

CODE ORDINANCE

By: Assemblymember Colver
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 11-072**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING
MSB TITLE 27 AND ADOPTING MSB 16 SUBDIVISIONS.

WHEREAS, Title 16, Subdivisions was in effect for over 20 years and served the Borough well until it was repealed in 2006 and replaced with Title 27;

WHEREAS, Since the enactment of Title 27 there has been a substantial reduction in the number of approved plats;

WHEREAS, The adoption of Title 27 has resulted in less local economic activity and subdivision development due to additional regulations and increased costs to Borough Residents to subdivide their property;

WHEREAS, Reform of Title 27 will provide new jobs through additional economic activity, yet maintain the health and welfare of Borough residents and lands within the Borough

THEREFORE BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and Sections 2 and 3 shall become a part of the Borough code.

Section 2. Repeal of Title. MSB Title 27 is hereby repealed in

its entirety.

Section 3. Adoption of Title. MSB Title 16, Subdivisions, is enacted to read as follows:

- 16.05 GENERAL PROVISIONS
- 16.10 PLATTING BOARD
- 16.15 PLAT APPROVAL, ABBREVIATED PLAT SUBDIVISIONS
AND VACANCIES
- 16.20 SUBDIVISION DEVELOPMENT STANDARDS
- 16.25 EXISTING PLAT STATUS AND VALIDATION
- 16.35 RECONSIDERATION AND APPEALS
- 16.55 SUBDIVISION AGREEMENTS

16.05.005 DEFINITION OF TERMS

(A) For the purpose[S] of this title, the following definitions of terms shall apply in all cases.

***[(1)]** "Aliquot part" means a rectangular portion of a section created by midpoint protraction as defined by the BLM manual of survey instructions, unless historical records show otherwise.

***[(2)]** "Block" means a group of lots existing within well-defined and fixed boundaries, being an area surrounded by streets or other physical barriers, and having an assigned number, letter, or other name by which it may be identified.

***[(3)]** "Block length" means the distance between intersections of through streets measured between the right-of-way lines of the intersecting streets, which distance is the longest dimension of a block.

***[(4)]** "Borough" means the Matanuska-Susitna Borough.

***[(5)]** "Easement" means any strip of land reserved by the subdivider for public utilities, drainage, sanitation or other specified use, the title to which shall remain in the property owner, subject to the right of use designed on the subdivision plat or other document. **For the purpose of this chapter an easement shall not be interpreted to be a fee dedication or a right-of-way when noted or granted on a plat, abbreviated plat, waiver or forty-acre exemption.**

***[(6)]** "Final plat" means a drawing of a subdivision which complies with this title.

***[(7)]** "Governing body" means the Matanuska-Susitna Borough **[ASSEMBLY]**.

***[(8)]** "Land surveyor" or "surveyor" means a person currently registered as a professional land surveyor with the state of Alaska.

***[9]** "[L]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.

***[10]** "Meander line" means a traverse of 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[S]. When meander lines are non-riparian, they may become land boundary lines.

***[11]** "Monument" means a point marked on the surface of the earth for commencing or controlling a survey.

***[12]** "Municipality" means any incorporated city, town or village.

***[13]** "Plat" means a map or dedicated representation of a tract or parcel of land showing the subdivision of such land into lots, blocks and streets, or other divisions, and other information in compliance with the requirements of all applicable sections of this title and of local ordinances, and may include the terms "replat" or "final plat".

***[14]** "Platting authority" means the platting board, platting officer, planning and land use director, or other person making a platting decision.

***[15]** "Preliminary plat" means a map or delineated representation of a tract or parcel **or [OF]** land showing the prominent features of a proposed subdivision of such land submitted to an approving authority for the purpose of preliminary consideration.

***[16]** "Replat" means the redelineation of an existing lot, block or tract of a previously recorded subdivision involving the change of property lines and, after vacation, the altering of dedicated streets, easements or public areas.

***[17]** "Right of-way" means a strip of land reserved, used or to be used for a street, alley, walkway, airport or other public or private purpose.

***[18]** "Street" means and includes all access ways for common use, such as traveled ways, roads, lanes, highways, avenues, boulevards, alleys, parkways, viaducts, circles, courts and cul-de-sacs, and includes all the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved.

***[19]** "Subdivider" means a person holding any legal or equitable interest in land being subdivided.

The term shall also include all heirs, assigns, or successors in interest, or representatives of the subdivider.

***[20]** "Subdivision" means the division of a tract or parcel of land into two or more lots, sites or other divisions, or the combining of two or more lots, tracts or parcels into one lot, tract or parcel for the purpose, whether immediate or future, of sale, or lease for more than ten years **excepting that a lease of commercial property is exempt from the requirements of this title,** including any resubdivision, and, when appropriate to the context, the process of subdividing of the land actually subdivided.

***[21]** "Tract" means an area of land which has been defined, but has not been designated by lot and block numbers.

***[22]** "Usable area" means only that area where seasonal high water table is a minimum eight feet below the surface and not within an area dedicated to public use.

16.05.010 GENERAL

(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, the department of public works' subdivision construction manual and the platting division's procedure pamphlet created pursuant to MSB 16.05.045 to any person upon request at a reasonable charge.

16.05.015 PURPOSE AND SCOPE

(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.

(B) The following list of documents are to be incorporated within title 16 as if fully set forth in this title:

- (1) BLM manual of survey instructions;
- (2) Platting procedures pamphlet;
- (3) Subdivision construction manual;
- (4) MSB Title 17.

(C) Each manual may be modified by the platting board subject to review by the planning commission and adopted by the assembly.

[(D) THE PLANNING COMMISSION MAY, BY RESOLUTION, ADOPT TEMPORARY ADMINISTRATIVE REGULATIONS TO IMPLEMENT, OR MAKE SPECIFIC, THE PROVISIONS OR THIS TITLE. THESE TEMPORARY REGULATIONS SHALL BE EFFECTIVE FOR NO LONGER THAN 60 DAYS. ALL ADMINISTRATIVE REGULATIONS ADOPTED UNDER THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC IN THE OFFICE OF THE PLATTING OFFICER AND THE CLERK.]

16.05.030 PENALTIES AND REMEDIES

(A) The owner or agent of the owner of land who publicly offers by any means to sell, transfer, or who sells or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and filed in accordance with this title, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 dollars for each lot or parcel offered for sale [TRANSFERRED, SOLD, OR INCLUDED IN A CONTRACT TO BE SOLD.]

(B) No person may file or seek to have a plat filed unless it has been approved in accordance with this title. A person who knowingly violates this subsection is punishable upon conviction by a fine of not more than \$500.

(C) The borough or any aggrieved person may bring a

civil action to enjoin any violation of this title, any transfer or sale of an unlawfully subdivided parcel and the violation of any term or condition of any plat or other entitlement approved under this title, and to obtain damages for any injury the plaintiff suffered as a result of the violation. In addition to injunctive and compensatory relief, each violation shall be subject to a civil penalty not to exceed \$500. An action for injunction under this section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and a finding of an existing or threatened violation, the superior court shall enjoin the violation.

(D) Each act or condition in violation of this title, or any term or condition of any plat or other entitlement under this title, and every day during which the act or condition occurs shall constitute a separate violation of this title.

[(E) IF AN AGREEMENT TO SELL OR LEASE LAND WHICH WOULD RESULT IN A SUBDIVISION IS ABSOLUTELY CONTINGENT UPON PLATTING AUTHORITY APPROVAL WITHIN FIVE YEARS, IT DOES NOT CONSTITUTE A VIOLATION OF THIS TITLE.]

16.05.035 FEES

(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.

16.05.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES

(A) Except as otherwise specified in this chapter violations of this chapter are infractions.

(B) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

16.05.045 PROCEDURE PAMPHLET

(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.

16.05.050 OWNER AUTHORIZATION

(A) All platting entitlement applications must be made by the owner, or authorized agent of the owner, of the property subject to the entitlement. The authorization must be in writing, executed by the owner, and include the names, mailing addresses, and telephone numbers for both the owner and the authorizing agent.

