CODE ORDINANCE

Sponsored by: Mayor Halter
Introduced: 04/05/16
Public Hearing: 04/19/16
Adopted: 04/19/16

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-045

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 2.27, ATTORNEY, TO UPDATE, ORGANIZE, AND MORE FULLY DESCRIBE THE FUNCTIONS AND DUTIES OF THE BOROUGH ATTORNEY.

WHEREAS, the intent and rationale of this ordinance are contained in IM 16-072 accompanying this ordinance.

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 section. MSB 2.27 is hereby amended as follows:

MSB 2.27 **BOROUGH** ATTORNEY

2.27.005 ESTABLISHED, APPOINTMENT.

There is established the office of the Borough Attorney. The Borough Attorney is appointed by the Borough Assembly and, subject to a contract of employment, shall serve at its pleasure.

2.27.010 DUTIES.

The Borough Attorney:

(A) [THE ATTORNEY] **performs all legal services on behalf of the Borough and** is the legal advisor of the

Assembly, [THE SCHOOL BOARD] **Mayor, Manager, Clerk** and other officers of the Borough;

(B) [THE ATTORNEY] represents the Borough as attorney in **all** [CIVIL AND CRIMINAL] proceedings [EXCEPT THAT THE ASSEMBLY MAY APPOINT OTHER ATTORNEYS TO REPRESENT IT IN SPECIFIC CASES];

(C) Administers the attorney's office and has supervision and control over all employees in the Borough Attorney's office;

(D) appoints a deputy who, in the absence of the Borough Attorney, shall perform the functions of the Borough Attorney;

(E) performs and exercises all powers incident to the duties of the office of Borough Attorney in accordance with the Alaska Rules of Professional Conduct;

(F) hires and manages outside counsel as deemed necessary to represent or advise the interests of the Borough on specific matters except under MSB 2.27.060(B);

(G) performs other duties as directed by the Borough Assembly.

2.27.020 BOROUGH ATTORNEY'S OFFICE EMPLOYEES.

(A) The employees in the Borough Attorney's office are under the supervision and control of the Borough Attorney. Borough Attorney's office employees are subject to the provisions of MSB 2.52 to the same extent as other Borough employees except that the Borough Attorney provides the functions of the Manager under MSB 2.52 as it applies to employees in the Borough Attorney's office.

(B) The Borough Attorney and all employees in the Borough Attorney's office are exempt and excluded from an employee labor organization.

2.27.030 PROSECUTIONS, CIVIL ACTIONS, DEFENSE.

(A) The Borough Attorney may do all things necessary to prosecute violations of Borough code.

(B) The Borough Attorney may bring civil actions against any person or entity as deemed necessary to further the interests of the Borough, recover damages, and/or seek any legal or equitable relief on behalf of the Borough.

(C) The Borough Attorney shall defend the Borough against claims brought against it or its officers or employees in their official capacity.

2.27.040 OPINIONS.

The Borough Attorney may issue legal opinions upon any question of law. Legal opinions may be in writing, and if so, shall be filed and preserved among the records of the Borough and shall be retained by the department to whom the opinion is directed. Written legal opinions are binding upon, and shall be followed by, all Borough employees excluding elected officials.

2.27.050 APPROVAL AS TO FORM.

The Borough Attorney shall review every ordinance, resolution, action memorandum and informational memorandum before it is brought before the Assembly. The Borough Attorney shall either approve as to form any and all such documents or submit the reasons for not doing so.

2.27.060 OUTSIDE COUNSEL.

(A) Regardless of MSB 3.08, legal services may be procured by direct negotiation by the Borough Attorney with an attorney or law firm qualified to handle the type of legal problem presented. No contract for the services of legal counsel may be entered into without the approval of the Borough Attorney. The Borough Attorney may procure legal services within the limits of annual appropriations

and shall report on specific matters to the Assembly as requested or deemed necessary by the Borough Attorney.

(B) In the event of a professional conflict or when the Borough Manager or Borough Clerk deem it necessary to obtain outside counsel without the Borough Attorney's involvement, the Manager or Clerk may do so and notify the attorney in writing of such action.

(C) The Borough Assembly may hire outside counsel to represent it in specific cases as it deems necessary and nothing in this chapter is intended to limit the Borough Assembly's ability to do so.

Section 3. MSB 3.08.300(F) is repealed in its entirety.

Section 4. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this 19 day of April, 2016.

VERN HALTER, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

PASSED UNANIMOUSLY: Sykes, Beck, McKee, Colligan, Mayfield, Doty, and Kowalke