

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ADOPTING MSB 17.31 SUPPLEMENTAL WETLANDS MITIGATION PROVISIONS FOR PROJECTS REQUIRING UNITED STATES ARMY CORPS OF ENGINEERS INDIVIDUAL PERMITS UNDER SECTION 404 OF THE CLEAN WATER ACT THAT PERMANENTLY IMPACT 10 OR MORE ACRES OF WATERS OF THE UNITED STATES; AND AMENDING MSB 1.45.100 SCHEDULE OF FINES FOR INFRACTIONS.

AGENDA OF: May 18, 2021

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MIKE BROWN, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator TED EISCHEID		
	Planning and Land Use Director		
	Finance Director		
	Borough Attorney		
	Borough Clerk		

ATTACHMENT (S) : Fiscal Note: YES _____ NO X

- RS 19-074 (5 pp)
- RS FWC 19-03 (3 pp)
- RS FWC 21-01 (3 pp)
- Wetland Fact Sheets (6 pp)
- Wetland Science Summary (4 pp)
- USACE AK-District Mitigation Brochure (2 pp)
- Planning Commission Resolution PC 21-07 (3 pp)
- Ordinance Serial No. 21-025 (10 pp)

SUMMARY STATEMENT

The intent of this ordinance is to ensure that large development projects that require an individual wetland development permit from the USACE, provide full compensatory mitigation to offset the impacts of the development.

ORDINANCE HISTORY

The Alaska District office of the United States Army Corps of Engineers, the regulatory body issuing wetland development permits under section 404 of the Clean Water Act, does not always require permittees to fully offset the impacts of their developments on wetlands despite requirements in the federal 2008 Final Rule on compensatory mitigation. This resulted in an Assembly workshop on wetland mitigation, a MSB Fish and Wildlife Commission resolution recommending exploration of supplemental wetland mitigation for large projects, and finally a resolution by the Assembly directing planning staff to prepare a draft ordinance requiring full mitigation for larger development projects impacting wetlands.

HOW IT WORKS

Projects that require a USACE individual development permit under section 404 of the Clean Water Act, and impact 10 or more acres of waters of the United States, will be required to submit to the MSB an application for a Compensatory Mitigation Certificate of Compliance (CMCC), along with all USACE permit paperwork and USACE decisional documents. The CMCC would be issued to the applicant when they provide documentation to the MSB showing the project's calculated impact on wetlands has been fully offset using a USACE approved mitigation option.

WETLAND VALUE

Wetlands and their associated buffers are important. They provide a variety of functions and services for free, most notably:

- Fish habitat
- Groundwater recharge
- Improved water quality
- Flood and stormwater storage

The economic value of these benefits is significant. This ordinance helps protect those benefits, and compliments the borough's investments in fish passage, habitat, and work to return more salmon to local waters.

Further loss of wetlands quality and quantity is contrary to the public health, safety and general welfare of Mat-Su residents. This ordinance provides predictability to both developers and the public, while maintaining wetland functions and the benefits they accrue to borough citizens.

COMPREHENSIVE PLAN CONNECTION

This ordinance is an integral component in implementing the 2012 MSB Wetland Management Plan and the MSB Comprehensive Plan.

This ordinance will implement aspects of the Borough-Wide

Comprehensive Plan. The Comprehensive Plan was developed and adopted after much public input, and offers goals and policy statements related to managing land use and growth in the Mat-Su. The draft supplemental wetland mitigation ordinance meets several of the goals in the MSB Comprehensive Plan, including but not limited to:

Land Use Goal 4: Protect and enhance the borough's natural resources including watersheds, groundwater supplies and air quality.

Policy 1 - Identify, monitor, protect, and enhance the quantity and quality of the borough's watersheds, groundwater aquifers, and clean air resources.

Public Open Space Goal 2: Protect and preserve natural resource areas.

Policy 1 - Work cooperatively with numerous resource management agencies, community councils, and citizens to care for lakes, wetlands, streams, rivers, and wildlife habitat and corridors while providing public access for recreational opportunities that have minimal impacts to such areas.

Policy 3 - Identify, through analysis, potential natural resource areas throughout the borough that should be protected.

Community Quality Goal 1: Protect natural systems and features from the potentially negative impacts of human activities, including but not limited to land development.

Policy 1 - Use a system-wide approach to effectively manage environmental resources. Coordinate land use planning and management of natural systems with affected state and local agencies as well as affected Community Council efforts.

Policy 2 - Manage activities affecting air, vegetation, water, and the land to maintain or improve environmental quality, to preserve fish and wildlife habitat, to prevent degradation or loss of natural features and functions, and to minimize risks to life and property.

Community Quality Goal 2: Manage the natural and built environments to achieve minimal loss of the functions and values of all drainage basins; and, where possible, enhance and restore functions, values and features.

Retain lakes, ponds, wetlands, streams, and rivers and their corridors substantially in their natural condition.

Policy 1 - Using a watershed-based approach, apply best available science in formulating regulations, incentives, and programs to maintain and, to the degree possible, improve the quality of the borough's water resources.

RECOMMENDATION OF ADMINISTRATION:

Staff respectfully recommends approval of the attached ordinance.