CHAPTER HEADINGS FOR 16.10: PLATTING BOARD WERE DELETED

16.10.010 BOARD ESTABLISHED; DELEGATION

(A) There is established a platting board which, pursuant to A.S. 29.40.080, is delegated the platting function of the borough. The platting board shall hear and decide applications for approval of preliminary plats, variances, **[WAIVERS]** and vacations in accordance with this title.

16.10.015 COMPOSITION, APPOINTMENT AND QUALIFICATIONS

(A) The platting board shall consist of seven members with two additional at-large alternates.

(B) The mayor shall appoint board members subject

to assembly confirmation. Representation from as many assembly districts as is feasible shall be sought on the board.

(C) Each board member shall be a registered voter of the borough.

16.10.020 TERM

(A) A board member's term shall be three years, with staggered expiration dates. An unexplained term that began before the effective date of the ordinance codified in this title shall continue until the time for its expiration under the law in effect when the term began. A board member's term shall be governed by MSB 4.05.050.

16.10.025 VACANCIES

(A) A vacancy on the board shall be filled as provided in MSB 16.05.015 for the remainder of the term of the former member.

(B) A vacancy occurs as provided in MSB 4.05.030(B).

16.10.030 COMPENSATION

(A) Board members shall be compensated at a rate of \$50 per meeting for regular and special meetings, not to exceed four meetings in a calendar month. All requests

for reimbursement shall be for actual expenses incurred on authorized board business.

16.10.035 OFFICERS

(A) The board annually shall select from its membership a chairperson and vice-chairperson. The chairperson shall preside at meetings of the board, and shall represent the board as directed by its membership. The vice-chairperson shall act in the absence of the chairperson. The platting officer shall act as secretary to the board.

16.10.036 SEAL

(A) The board shall adopt a seal of two concentric circles within which appear which the words "Matanuska-Susitna Borough Platting Board," "Seal" and "State of Alaska." It shall be retained in the custody of the platting officer.

16.10.037 STAFF ASSISTANCE

(A) The platting board shall be assisted by the platting officer and the platting officer's staff.

16.10.040 MEETINGS; QUORUM

(A) The platting board shall hold a regular meeting twice a month. The chairperson or three board members may call a special meeting of the board.

(B) A majority of the authorized membership of the board constitutes a quorum. All board actions shall be by vote of a majority of the board's authorized membership who are qualified to vote on the question under MSB 16.10.055.

16.10.045 RULE[S] OF PROCEDURE

(A) The board may, by resolution, adopt its own written rules of procedure, consistent with this title, governing the conduct of its proceedings. In all matters of procedure not governed by such rules or this title, the current edition of *Robert's Rules of Order Newly Revised* shall govern.

16.10.050 ACTION ON APPLICATION OR APPEAL

(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 decision at a abbreviated plat hearing. The board's decision shall be recorded in a notice approving or denying the action in **questions**, **[QUESTION]** prepared by the secretary to the board. The notice shall include separate findings of fact supporting the decision, based upon the facts presented to the board and the board's debate on the matter. The board chairperson shall review the notices prepared by the

secretary for conformity to the findings and decision of the board. A notice is adopted as a decision of the board when it is signed by the chairperson, signifying the chairperson's approval of the form of the notice.

16.10.055 CONFLICT OF INTEREST; EX PARTE CONTACT

(A) A board member shall not participate in deliberation or vote on a question if:

(1) the board member or a member of the board member's immediate family has a substantial financial interest in any property affected by the decision;

(2) the board member or a member of the board member's immediate family could foreseeably profit in any material way through a favorable or unfavorable decision.

(B) Board members shall be impartial in all administrative decisions, both in fact and in appearance. No board member may receive or otherwise engage in ex parte contact with the applicant or appellant, or other parties interested in the application or appeal, or members of the public, concerning the application or appeal or issues presented in an application or notice of appeal, either before the hearing or during any period of time the matter is submitted for decision or subject to reconsideration. This section shall not prevent board

members from discussing an application or appeal among themselves, or prohibit communication between borough staff and board members where the staff members [ARE NOT NAMED PARTIES TO THE APPLICATION OR APPEAL] or members of an organization which in its own name has become an active party to an application or appeal.

16.10.060 PLATTING BOARD PROCEDURE

(A) The platting board shall act on an application for preliminary plat, variance, public use easement, or vacation approval 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.

(B) The platting board shall, within 60 calendar days of the submission of an application for preliminary plat approval, approve or disapprove the preliminary plat or return it to the applicant for modification or correction. If the platting board fails to act within a 60 calendar day period, the preliminary plat shall be considered approved and a certificate of approval shall

be issued on demand, unless the application consents to an extension of the 60 calendar day period. An application for preliminary plat approval is submitted to the platting board when it is submitted in proper form in accordance with MSB 16.15.015 and 16.15.045.

(C) The platting board may approve an application only upon finding that the application conforms to the standards set forth in this title and other applicable statutes and ordinances. The findings of the platting board shall be set forth in the notice approving or disapproving the application.

(D) The platting board may approve an application subject to any conditions that it finds necessary to implement the purposes of this title [, OR TO CONFORM THE APPLICATION TO THIS TITLE OR OTHER APPLICABLE STATUTES OR ORDINANCES]. The conditions shall be set forth in the motion and notice approving the application. Where a subdivider intends to develop a subdivision in phases, approval of the preliminary plat shall be conditioned upon the subdivider's compliance with a **phase** [PHASED] development master plan prepared by the subdivider and approved by the platting board. Covenants, conditions and restrictions must be submitted with the final plat

for recordation.

(E) The platting board may not approve an application where it finds that any **application** [APPLICANT] or any owner of an interest in 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.

(F) Written notification of platting board's decision approving or disapproving an application shall be mailed to the applicant within ten calendar days of the platting board meeting at which the decision was made. If the application is approved, a final plat or a resolution setting forth the decision of the board 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 not affect the validity of any proceeding under this title.

16.10.065 NOTICE; PUBLIC HEARING

(A) Notice of any public hearing required under this title shall be given in accordance with this

section.

(B) Forms of notice are as follows:

(1) publication in a newspaper of general circulation in the borough one week prior to the public hearing;

(2) mailing at least 15 days before the public hearing to all record owners of property within a distance of **2640** **[600]** feet of the exterior boundary of the property that is the subject of the application, or to the record owners of the five tax parcels nearest the property that is the subject of the application, whichever is the greater number of persons, and, if the property described in the application lies within a recorded subdivision, to all property owners of record within that subdivision, **to all property owners of record within that subdivision** to property owners of record within **2640** **[600]** feet of the exterior boundary of the property. As used in this subdivision, "record owner" means the person or persons listed as the owner on the property tax records of the borough assessor. The notice shall be mailed to the record owner at the address stated in the current property tax records of the borough assessor;

(3) when the property that is the subject of an application lies within the boundaries of a community council recognized by the assembly, notice shall be mailed to the community council at least 15 days before the public hearing.

(C) Every notice required by this section shall state the date, time and location of the public hearing, a description of the action requested, a description of the property that is the subject of the application, the names of the applicants, and owners of the subject property.

(D) From the time of filing an application or an appeal until the time of the hearing on the application, the application or appeal, together with all plans, data and other supporting material, shall be available for public inspection at the platting division.

(E) The platting board may, at its discretion, direct that additional notice of the public hearing be given. However, the failure to give **addition** **[ADDITIONAL]** notice shall not affect the validity of any proceeding under this title.

(F) The failure of any person to receive any notice required under this section, where the records of the

borough indicate the notice was provided in a timely and proper manner, shall not affect the validity of any proceeding under this title.

(G) Notice of vacation of a public dedication which is not a section line easement which has been approved and recommended by the platting board shall be sent to the public body having the jurisdiction to approve or veto the vacation. The public body shall make their finding within 30 calendar days to approve or veto the platting board action or the action of the platting board shall automatically be approved.

