] 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  
[OFFICER] 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 by document on the plat; 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 [OFFICER] Board shall use the standards

[AND THE PROCEDURES USED BY THE PLATTING BOARD IN ACTING ON APPLICATIONS] and procedures under MSB 43.10.060. The Platting [OFFICER] Board shall act upon the application within [30] 60 days of the acceptance for public hearing.

(C) 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.]

(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 46.** Amendment of section. MSB 43.15.040, Section Line and State Recognized RS-2477 Easement Vacations, is hereby amended as follows:

(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 [OR]of approval from the appropriate agency of the state of Alaska;

(2) documentation by a [REGISTERED] 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 A.S. 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

A.S. 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.

**Section 47.** Amendment of section. MSB 43.15.049, Final Plat; General Provisions, is hereby amended as follows:

(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. [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,

(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. [BECAUSE OF THE CONSTRAINTS OF STATE LAW, IT SHALL NOT BE A CONDITION OF SUBDIVISION APPROVAL THAT NO LOT, TRACT, OR PARCEL BE SPLIT BY A SERVICE AREA BOUNDARY. HOWEVER, IF POSSIBLE THE SUBDIVIDER SHOULD CONFIGURE A LOT, TRACT, OR PARCEL

SUCH THAT IT WOULD NOT BE SPLIT BY A SERVICE AREA.] 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[, IF CHANGES MADE DO NOT AFFECT EXISTING PROPERTIES];

[(E) [PROPOSED RIGHTS-OF-WAY OR EASEMENTS MAY BE MOVED BETWEEN 25 FEET AND 100 FEET WITH THE CONCURRENCE OF THE PLATTING OFFICER AND THE DIRECTOR OF THE MATANUSKA-SUSITNA BOROUGH DEPARTMENT OF PUBLIC WORKS, AS LONG AS CHANGES DO NOT INCREASE THE AVERAGE DAILY TRAFFIC COUNT BY MORE THAN 5 PERCENT OR NECESSITATE A HIGHER ROAD CLASSIFICATION;]

(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 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 48.** Amendment of subsection. MSB 43.15.051(H), Final Plat; Submitted, is hereby amended as follows:

(H) All monuments to be of record shall be adequately described and clearly identified on the plat. [WHERE ADDITIONAL MONUMENTS SHALL BE SET AFTER THE PLAT IS RECORDED, THE LOCATION OF THE ADDITIONAL SUBORDINATE MONUMENTS SHALL BE SHOWN BY A DISTINCT SYMBOL NOTED ON THE PLAT AS REPRESENTING MONUMENTS SET THIS SURVEY.]

**Section 49.** Amendment of subsection. MSB 43.15.053(C), Final Plat; Certificates, is hereby amended as follows:

(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)

[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  
SHALL BE SET ON OR BEFORE \_\_\_\_\_, AND THAT ALL  
DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO  
THE BEST OF MY KNOWLEDGE.

(SEAL)]

**Section 50.** Amendment of subsection. MSB 43.15.053(E), Final  
Plat, Certificates, is hereby amended as follows:

(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 [90]7 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.

**Section 51.** Repeal of subsection. MSB 43.15.054(D), Final

Plat; Surveyor Requirements, is hereby repealed in its entirety:

[ (D) MONUMENTS AND MARKERS SET AFTER RECORDING OF PLAT. ALL MONUMENTS OR MARKERS, OTHER THAN THE PERMANENT CONTROL MONUMENTS REQUIRED IN SUBSECTION (A) OF THIS SECTION, SHALL BE SET BEFORE THE RECORDING OF THE PLAT UNLESS THE LAND SURVEYOR INCLUDES IN THE SURVEYOR'S CERTIFICATION ON THE PLAT THAT THE ADDITIONAL MONUMENTS REQUIRED BY THIS TITLE SHALL BE SET ON OR BEFORE A SPECIFIED LATER DATE. THIS SUBSECTION SHALL ONLY BE USED WITH A SIGNED AND APPROVED SUBDIVISION AGREEMENT. ]

**Section 52.** Amendment of section. MSB 43.20.020, Standards; General, is hereby amended as follows:

(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.

**Section 53.** Amendment of section. MSB 43.20.060, Dedication to Public, is hereby amended as follows:

(A) All roads shall be dedicated to the public, except as provided in [SUBSECTION (D) OF THIS SECTION]

**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 legal and constructible alternative access is available. Dedications shall be a minimum of 60-foot-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.

