

CODE ORDINANCE

Sponsored by: Assemblymember Kowalke
Introduced: 11/17/2016
Public Hearing: 12/06/2016
Adopted: 12/06/2016

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-102**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY MODIFYING MSB 17.28 AND MSB 17.30 IN ORDER TO ELIMINATE THE INTERMIM MATERIALS DISTRICT PROCESS.

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 17.28.020 is hereby amended as follows:

[(A) THIS DISTRICT SHALL BE ESTABLISHED ON PRIVATE OR PUBLIC LANDS FOR EARTH MATERIALS EXTRACTION AND PROCESSING ACTIVITIES GREATER THAN 20 CONTIGUOUS ACRES IN ALL AREAS OF THE BOROUGH EXCEPT WHERE THE USE IS PROHIBITED BY ORDINANCE WITHIN A SPECIAL LAND USE DISTRICT. WHERE THIS CHAPTER IS IN CONFLICT WITH THE CONDITIONS OF A SPECIAL LAND USE DISTRICT, THE MOST RESTRICTIVE CONDITIONS SHALL APPLY.]

(B) This chapter does not apply within the cities of Houston, Palmer, or Wasilla, or the Port MacKenzie Special Use District.

[(C) AN OWNER OF GREATER THAN 20 CONTIGUOUS ACRES

WHERE EARTH MATERIALS EXTRACTION HAS NOT BEEN GRANTED A PERMIT OR PRE-EXISTING LEGAL NONCONFORMING STATUS AS OF THE DATE OF THE ENACTMENT OF THIS CHAPTER IS REQUIRED TO APPLY FOR DESIGNATION AS AN INTERIM MATERIALS DISTRICT IN ACCORDANCE WITH THIS CHAPTER.]

(D) This chapter shall not apply to earth material extraction activities on land owned by the state of Alaska that are in existence as of the date of adoption of the ordinance codified in this chapter except for such operations that extract materials within four feet of the water table. Where a site is exempt under this subsection the exemption is revoked if operations proceed to within four feet of the water table.

(E) Annual extraction of greater than 2,000 cubic yards on any one parcel requires a permit in accordance with MSB 17.30.

Section 3. Amendment of subsection. MSB 17.28.030(A) is hereby amended as follows:

(A) The extraction of earth materials is an interim use of the land in the Matanuska-Susitna Borough. An interim materials district shall [BE GREATER THAN 20 CONTIGUOUS ACRES IN SIZE,] meet the site development standards specified in MSB 17.28.060, and be in

compliance with other applicable regulations as shown in MSB 17.28.040.

Section 4. Amendment of subsection. MSB 17.28.050(A) is hereby amended as follows:

(A) The application for an [INTERIM MATERIALS DISTRICT] earth materials extraction permit shall include a site development plan. The site development plan shall include, but not be limited to the following, as required by the conditions of the site, and shall be consistent with the standards in MSB 17.28.060:

Section 5. Amendment of subsection. MSB 17.28.060(A) is hereby amended as follows:

(A) Standards for the [INTERIM MATERIALS DISTRICT] earth materials extraction site development plan are as follows:

Section 6. Repeal of section. MSB 17.28.080 is hereby repealed in its entirety:

[17.28.080 PROCEDURES FOR INITIATING AN INTERIM MATERIALS DISTRICT (IMD)].

(A) AN INTERIM MATERIALS DISTRICT MAY BE INITIATED ON A PROPERTY WHICH MEETS THE STANDARDS FOR DESIGNATION AS AN IMD BY:

(1) THE OWNER OF THE PROPERTY OR THEIR AUTHORIZED REPRESENTATIVE;

(2) THE DEPARTMENT OF PLANNING AND LAND USE UPON ITS OWN INITIATIVE;

(3) THE PLANNING COMMISSION, UPON ITS OWN MOTION; OR

(4) THE ASSEMBLY, UPON ITS OWN MOTION.

(B) THE APPLICANT FOR AN INTERIM MATERIALS DISTRICT DESIGNATION UNDER SUBSECTION (A) (1) OF THIS SECTION SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT OF PLANNING AND LAND USE:

(1) A COMPLETED APPLICATION ON A FORM PROVIDED BY THE DEPARTMENT OF PLANNING AND LAND USE (INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED);

(2) A SITE DEVELOPMENT PLAN IN ACCORDANCE WITH MSB 17.28.050 AND 17.28.060;

(3) A FEE IN THE AMOUNT DESIGNATED IN MSB 17.99; AND

(4) A RECLAMATION PLAN IN ACCORDANCE WITH MSB 17.28.063.

(C) THE PLANNING COMMISSION SHALL CONDUCT AT LEAST ONE PUBLIC HEARING PRIOR TO MAKING A RECOMMENDATION TO

THE ASSEMBLY ON DESIGNATION OF AN INTERIM MATERIALS DISTRICT.