CHAPTER HEADINGS FOR 16.15: PLAT APPROVAL, ABBREVIATED PLAT SUBDIVISIONS AND VACATION WERE DELETED

16.15.005 GENERAL ADMINISTRATION

(A) The platting board shall act upon an application for preliminary plat approval, vacation, public use easements and variances of platting regulations 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 plat approval, waivers, minor plat amendments to combine 2-4 lots into one lot, 40 acre exemptions and right-of-way acquisition plats.

(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 a platting actions on final plats and platting actions delegated as by this title.

(C) Leaseholds located within the Wasilla Municipal Airport and Palmer Municipal Airport are exempt from the requirement to plat except for habitable structures such

as hotels, motels, crew quarters, or other similar overnight accommodations provided that:

(1) The cities of Wasilla and Palmer provide airport lease and survey documents to the Matanuska-Susitna Borough assessor within 30 days of execution.

(2) The cities of Wasilla and Palmer restrict the uses within the airport boundaries to approved uses specified in their grant assurances with the Federal Aviation Administration (FAA) and their FAA approved Airport Master Plan which generally include:

(a) Aviation uses where aviation use means any business, service, or other function that directly involves, or is necessary for, the normal operation of aircraft that use an airport. Aviation use includes the following:

(i) aircraft loading, unloading, tie-down, parking, storage, sales, service, rental, maintenance, or repair;

(ii) sale or storage of aviation fuel and aviation petroleum products;

(iii) pilot flight training;

(iv) air charter or air taxi service;

(v) airport terminal building;

- (vi) air carrier operations;
- (vii) aircraft ground handling;
- (viii) aircraft parts sales, aircraft equipment sales, repairs, reconditioning, or service;
- (ix) air traffic control tower, air navigation aid, aviation weather instrumentation, airport maintenance and operations facilities, and public safety facilities;
- (x) support facilities related to forest fire fighting, air logistics, and air tanker operations; and
- (xi) other aviation related uses allowed by the FAA or specified within an FAA approved Airport Master Plan.

(b) Allow accessory uses where accessory use means any business, service, or other function located and carried out on an airport for the convenience of the air traveling public, aviation businesses on the airport, or the employees necessary to the maintenance and operation of an airport. Accessory use includes the following:

- (i) air freight warehousing, air freight, air freight handling, and air freight

forwarding;

(ii) ground transportation services not operated by the government, such as a taxicab service, an airport limousine or shuttle service, a rental car agency, or a vehicle parking business;

(iii) in-flight catering;

(iv) in-terminal food service operations or restaurants;

(v) habitable structures such as a hotel, motel, crew quarters, or other similar overnight accommodations are permissible but remain subject to borough platting requirements;

(vi) in-terminal concessions; and

(vii) public safety facilities.

(c) The following activities are prohibited:

(i) establishment or maintenance of any kind of residential use, housing facilities, or living quarters on the premises, except **[FOR ACCOMODATIONS FOR THE CUSTOMERS AND]** employees of a hotel or motel authorized under the lease and temporary overnight accommodations for a member of an air carrier crew; security guard, caretakers or an on-call member of

an air ambulance or air rescue crew;

(ii) outside storage on the premises of salvage aircraft or vehicle parts, non-operational support equipment or unused or damaged equipment or material; if not visually screened from adjacent properties; and

(iii) outside storage on the premises of junk, trash, solid waste, or debris.

(D) Commercial Leases of ten years or greater are exempt from this title.

16.15.010 PREAPPLICATION CONFERENCE

(A) Before submitting an application for preliminary plat approval, waiver, public use easement or vacation or variance, a subdivider shall attend a conference with the platting and public work's staff. The purposes of the conference are to inform the staff of the subdivider's development plans, and to inform the subdivider of the borough's development policies, public improvements, and platting procedures and requirements. The platting officer may waive a preapplication conference if the platting officer finds that it is not necessary to accomplish these purposes.

(B) At least seven calendar days before the

preapplication conference, the subdivider shall submit to the platting staff five copies of the proposed preliminary plat, plus additional copies as the staff finds necessary to allow review by other agencies.

(C) At the conference, the platting and public work's staff shall review with the subdivider the borough's development policies, and platting procedures and requirements, as they pertain to the proposed application, and recommend modifications to conform the proposed application to those policies, procedures and requirements.

(D) The preapplication conference is not intended to be a thorough review, rather to provide the petitioner with the process and steps required to complete their proposed platting action. Staff shall not expend Borough resources on site visits, take site photos or perform extensive departmental and agency reviews for this process.

(E) No proceeding under this section binds the platting board or the platting officer in their review of any plat, or relieves a subdivider of the responsibility of independently becoming familiar with the procedures and standards for approval of an application under this

title.

16.15.012 FORTY-ACRE EXEMPTION

(A) *Purpose clause.* The purpose of this section is to allow the land owner to divide large parcels of land by document in an **expedited** [EXPEDITIOUS] manner.

(B) *Exemptions.* The planning director 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:

(b) a metes and bounds description, provided the description is under the seal of a land surveyor

(4) the document does not alter an existing plat of record;

(5) the document contains signatures of consent from all parties holding a legal or equitable interest in the property;

(6) no more than four parcels shall be created from the parent parcel;

(7) The applicant demonstrates that legal access as defined by MSB 16.20.120 exists to all parcels or tracts created and is suitable for future 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;
- (iv) other available data.

(b) The platting officer shall review within 10 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) Excepting for areas outside a Road Service Area and beyond the limits of the Core

Comprehensive Planning Area, access to the parcels may
from a trail or a constructible trail.

(d) The Borough shall not require the
petitioner to provide a designed road or trail to meet
the requirements of this subsection. [IF THE EXISTING
INFORMATION WITHIN MATANUSKA-SUSITNA BOROUGH RECORDS IS
INSUFFICIENT TO DETERMINE SUITABILITY FOR FUTURE ROAD
CONSTRUCTION THE ADDITIONAL INFORMATION AS REQUIRED IN
SUBSECTION (7)(a)(i) THROUGH (iv) SHALL BE PROVIDED AS
DETERMINED BY THE PLATTING OFFICER AT THE APPLICANT'S
EXPENSE.]

(e) The decision of the platting officer
in this matter is final unless appealed to the platting
board in writing within 15 days.

(f) The applicant may appeal the decision
of the platting board to the Board of Adjustment and
Appeals in accordance with Title 15.

(C) *Exemption document.* The document exempting a
parcel from the provisions of this title shall be
reviewed by the platting officer. [PLANNING DIRECTOR.
THE PLANNING DIRECTOR'S APPROVAL OR DENIAL OF THE
EXEMPTION SHALL BE ISSUED WITHIN 10 DAYS]. The planning
director's shall approve the exemption if the exemption

meets the conditions of this subsection and shall be issued within 10 days. Upon approval of the document, the planning director shall execute the approved document and it shall be affixed with the platting board seal. It is the responsibility of the applicant to pay all appropriate fees and record the document.

(1) The approved parcels shall be surveyed, monumented and a record of survey prepared and recorded no later than 60 days after approval and recording of the Exemption Document. Proof of recording of the Record of Survey shall be provided to the Platting Officer.

(a) The intent of this provision is to allow prompt approval of a 40 acre exemption, yet protect the public interest by having boundaries marked and surveyed.

(D) *Certificate to plat.* A certificate to plat shall be required, consistent with the requirements of MSB 16.15.053(F).

16.15.015 PRELIMINARY PLAT

(A) 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;
 - (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;

(16) designation of proposed public area;

(17) 100-year floodplain, when available; and

[(18) OTHER ITEMS AS REQUIRED BY MSB TITLE 16 AND TECHNICAL MANUALS INCORPORATED BY REFERENCE.]

(B) Within 10 business days of submittal, the application shall be accepted or rejected for failure to meet the requirements of subsections (A) of this section. The rejection shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be accepted.