[(D)] (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.

**Section 54.** Amendment of section. MSB 43.20.140, Physical Access, is hereby amended as follows:

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

(1) conform to the existing requirements of the Subdivision Construction Manual; and [BE LOCATED ENTIRELY WITHIN DEDICATED OR LEGAL RIGHTS-OF-WAY]

(2) be located entirely within dedicated or legal rights-of-way [CONFORM TO EXISTING REQUIREMENTS OF THE SUBDIVISION CONSTRUCTION MANUAL.]; and

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

**Section 55.** Amendment of subsection. MSB 43.20.281, is hereby amended as follows:

(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) 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

(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)(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.**

(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 useable septic area and are exempt from the useable 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.

**Section 56.** Amendment of chapter. MSB 43.55, Subdivision Agreements, is hereby amended as follows:

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 UTILITIES] 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 [OR UTILITY] for which the improvements are constructed;

(3) the time schedule for completing the improvements;

(4) the guarantee required by MSB 43.55.030;

[(5) A SCHEDULE FOR ANY PAYMENTS REQUIRED UNDER THIS CHAPTER;]

(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) WHERE THE SUBDIVISION IS WITHIN THE REGULATORY FLOODWAY, A PROVISION REQUIRING THE SUBDIVIDER TO SUBMIT CERTIFICATION OF FLOODPROOFING, INFORMATION ON THE ELEVATION OF THE LOWEST HABITABLE FLOOR, AND INFORMATION ON THE ELEVATION TO WHICH THE STRUCTURE IS FLOODPROOF FOR EACH BUILDING OR STRUCTURE TO BE CONSTRUCTED AS PART OF THE SUBDIVISION AGREEMENT; ]

(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 platting division and notice to proceed is given.

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.

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.

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 [ANY] **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.

#### 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 [ONE OR MORE OF] the method[S] specified below. [THE MEANS OF A GUARANTEE MAY BE CHANGED DURING THE GUARANTEE PERIOD THROUGH A WRITTEN MODIFICATION OF THE AGREEMENT.] 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 [POSTING AND ACCEPTANCE OF SECURITY FOR 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 [20]25 percent

Over \$500,000 [10]15 percent

(C) Method[S] of public improvement guarantee. The subdivision agreement shall include [ONE OR MORE OF] the following method[S] to guarantee the construction of

required public improvements:

[ (1) PERFORMANCE BOND. THE SUBDIVIDER MAY PROVIDE A SURETY BOND FROM A COMPANY AUTHORIZED TO DO SUCH BUSINESS IN THE STATE OF ALASKA. THE BOND SHALL BE IN AN AMOUNT EQUAL TO THE ESTIMATED COST OF ALL REQUIRED PUBLIC IMPROVEMENTS PLUS AN OVERRUN ALLOWANCE AS PROVIDED IN SUBSECTION (B) OF THIS SECTION. THE BOND SHALL BE PAYABLE TO THE BOROUGH IN THE EVENT THAT ANY REQUIRED PUBLIC IMPROVEMENTS ARE NOT FINALLY ACCEPTED IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE AND SHALL BE POSTED BY NO PERSON OTHER THAN THE SUBDIVIDER. ]

(2) Deposit in escrow. The subdivider [MAY ELECT TO} shall deposit a cash sum equal to the estimated cost of the remaining [ALL] 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. [THE FUNDS MAY BE RELEASED UPON AUTHORIZATION BY THE BOROUGH FOR PAYMENT OF IMPROVEMENTS AS MADE, EXCEPT THAT THE ESCROW HOLDER SHALL ALWAYS WITHHOLD FROM DISBURSEMENT SO MUCH OF THE FUND AS IS ESTIMATED BY THE BOROUGH AS BEING NECESSARY TO COMPLETE THE CONSTRUCTION AND INSTALLATION OF THE IMPROVEMENTS, PLUS AN OVERRUN AT THE PERCENTAGE UNDER SUBSECTION (B) OF THIS SECTION THAT IS APPLICABLE TO THE COST OF THE REMAINING CONSTRUCTION.]