(1) THE PUBLIC HEARING SHALL BE HELD IN CONFORMANCE WITH MSB 15.04.016, AND NOTICE OF THE HEARING SHALL BE MADE PURSUANT TO THE STANDARDS OF MSB 17.03, EXCEPT THAT THE NOTIFICATION AREA WILL BE ONE MILE FROM THE EXTERIOR BOUNDARY OF THE SUBJECT PROPERTY.

(2) THE COMMISSION SHALL REPORT TO THE ASSEMBLY ON WHETHER THE APPLICANT HAS MET THE STANDARDS DELINEATED IN MSB 17.28.050, AND 17.28.060, AND WHAT EFFECT THE PROPOSED INTERIM MATERIALS DISTRICT WOULD HAVE ON THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE MATANUSKA-SUSITNA BOROUGH. THE COMMISSION IN ITS REPORT TO THE ASSEMBLY SHALL RECOMMEND TO THE ASSEMBLY APPROVAL, DENIAL, MODIFICATIONS, OR CONDITIONS OF APPROVAL FOR THE PROPOSED ACTION, AND SHALL INCLUDE FINDINGS ON THE FOLLOWING:

(A) WHETHER THE PROPOSED INTERIM MATERIALS DISTRICT IS COMPATIBLE WITH THE GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN;

(B) WHETHER THE PROPOSED INTERIM MATERIALS DISTRICT NEGATIVELY AFFECTS PUBLIC HEALTH, SAFETY OR GENERAL WELFARE; AND

(C) WHETHER THE PROPOSED INTERIM MATERIALS DISTRICT HAS MET THE SITE DEVELOPMENT STANDARDS OF THIS CHAPTER INCLUDING COMPLIANCE WITH ALL REQUIRED LOCAL, STATE, AND FEDERAL LAWS.

(D) THE ASSEMBLY SHALL REVIEW THE RECOMMENDATION OF THE PLANNING COMMISSION, HOLD A PUBLIC HEARING AND VOTE ON WHETHER TO DESIGNATE THE PROPOSED AREA AS AN INTERIM MATERIALS DISTRICT.]

Section 7. Repeal of section. MSB 17.28.100 is hereby repealed in its entirety:

[(A) APPLICATIONS AND PROCEDURES FOR OBTAINING VARIANCES FROM STANDARDS OF THIS CHAPTER SHALL BE AS PRESCRIBED IN MSB 17.65.]

Section 8. Repeal of section. MSB 17.28.120 is hereby repealed in its entirety:

[(A) APPLICATIONS AND PROCEDURES FOR OBTAINING A DEVELOPMENT PERMIT WITHIN ANY DESIGNATED SPECIAL FLOOD HAZARD AREA UNDER THIS CHAPTER SHALL BE AS PRESCRIBED IN MSB 17.29.]

Section 9. Repeal of section. MSB 17.28.210 is hereby repealed in its entirety:

[(A) FEES REQUIRED UNDER THIS CHAPTER WILL BE ESTABLISHED IN ACCORDANCE WITH MSB 17.99.]

Section 10. Amendment of subsection. MSB 17.30.020(E) is hereby amended as follows:

(E) [AN OWNER OF 20 CONTIGUOUS ACRES] **Annual extraction of more than 2,000 cubic yards of earth materials on property that** [OR LESS WHERE EARTH MATERIALS EXTRACTION] has not been granted a permit or pre-existing legal nonconforming status as of the date of the enactment of this chapter is required to obtain a conditional use permit or administrative permit.

Section 11. Repeal of paragraph. MSB 17.30.040(A)(1) is hereby repealed in its entirety:

[(1) THE CUMULATIVE CONTINUOUS ACTIVITY IS LESS THAN 40 ACRES IN SIZE;]

Section 12. Amendment of section. MSB 17.30.050 is hereby amended as follows:

17.30.050 [CRITERIA TO QUALIFY FOR A CONDITIONAL USE PERMIT.] **PLANNING COMMISSION APPROVAL**

[(A) TO QUALIFY FOR A CONDITIONAL USE PERMIT, ALL OF THE FOLLOWING CRITERIA MUST BE MET:

(1) THE CUMULATIVE CONTINUOUS ACTIVITY IS LESS THAN 40 ACRES IN SIZE; AND

(2) EXTRACTION ACTIVITIES MAY BE ONGOING.]

(B) The commission may set conditions of approval

for issuance of the conditional use permit, as appropriate for the area in which the development is sited, for the following:

(1) setbacks (no less than minimum setback requirements as established in MSB 17.55; however, may be increased as appropriate for existing surrounding development);

(2) visual screening, noise mitigation, lighting restrictions and roads/access restrictions as appropriate for surrounding development and in accordance with development standards referenced in MSB 17.28.060, site development standards;

(3) road maintenance may be required of the permittee; and

(4) length of time of operation and location of batch plants.

Section 13. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this
6 day of December, 2016.


VERN HALTER, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

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