(C) *Preliminary plat approval; effect and duration.*

The effect of the approval of the preliminary plat is as follows:

(1) The approval of a preliminary plat does not constitute approval of the subdivision or the

acceptance of any dedication within the subdivision, but only authorizes the applicant to prepare the final plat. Application for approval of a final plat, including any final plat submitted under a phased development master plan, may be submitted only after approval of the preliminary plat, and only while the approval of the preliminary plat remains effective.

(2) Approval of a preliminary plat expires **72** **[24]** months after the date of the written notice of platting board action, unless the platting board or the platting officer first extends its duration at the request of the applicant. The platting officer may grant **two** extensions, not to exceed one year each. Only the platting board has authority to grant additional extensions. The platting board or platting officer may approve an extension only if it finds that the conditions supporting approval of the preliminary plat have not **material** **[MATERIALLY]** changed. The 24-month period shall begin on the date of the written notice of the platting board action. An appeal from the decision of the platting authority regarding preliminary plat approval shall be made within 15 days of the written notice. The 24-month period shall be extended until the appeal is resolved. A

subdivider may proceed upon an expired preliminary plat only with a new application. **Staff review time of the submitted final plat shall be deducted from the 24 months.**

(3) When a subdivider intends to develop a subdivision in phases, approval of the preliminary plat shall be conditioned upon the subdivider's compliance with a phased development master plan prepared by the subdivider and approved by the platting board. Approval of a master plan for phased development expires **72** **[36]** months after the date of the written notice of platting board action unless an extension is approved by the platting board or platting officer in the same manner extensions of preliminary plats are approved under paragraph (B)(2). **The total of all extensions shall not exceed more than 120 months from the original written approval.** An appeal from the decision of the platting board regarding master plan approval shall be taken within 15 days of the written notification. Filing an appeal shall extend the **72-month** **[36-MONTH]** period until the appeal is resolved. A subdivider may proceed with an expired master plan for phased development only with a new application.

(a) Providing that master plans for phased development approved under provisions of the former Title 16 shall be granted an extension if requested by the petitioner, an additional 2 year administrative extension, in addition to a previously granted one year extension.

(D) An applicant may seek modification of a preliminary plat or phased development master plan prior to expiration of the plan or plan approval or prior to the expiration of an extension granted pursuant to MSB 16.10.060(B). The applicant seeking modification shall pay a public hearing fee and meet the requirements of MSB 16.10.0650. There shall be no petitions to modify vacations approved by the assembly unless the petition to modify involves an area of land not affected by the approved vacation.

16.15.021 PUBLIC USE EASEMENT ACCEPTANCE PROCEDURE

(A) Prior to acceptance by the borough and recordation, the applicant 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.

(B) The legal description shall be reviewed for accuracy and completeness. If discrepancies are found, the applicant shall be notified of the discrepancies and shall resubmit the application for approval.

(C) The applicant shall prove to the reasonable satisfaction of the public works director that the public use easement is in a practical location where construction is feasible. **A petitioner shall not be required to submit road designs.**

(D) If road construction is proposed, the applicant shall demonstrate to the public works director that the physical road is located 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) Upon compliance with subsections (A) through (D), 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 sub-surface estate interests in the land being dedicated.

(F) It is the responsibility of the applicant to pay all applicable fees.

16.15.022 WAIVERS

(A) Those portions of this title specifically addressing the preparation, submission for approval and recording of a plat shall not apply to waiver subdivisions for which the preparation, submission for approval and recording of a plat has been **waivered**, **[WAIVED]** upon proof that:

(1) the applicant for approval of the plat waiver proves to the reasonable satisfaction of the public works director that the road utilized for access meets the following minimum requirements, unless the state or local government has accepted responsibility for construction and maintenance:

(a) the road complies with standards for public improvements relating to **[PIONEER ACCESS ROADS]**
residential access roads, excepting for areas outside a
Road Service Area and beyond the limits of the Core
Comprehensive Planning Area, access to the parcels may

from pioneer standard road.

(b) the roadway, including any slopes, cuts and fills actually used for access, is located entirely within the easement or right-of-way dedicated to the public or over other legal access, as defined in the Matanuska-Susitna Borough subdivision construction manual;

(c) If a waiver is proposed along an existing maintained Borough Road, the petitioner shall not be required to upgrade said road;

(2) each lot or tract created is five acres in size or large [LARGER] and the subdivision will create no more than four parcels;

(3) no dedication of public right-of-way, easement or public area is required;

(4) proof has been submitted demonstrating that reasonable utility easements are provided;

(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; Metes and

[THE PARCELS CREATED SHALL NOT BE MORE THAN 2,640 FEET FROM A GENERAL LAND OFFICE MARKER, RECORDED PRIVATE SURVEY MONUMENT, STATE OF ALASKA SURVEY MARKER, OR OTHER PUBLICLY RECORDED SURVEY MARKER, AND SHALL BE REFERENCED TO THAT MARKER. IF A MARKER DOES NOT EXIST, IT SHALL BE ESTABLISHED BY A SURVEYOR PRIOR TO THE RECORDING OF THE WAIVER. METES AND BOUNDS DESCRIPTIONS SHALL BE CERTIFIED BY A REGISTERED LAND SURVEYOR.]

(6) each lot or tract shall have legal and physical access to a public highway or street.

(7) All parcel legal descriptions shall be prepared and certified by a registered land surveyor;

(B) All waiver requests shall be made to the platting officer and shall be accompanied by:

(1) one completed waiver application form with tax official certification and notarized signature of the owner, and notarized signature of the mortgagee, if applicable;

(2) a neat, legible drawing on a sheet of 8½-inch by 11-inch paper, or even increment of paper, showing location of markers, recorded easements,

improvements, parent parcel boundaries, severed parcel boundaries, arrow indicating north, section, township and range;

(3) a review and reservation, if applicable, of utility easements for all public [UTILITIES WITH APPROVING SIGNATURES FROM REPRESENTATIVES OF THOSE UTILITY COMPANIES].

(4) proof of ownership, which shall contain the property description, and proof of recorded utility easements. The proof of ownership shall be a certificate to plat or an affidavit in the following form:

"AFFIDAVIT OF OWNERSHIP"

State of Alaska)
) ss.
Third Judicial District)

_____, being duly sworn,
deposes and says:_____ (is,are) the legal
owner(s), mortgagees or contact purchaser
of that real property described as follows:

FURTHER, to the best of my(our) knowledge,
There are no restrictions, reservations or
Easements upon the property which would be
Inconsistent with the requesting and granting
of this waiver, which we not request.

Mortgagee or Contract Seller

Owner or Contract Purchaser

Mortgagee or Contract Seller

Owner or Contract Purchaser

**(5) All waiver subdivision requests shall be
submitted to the platting officer for approval. Within 10
business days of submittal, the application shall be
accepted, or rejected for failure to meet the requirements
of the afore subsections.**

16.15.025 ABBREVIATED PLATS

(A) The platting officer shall review and act upon
all preliminary plats that shall only move or eliminate
lot lines, or subdivide a single tract, parcel or lot
into no more than four tracts or lots, and that shall

not:

(1) deny legal and physical access to and from all lots or tracts created by, or adjacent to, the subdivision, or require construction of improvements necessary for access, other than the improvement of an existing, publicly-dedicated right-of-way to current standards;

(2) alter a dedicated street or right-of-way, or require any dedication[;]

(3) require a vacation of a public dedication;

(4) require a variance from a subdivision regulation.

(B) In acting on an application under this section, the platting officer shall use the standards and procedures used by the platting board in acting on applications under MSB 16.10.060. The platting officer shall approve or disapprove the plat within 30 calendar days of the submission of the application.

(C) Appeals from decisions made pursuant to this section shall be made to the platting board.

**16.15.032 ELIMINATION OR MODIFICATION OF UTILITY,
DRAINAGE, SANITATION, AND SCREENING EASEMENTS**

(A) The platting officer shall review and act upon

all applications requesting elimination or modification of platted utility, drainage, sanitation, 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 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;

(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 application; 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 shall use the standards and the procedures used by the platting board in acting on applications under MSB 16.10.060. The platting officer shall approve or disapprove the application within 30 calendar days of the acceptance of the application.