(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) LETTER OF CREDIT. THE SUBDIVIDER MAY ELECT TO PROVIDE FROM A BANK OR OTHER RESPONSIBLE FINANCIAL INSTITUTION AUTHORIZED TO DO SUCH BUSINESS IN THE STATE OF ALASKA AN IRREVOCABLE LETTER OF CREDIT THAT IS GOOD UNTIL A TIME AS THE BOROUGH AUTHORIZES ITS REVOCATION. THE LETTER SHALL BE FILED WITH THE BOROUGH AND SHALL CERTIFY THE FOLLOWING:

(A) THAT THE CREDITOR IRREVOCABLY GUARANTEES FUNDS IN AN AMOUNT EQUAL TO THE ESTIMATED COST OF ALL REQUIRED PUBLIC IMPROVEMENTS PLUS OVERRUN

ALLOWANCES AS REQUIRED IN SUBSECTION (B) OF THIS SECTION  
FOR THE COMPLETION OF ALL SUCH IMPROVEMENTS;

(B) THAT IN THE CASE OF FAILURE ON THE  
PART OF THE SUBDIVIDER TO COMPLETE ANY SPECIFIED  
IMPROVEMENTS WITHIN THE REQUIRED TIME PERIOD, THE  
CREDITOR SHALL PAY TO THE BOROUGH IMMEDIATELY AND  
WITHOUT FURTHER ACTION THE FUNDS AS THE BOROUGH  
DETERMINES ARE NECESSARY TO FINANCE THE COMPLETION OF  
THOSE IMPROVEMENTS UP TO THE LIMIT OF CREDIT STATED IN  
THE LETTER.]

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 [POSTING OF ADEQUATE SECURITY FOR]  
successful completion of the warranty period. [THE  
BOROUGH MAY REFUSE TO RELEASE THE GUARANTEE AND  
OBLIGATION FOR ANY PARTICULAR PUBLIC IMPROVEMENT IF THE  
SUBDIVIDER IS IN PRESENT OR IMMINENT DEFAULT IN WHOLE OR  
IN PART ON THE COMPLETION OF ANY OTHER PUBLIC IMPROVEMENT  
OR WARRANTY COVERED BY THE SUBDIVISION AGREEMENT.]

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[:

(1)] the end of the warranty period.[; OR

(2) THE SUBDIVIDER HAS FURNISHED THE BOROUGH WITH A CORPORATE SURETY BOND, CASH DEPOSIT, OR LETTER OF CREDIT IN AN AMOUNT EQUAL TO A PERCENT OF THE TOTAL CONSTRUCTION COSTS AS SET FORTH BELOW. THIS SECURITY SHALL GUARANTEE THE PAYMENT OF ANY RECONSTRUCTION OR REPAIR COSTS WHICH MAY BE UNDERTAKEN DUE TO FAILURE OCCURRING DURING THE WARRANTY PERIOD. RESPONSIBILITY FOR IDENTIFYING THE NECESSITY OF REPAIRS OR RECONSTRUCTION OF THE IMPROVEMENTS SHALL REST WITH THE BOROUGH.

TOTAL CONSTRUCTION COST

PERCENT TO SECURE WARRANTY

\$0 TO \$500,000

10 PERCENT



\$500,000 TO \$1,000,000 7.5 PERCENT

\$1,000,000 AND HIGHER 5 PERCENT]

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 [BOND, DEPOSIT, OR LETTER OF CREDIT] amount forfeited or demand payment of the note.

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[S]. All deficiencies shall be corrected prior to release of the guarantee [WARRANTY SECURITY]. Upon satisfactory correction of all deficiencies, the Borough shall release the guarantee [SECURITY].

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 may demand immediate payment [ON THE PERFORMANCE OR WARRANTY GUARANTEE. IN THE CASE OF A PERFORMANCE BOND, DEPOSITS IN ESCROW, OR LETTER OF CREDIT, THE BOROUGH MAY DEMAND IMMEDIATE PAYMENT OF A PORTION OF ALL SUMS OBLIGATED FOR THE 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 [TWO] one year[S] 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 [POSTING]successful completion of the warranty period[SECURITY] or;

(2) [SUCCESSFUL COMPLETION OF THE WARRANTY PERIOD; OR

(3)] the three-year period provided for above.  
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.

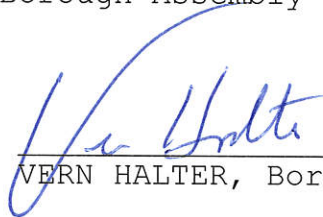
43.55.065 OTHER MUNICIPALITIES AS BENEFICIARY.

(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

**Section 57. Effective date.** This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 7 day of November, 2017.

  
VERN HALTER, Borough Mayor

ATTEST:

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

YES: Sykes, Beck, Leonard, Mayfield, Doty, and Kowalke

NO: McKee