(C) The decision of the platting officer in this matter is final unless appealed to the platting board [IN WRITING] within 15 days.

(D) Proposed vacation will be presented to the borough assembly within 30 days of the date of the written decision by the platting officer.

(E) The applicant may appeal the decision of the platting board to the board of adjustment and appeals in accordance with MSB Title 15.

16.15.035 VACATIONS

(A) All applicants [APPLICATIONS] and actions for vacations shall conform to A.S. 29.40.120 through A.S. 29.40.160.

(B) A dedication to public use of land or interests in land may be vacated if the dedication is no longer necessary for present or future public use. The assembly

shall review applications for vacations as follows:

(1) The assembly shall ordinarily approve vacations of public rights-of-way if:

(a) the vacation is conditioned upon the final approval of a plat affecting the same land which provides equal or better access to all areas affected by the vacation;

(b) the surrounding area is fully developed and all planned or needed rights-of-way and utilities are constructed;

(c) the right-of-way is not being used, a road is impossible or impractical to construct, and alternative access has been provided.

(2) The assembly 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 the owner provides alternate and equal access.

(3) In other cases, the assembly 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.

(4) The assembly 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, **[IF THE ASSEMBLY FINDS AN OBJECTION TO BE VALID, THE VACATION WILL BE VETOED UNLESS THE OBJECTION IS FIRST SATISFACTORILY RESOLVED.]** excepting if the beneficiary of an easement refuses to authorize a vacation, the Assembly 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;

(c) findings of facts support granting
the vacation.

(C) Title to a vacated area shall be determined as follows:

(1) Title attaches to the lot or lands bordering on the vacated area in proportionate amounts, except that if the area originally was dedicated by different persons, original boundary lines shall be adhered to so that the area which lies on one side of the boundary line shall attach to the abutting property on that side, and the area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. However, if a public square is vacated, the title to it vests in the city, if it lies within a city, or in the borough if it lies within the borough area outside cities, and if the property vacated is a lot or tract, title vests in the rightful owner.

(2) If the borough or city acquired the vacated area for legal consideration or by express

dedication to and acceptance by the borough or city other than as a prerequisite to plat approval, the fair market appraised value of the vacated area shall be deposited with the planning commission before the final act of vacation, to be paid over to the borough or city upon final vacation.

(3) Other provisions of this subsection notwithstanding, the assembly may determine all or a portion of a vacated area should be dedicated to another public purpose, and if so, title to the area vacated and held for another public purpose remains in the borough or city, as applicable.

(D) A decision to grant a vacation is not effective unless approved by the city council if the vacated area is a street or public land of a city, or by the assembly in other cases. The platting board shall immediately give notice to the council or assembly of a vacation which is approved. The council or assembly shall have 30 calendar days from the date of the notice to either consent to the vacation [OR VETO IT. A VOTE TO APPROVE THE VACATION] which fails shall constitute a veto. Notice of veto of the vacation shall be immediately given to the platting board. Failure to act on the vacation

within 30 calendar days shall be considered to be consent to the vacation.

16.15.040 SECTION LINE EASEMENT VACATIONS

(A) An application for vacation of a section line easement shall contain:

(1) documentation establishing the existence of a valid section line easement within the area to be vacated, and stating the width of that section line easement;

(2) legal description of the section line easement proposed for vacation;

(3) reason for vacation request;

(4) plat copies, as needed, of a section line vacation plat, drawn to the requirements of the state of Alaska depicting the area to be vacated.

16.15.045 PLAT APPROVAL

(A) An application for plat approval shall be submitted with plat copies as needed, with the following data and appropriate fees:

(1) topographic 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 one inch equals 200 feet or 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) contour intervals of five feet if the ground slope is less than 10 percent, and 10 feet if the ground slope is less than 10 percent , and 10 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 **floor** [FLOOD] hazard areas and **know** [KNOWN] wetland areas;

(e) the location of existing facilities and structures within the proposed subdivision, such as roadways, buildings, sewage systems, wells, utility poles and lines, excavations, bridges and culverts;

(2) the subdivider shall submit supporting written information including all soils and engineering data as required by this title. Applications proposing community water supply systems or sewage disposal systems

or both shall include engineering plans, data and record drawings. State of Alaska Department of Environmental Conservation review and approval is required for community water supply systems and community sewage disposal systems;

(3) all permits and approvals required from federal, state or borough regulatory agencies applicable to the property.

(B) The application shall be accepted or rejected for failure to meet the requirements of subsection (A) The rejection shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be immediately accepted.

(C) The statutory 60 calendar day period for approval or non-approval begins on the date the application is accepted for approval.

(D) Any hearing for approval shall occur within 45 calendar days of the date the application is accepted.

(E) Public hearings for vacation, replats and abbreviated plats may occur at the same time as the approval hearing.

(F) The applicant may acquire any required "other agency" review.

(G) The platting board's action on an approved preliminary plat shall be noted on the final plat, with a reference to the date by which that action was taken.

16.15.049 FINAL PLAT; GENERAL PROVISION

(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** [REPORTED], 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 30 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 final plat within 15 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, 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.

(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 that would be 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 SUBDIVISION.]

(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 with 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: lot configuration, lot size, addition or deletion of easements, minor road alignment changes, location of final easements, addition deletion or revision of plat notes where approved plat conditions cannot be met or other regulatory agency permits or authorization have not been granted or conditions have been resolved, resolution of service area boundary conflicts, or to resolve issues or improve the subdivision design and function.

16.15.051 FINAL PLAT; SUBMITTED

(A) The final plat shall be prepared in conformance with this section and the preliminary plat as approved.

(B) The subdivider shall submit the original of the final plat, which shall be reproducible, drawn to scale, on mylar or equivalent, and be of good drafting in ink, with lettering by template instrument or equivalent.

(C) The sheet sizes shall be 18 inches by 24 inches, 24 inches by **35** **[36]** inches, or 31½ inches by 34 inches.

(D) If more than one sheet is necessary to accurately portray the lands subdivided, an index map shall be provided on the first sheet showing the entire subdivision and indicating the portion contained on each sheet. Each sheet shall show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines to show where other sheets adjoin. When more than one sheet is submitted, all sheets shall be the same size.

(E) A readable scale of one inch equals 50 feet, 100 feet, or increments of 100, shall be used. In all cases, the scale used shall be clearly stated.

(F) The name of the subdivision shall be shown in

bold letters in the title block of each sheet included.

(G) A prominent north arrow shall be drawn on every sheet. The basis of bearing shall be clearly stated. No magnetic bearings shall be allowed.

(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.

(I) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, and other areas shown on the plat, as well as the other boundaries of the lands subdivided.

(J) All distances shall be shown in feet and to the nearest one-hundredth foot, and in accordance with the definition of a United States survey foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane.

(K) The course of every boundary line shown on the plat shall be indicated by a direct bearing reference. All bearings shown shall be given to the nearest degree, minute and second of arc.

(L) Curve data shall be stated in terms of radius, central angle, tangent, length of curve, and cord 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 including in its boundary. In all cases, the curve data shall be shown for the line affected, and the information shall be tabulated with proper reference.

(M) The true boundary shall be clearly indicated on the plat.

(N) All interior excepted parcels shall be clearly indicated and labeled "not a part of this plat."

(O) All adjoining properties shall be identified, and where the adjoining properties are a part of a recorded subdivision, the name of that subdivision and the plat number shall be shown. **If the subdivision and the plat number shall be shown.** If the subdivision platted is a resubdivision of a part or **[THE]** whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. The fact it is a resubdivision shall be stated as a subtitle following the

name of the subdivision wherever it appears on the plat.

(P) The plat shall clearly show the location, dimension, and uses of all easements.

(Q) No strip of land shall be reserved by the subdivider unless the strip of land is of sufficient size and shape to be of some practical use or service, as determined by the platting officer.

(R) All blocks shall be numbered in consecutive order. All lots within each block shall be numbered in consecutive order. All streets shall be named, numbered, or lettered in a manner acceptable to the platting officer and in compliance with MSB 11.20.

(S) The purpose of all area dedicated to the public shall be clearly indicated or stated on the plat.

(T) A vicinity map is required which shall include the following:

(1) 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);

(2) townships, ranges, and sections;

(3) principal road systems, major water bodies

and water courses, and location of subdivision.

(U) Two blue lines shall be submitted for final review.

16.15.052 FINAL PLAT; PLAT NOTE

(A) *Written notes.* Written notes may not ordinarily appear on any subdivision plat except as explicitly provided in this title or as reasonably necessary to accomplish the purposes of this title. Notes relating to land use may not appear unless otherwise required by law. Notes relating to land use which appear on any plat shall be effective only to the extent that the notes do not conflict with land use regulations adopted by the borough.

(B) *Flood hazard area identification.* All lots, blocks, tracts or parcels affected by the flood plain regulations adopted by the borough shall be noted on the face of the plat. The notification shall be a written statement, stating the affected lots, blocks, and tracts by description and the reports and date of the reports and date of the report used to make the determination of the flood plain. A flood hazard area, if identified, shall be labeled "Flood Hazard Area" in one-inch high letters. The base flood elevation and flood plain shall

be shown pursuant to MSB 17.29

(C) *Water supply and sewage disposal note.* No individual water supply system or sewage disposal system shall be permitted on any lot unless the system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the state of Alaska, Department of Environmental Conservation, which governs those systems.

(D) *Other federal, state or local requirements.* There may be federal, state and local requirements governing land use. The individual parcel owner shall obtain a determination whether these requirements apply to the development of parcels shown on the plat to be recorded.

(E) *Restrictive covenants.* All reservations or restrictive covenants shall be referenced by the book, page and recording district on the plat in the following form:

"Restrictive covenants were recorded in the _____ Recording district on _____, 19____, in book _____, page _____. Where any restriction or grant of easement required by the Governing body is shown on the plat, the right to enforce the restriction of easement shall vest in the borough."

16.15.053 FINAL PLAT; CERTIFICATES

(A) *Certificates of ownership.* Each plat of a subdivision filed for record shall contain a certificate of ownership. The certificate shall be signed in black ink and acknowledged by all parties having any legal and equitable interest in the lands subdivided before an officer duly authorized to take acknowledgements of deeds, in the same manner in which deeds are required to be acknowledged. If the title interest is vested in a corporation, it shall also be signed and acknowledged by the designee of the corporation with the authority of its board of directors. Where any person holding any mortgage, lien or other legal or equitable interest in the lands has not signed the certificate of ownership, the affidavit or title opinion shall be accompanied by the written consent, properly signed and acknowledged, of the person to the approval of the plat. This subsection does not require the signatures of holders of subsurface estate interests in the land being subdivided or dedicated. The ownership and dedication certificate shall be substantially as follows:

"(I)(We) certify that (I am)we are) the
owner(s) of the property shown and
described in this plan and that (I)(We)

adopt this plan of subdivision by
(my)(our) free consent(,)(.) (dedicate)
(all rights-of-way)(and public area)(to
the Matanuska-Susitna Borough)(to the
city of _____) and (grant all easements
to the use shown). (delete inapplicable
phrases)

Owner's name and address

Date"

(B) *Notary's Acknowledgments.* A notary
acknowledgment shall be substantially as follows:

NOTARY'S ACKNOWLEDGMENT

This is to certify that on the _____ day of
_____, 20 [19]____, before me, the
undersigned, a Notary Public in and for the
state of Alaska, duly commissioned and sworn,
personally appeared _____,
to me known to be the persons described in
and who executed the above instrument; and
who acknowledged to me that they signed the
same freely and voluntarily for the uses and

purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

Notary for the state of Alaska

My commission expires: _____"

Or:

"NOTARY ACKNOWLEDGEMENT

Subscribed and sworn to before me this _____ day of _____,

20 **[19]** ____, for _____.

Notary for the state of Alaska

My commission expires: _____"

(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 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)"

(D) *Planning and land use director's certificate.* A certificate of approval for signature by the planning and land use director shall be substantially in a form as follows:

"I certify that this subdivision plan has been found to comply with the land

subdivision regulations of the Matanuska-Susitna Borough, and that the plat [HAS BEEN APPROVED BY THE PLATTING AUTHORITY BY PLAT] resolution number _____, dated _____ 20 [19]__, and that this plat has been approved for recording in the office of the recorder in the _____ [RECORDING] district in which the plat is located.

_____,
20 [19] ____

Planning and Land Use Director

ATTEST:

Platting Clerk"

(E) *Certificate of approval.* A certificate of approval from the state of Alaska Department of Environmental Conservation shall be in a form required by current department of environment conservation regulations.

(F) *Certificate to plat.* Every final plat of a subdivision submitted for recording shall be accompanied

by a certificate to plat, executed no more than 90 calendar 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.

(G) *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 paid in full. In the case of real property taxes, if approval is sought between January 1 and the tax due date, the certificate shall state there is on deposit with the borough an amount sufficient to pay estimated real property taxes for the current year at the time of filing. The certificate shall be as follows:

"CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that all current taxes and special assessments, through _____, 20 [19]____, against the property, included in the

subdivision or resubdivision, hereon have been paid.

_____, **20**
[19]

Tax Collection Official (Borough)

I hereby certify that all current taxes and special assessments through _____, **20** **[19]**, against the property, included in the subdivision or resubdivision, hereon have been paid.

Tax Collection Official (City)"

16.15.054 FINAL PLAT; SURVEYOR REQUIREMENTS

(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.

(B) *Monuments of record; permanent control monuments.* Prior to offering any subdivision lot for record, 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.

[THESE PERMANENT CONTROL MONUMENTS SHALL BE ON THE SAME BOUNDARY LINE 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.

(C) *Other markers.* Additional markers for lot corners may be galvanized iron pipe of no less than one-half inch inside diameter, 24 inches in length, or 5/8

inch by 24 inch steel reinforcing rod with self-identifying markers that clearly identify marker location, year of setting, and the land surveyor's state of Alaska registration number.

(D) *Cadastral survey.* When, in the course of conducting the cadastral survey necessary for plat approval, the surveyor encounters a global positioning satellite monument or a monumented photo-geodesy eccentric to a cadastral monument, the surveyor shall survey tie the monuments to the cadastral monumentation encountered. Identification of the monuments to be survey tied shall be made by the assessment department, graphics division.

(E) *Monuments and markers set after recording of plat.* All monuments or markers, other than the permanent control monuments required in subsection (A), 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.

(F) *Additional markers required.* Required

additional markers shall be of types prescribed in subsection (C), and, whether set prior to or subsequent to the recording of the plat, shall be set at all of the following locations:

(1) at every corner and angle point of every lot, block or parcel of land created;

(2) at every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way; and

(3) at every point of curve, point of tangency, point of reversed curve, or point of compounded curve on each and every right-of-way line established.

(G) *Destruction of survey monuments.* Any person who wilfully disturbs or destroys a record survey monument shall be responsible for its replacement or be guilty of **an infraction** [A MISDEMEANOR] punishable by a fine of \$250 for each occurrence.

(H) *Exemption.* A subdivision plat, the sole purpose of which is to eliminate lot lines between lots under common ownership, shall be exempt from the survey and monumentation requirements of this section. **The platting officer shall review and adjudicate a lot line**

elimination plats administratively.

**16.15.055 FINAL PLAT; DEDICATIONS, IMPROVEMENTS,
RECORDING**

(A) Offers to dedicate rights-of-ways, roadways, easements or other public areas to the public on a final plat are accepted automatically by the borough upon approval and recordation of the final plat by the borough in compliance with subsection (D) [.] [U] unless otherwise provided, by accepting an offered dedication, the borough assumes no obligation to establish, operate or maintain any public service, improvement or facilities in the area dedicated.

(B) Except for plats within the city of Wasilla, 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 final acceptance of all the public improvements required in the subdivision;

(2) the subdivider has entered into a subdivision agreement under MSB 16.55. The execution of a guarantee under MSB 16.55 does not change, waive or extend the period of time during which the preliminary plat approval is effective.

(C) Within the city of Wasilla, no plat may be given final approval by the platting officer until the city has certified to the platting office that all requirements of MSB 17.45 have been satisfied, and that guarantees satisfactory to the city have been provided for all improvements required as a condition of approval of the subdivision plat.

(D) Upon the subdivider's compliance with subsection (B) and (C), and also the acceptance of the dedications offered on the approved final plat, the platting officer shall submit the plat to the district recorder upon approval of the planning and land use director in accordance with A.S. 40.15. The cost of the recording shall be borne by the subdivider.

16.15.065 WAIVER OF STANDARDS FOR RESUBDIVISION OF SUBSTANDARD LOTS

(A) The standards applicable to the subdivision of land may be waived by the platting officer for the resubdivision of substandard lots if the following conditions are met:

(1) one or more lots involved in the resubdivision are substandard lots, as defined in subsection (B);

(2) because of separate ownerships, unavailability of sufficient additional land and similar reasons, it is not reasonable to require the replat of the lot in a manner that will bring the lot into conformance with all the requirements application to the replat;

(3) one or more of the conditions that make the lot substandard under the present code would be reduced or eliminated under the proposed replat;

(4) the number of substandard lots after the replat may not be more than before the replat; except , if one or more conforming lots would be made non-conforming under the proposed replat, the platting officer may waive the requirement of this paragraph if:

(a) the number of conforming lots that shall be made nonconforming is the minimum that could be reasonably included to minimize or eliminate the existing nonconformity;

(b) the new nonconforming conditions do not create a significant violation of the purposes and policies behind the standard violated.

(5) overall, the benefits to the public from the reduction or elimination of the prohibited conditions

would outweigh the disadvantages of any increase in the number or extent of prohibited conditions. The creation of a new condition that violated the applicable provision of borough code, or expansion of an existing condition, is strongly discouraged and shall be permitted only for compelling reasons.

(B) For the purpose of this section, a "substandard lot" is a lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one or more of the applicable standards of MSB title 16 or MSB title 17.

16.15.070 RIGHT-OF-WAY ACQUISITION PLATS

(A) *Alternate procedure.* A plat for a sub-division created by a government agency's acquisition of a road, street, railroad, or highway right-of-way or airport parcel is not subject to any other approval procedure for plats under this chapter.

(B) *Submission requirements.* A government right-of-way acquisition plat submitted under this section shall contain the following information:

(1) the location, name and number of the project for which the acquisition is required;

(2) the proposed timetable for acquisition and construction;

(3) the dimensions and area of the parcels to be acquired and of each remainder parcel;

(4) the names of the property owners identified by parcel.

(C) *Right-of-way acquisition plat.* A right-of-way acquisition plat shall conform to the submission requirements of subsection (B) and to the other provisions of this title provided that:

(1) A right-of-way acquisition plat is not subject to any of the other submission requirements for plats under this title.

(2) A right-of-way acquisition is not subject to the subdivision construction manual.

(3) Survey requirements of this title are not applicable to a right-of-way acquisition plat unless otherwise provided by written agreement between the platting officer and the government agency applying for the plat; provided, the platting officer shall require remonumentation or reference monumentation of subdivision

control monuments, aliquot part section corner monuments and government survey control monuments that will be disturbed, destroyed or lost as a result of the proposed project. The centerline will also be monumented, and all affected subdivision control and lot corners will be referenced to the centerline monuments, making it possible to reestablish any subdivision corners within the construction limits.

(D) *Action.* Actions necessary prior to approval of a final plat include:

(1) The platting officer and the appropriate government agency shall review the right-of-way acquisition plat for completeness. If the proposed plat does not meet the requirements of this section, it shall be returned to the submitting agency with an explanation of the deficiencies.

(2) The platting officer shall make the decisions required by this section unless otherwise specified unless the government agency applying for the plat requests a public hearing before the platting board.

(3) The public notice and hearing requirements applicable to other plats submitted for approval by the platting officer apply to right-of-way acquisition plats

submitted to the platting officer for action. If the submitting agency requests a public hearing before the platting board, or if the agency appeals the platting officer decision under paragraph (D)(6), the public notice and hearing requirements applicable to other plats submitted to the platting board shall apply.

(4) The preliminary approval of a right-of-way acquisition plat is effective for 24 months, provided the platting board may grant an extension for filing the final plat upon the finding that it is in the public interest to do so.

(5) The platting officer or platting board, as appropriate, may require as a condition of final plat approval any action it finds appropriate under the circumstances of the proposed plat or project, insofar as those actions are consistent with state law including but not limited to, the acquisition of remainder parcels that will not meet the applicable minimum requirements for lot size or dimensions, or the state may, at its option, place a note on the plat identifying the remainder as a nonconforming lot on which damages have been paid. The platting officer or platting board may also require the realignment or reconstruction of any abutting or

intersecting road or street right-of-way, adversely affected by the acquisition or project.

(6) All decisions of the platting officer under this section are final unless appealed to the platting board within 15 days. An appeal under this paragraph is treated as an original subdivision application.

(7) No parcel, other than a parcel of record, may be acquired for right-of-way purposes until a preliminary plat or the parcel has received final approval.

(8) Unless otherwise agreed to in writing by the platting officer, all monumentation, remonumentation, right-of-way alignment and reconstruction and other requirements of the platting officer or of this title shall be met before approval of the final plat unless it is clearly impractical or legally impossible to accomplish prior to final plat approval, [.] [ANY ACTION REQUIRED AS A CONDITION OF FINAL PLAT APPROVAL] but not to be accomplished prior to the approval, shall be completed under the terms and conditions as are set out in writing by the platting officer.

(E) *Application.* Except to the extent otherwise

agreed to in writing by the platting officer, the other provisions of this title other than those specifically excepted under this section shall apply to right-of-way acquisition or airport parcel plats.

16.15.075 VARIANCE; STANDARDS FOR APPROVAL

(A) A variance from the requirements of MSB 16.20 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 conditions upon which the variance application is based do not apply generally to properties for which the variance is sought;

(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 16.20 shall result in undue substantial hardship to the owner of the property.

16.20.020 STANDARDS; GENERAL

(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 subdivisions shall also comply with official construction standards for public improvements under the subdivision construction manual.

16.20.040 DEVELOPMENT STANDARDS DISTRICTS

(A) It is the purpose of this section to provide a means of establishing different development requirements for the subdivision of land in recognition of the diverse conditions in the borough, ranging from highly urbanized to undeveloped, remote areas without conventional road access; to provide a means of establishing different development requirements in identified areas that are tailored more to the needs or **[F]** the areas; and to provide a means in individual cases of reducing certain requirements in remote areas where the requirements are inconsistent with the public need for access, subdivision improvements and other platting requirements.

(B) Cities to which the assembly has delegated by ordinance the authority to administer specific design and construction standards shall administer the standards

pursuant to the delegation.

(C) The assembly, by ordinance, may establish one or more development standards districts in which there are subdivision development standards in addition to, or different from, those specified in this chapter. The ordinance may be adopted only after the planning commission has considered the ordinance and made its recommendation to the assembly, and after a public hearing on the ordinance before the assembly, notice of which shall be given as provided in MSB 16.10.065.

(1) There is established a Point MacKenzie port special land use district which will have development standards as defined in MSB 17.23

(a) The subdivision of land in this port special land use district is subject to MSB 18.10.030.

(2) There is established a Talkeetna special land use district which will have special development standards as defined in MSB 17.25.

(a) The process for consolidation of lots in this special land use district is as set forth in MSB 17.25.047 minor lot consolidation.

[(D) URBAN DEVELOPMENT STANDARDS DISTRICTS SHALL BE ESTABLISHED AND ADMINISTERED AS FOLLOWS:

(1) THE PLANNING COMMISSION MAY ESTABLISH URBAN DEVELOPMENT STANDARDS DISTRICTS WITHIN INCORPORATED CITIES OR WITHIN PART OF A CITY UPON A FINDING BY THE PLANNING COMMISSION THAT:

(a) THE CITY HAS ADOPTED BY ORDINANCE SPECIFIC DESIGN AND CONSTRUCTION STANDARDS THAT ARE AT LEAST AS RESTRICTIVE AS THOSE SET OUT IN THIS CHAPTER;

(b) THE CITY HAS THE FINANCIAL, MANAGERIAL AND TECHNICAL ABILITY TO ADMINISTER AND ENFORCE THOSE STANDARDS.

(2) WITHIN AN URBAN DEVELOPMENT STANDARDS DISTRICT, THE CITY MAY ADMINISTER THE SPECIFIC DESIGN AND CONSTRUCTION STANDARDS APPROVED BY THE PLANNING COMMISSION.

(3) THE PLANNING COMMISSION MAY WITHDRAW APPROVAL OF THE DISTRICT OR OF SPECIFIC STANDARDS IF IT FINDS THAT THE STANDARDS ARE INADEQUATE OR ARE NOT BEING ADEQUATELY ENFORCED BY THE CITY.]

16.20.050 REDUCTION OR WAIVER OF ROAD CONSTRUCTION

(A) The platting board may waive or reduce the requirements for road construction under MSB 16.20.100, 16.20.120, and 16.20.140 for subdivision of land under A.S. 38.09, Homestead Act, and A.S. 38.05.600, Remote

Recreation Cabin Site, provided each lot, tract, or parcel created is a nominal ten acres in size or larger. In the event that the platting board waives or reduces road construction, a note shall be placed on the face of the plat stating that the Matanuska-Susitna Borough is not responsible for road construction or maintenance.

(1) The platting board shall consider the following and make findings regarding the same in its decision to approve, deny, or reduce the requirements of MSB 16.20.100^m 16.20.120, and 16.20.140.

(a) whether the proposed subdivision is within the boundaries of an established road service area;

(b) whether road construction would be practical, feasible, and economical;

(c) whether the proposed subdivision has legal and physical access;

(d) whether the proposed subdivision is accessed by a road listed in the Matanuska-Susitna Borough comprehensive development plan[;] transportation;

(e) whether the proposed subdivision is located within the core area, which is defined as that

area as shown on the official street and highway index map;

(f) whether there are other subdivisions in the area;

(g) whether there is access for the surrounding developed lands;

(h) whether there are any major water bodies or extreme topographic features that make the construction of borough standard roads to this subdivision impossible;

(i) whether there is a proposed method of financing future road construction;

(j) whether there is a trail system that accesses or traverses the subdivision;

(k) whether parking is required or needed;

(l) public comments;

(m) agency comments; and

(n) borough comments.

(B) The platting board may waive or reduce the requirements for road construction under MSB 16.20.100, 16.290.120, and 16.20.140 for subdivision of land provided each lot, tract, or parcel created is a nominal

ten acres in size or larger and the subdivision will create no more than four lots, tracts, or parcels.

(1) The platting board shall consider making findings regarding the criteria specified in subsection (A)(1) of this section in its decision to approve, deny, or reduce the requirements of MSB 16.20.100, 16.20.120, and 16.20.140.

16.20.055 RURAL AND REMOTE ACCESS

(A) The provisions of this subsection provide a different set of access and road construction standards which shall apply to rural areas of the Borough and supersede other provisions of this title for plats and waivers.

(1) Rural Subdivision Access. For those portions of the Borough north of Houston and east of Chickaloon which are not within a road service area and no borough maintenance is or will be provided the following legal and physical access requirements apply:

(a) Legal and Physical Access

(i) Legal access, a minimum width of 50 feet shall be provided to all lots and parcels;

(ii) Physical road access shall be

constructed to a pioneer standard.

(iii) Exception. If in a road service area, a pioneer road may be allowed if a waiver is approved by the platting board.

(2) Remote Subdivision Access. The purpose of this subsection is to allow for recreational use and subdivision of lands off of the road system. Where access to a proposed remote subdivision is more than 1 mile from a State or Borough maintained Road and is accessed via trails, creeks, rivers, or lakes by snowmobile, off-road vehicle, boat or airplane. It is the intent that internal subdivision access ways will be constructible for trail access. The following legal and physical access requirements apply:

(a) Legal access shall be provided for internal roads or trails to all parcels, and internal roads shall be a minimum of 50 feet wide; excepting that for parcels created under the State Remote Parcel Program, legal access widths can vary but not be less than 30 feet wide.

(i) Legal access can be provided for by plat or by a recorded public use easement document.

(b) External Access to a remote subdivision

can be provided by any of the following:

(i) A trail listed in the MSB trails plan;

(ii) A navigable waterway;

(iii) A float plane accessible lake

(c) Private Property Rights. Access routes shall avoid trespassing upon private lands, and avoid conflicts with adjoining and nearby private properties.

(3) Review. In approving trail access, the platting board shall consider whether to adopt conditions of approval including the following: necessity of providing for parking at the trailhead, community comments, trail documentation and mapping and possible trail improvements.

(4) Physical Access

(a) Internal access roads or trails shall be passable and constructible. The subdivider shall clear a minimum 10 foot wide trail within all internal roads prior to recording the plat.

16.20.060 DEDICATION TO PUBLIC

(A) All roads shall be dedicated to the public, except as provided in subsection (D); 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. Dedications shall be sufficient to carry all traffic generated by the subdivision and to provide residential and collector rights-of-way for projected traffic through the subdivision. Dedications shall include any arterial and collector roads identified in the official streets and highway plan.

(D) Private roads may be allowed in subdivisions where there is no possibility or public necessity to provide for public through traffic if the roads meet borough standards, allow emergency access, and private maintenance is guaranteed.

16.20.100 ACCESS REQUIRED

(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) **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 access **[REQUIREMENTS OF SUBSECTION (A). IF OTHER THAN ROAD ACCESS IS]** is approved, the mode of access shall be noted on the plat.

(C) A subdivision plat, which moves or eliminates lot lines of an existing subdivision, but does not increase the number of parcels of land or the projected traffic, shall not require the construction of a physical road if the existing road has been accepted and maintained by the borough or the state.

16.20.120 LEGAL ACCESS

(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 the state highway system or a regularly served public airport and one of the following

is met:

(a) ingress and egress will be provided over section line rights-of-way located within a surveyed section, and the ingress and egress was:

(i) owned by or acquired from the Territory of Alaska at any time between April 5, 1923 and January 18, 1949, or at any time after March 26, 1951; or

(ii) unreserved surveyed public land at any time between April 6, 1923, and January 18, 1949, or at any time after March 21, 1953.

(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 a state of Alaska maintained road; 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

(3) the applicant proves that the proposed access can be constructed practically and economically

within the legal access documented.

16.20.140 PHYSICAL ACCESS

(A) Roads used for access or internal circulation shall:

(1) be located entirely within dedicated or legal rights-of-way;

(2) conform to existing requirements of the subdivision construction manual.

16.20.280 AREA

(A) *Urban districts.* Minimum lot sizes shall be as designated by the authority having jurisdiction, and if an authority is not established, the lots sizes shall be as designated in subsection (B).

(B) *Rural districts.* Minimum lot sizes for rural districts shall be as follows:

(1) Except as allowed under paragraphs (2), (3) and (4) of this subsection, all lots within this district shall contain at least 40,000 square feet of area. At least 10,000 contiguous square feet of each lot shall be usable area and shall have a ground slope of less than 25 percent.

(a) Water table and ability of soils to accept effluent shall be determined by a number of 12-

foot-deep borings or test holes sufficient to indicate subsurface conditions over the entire area of the subdivision. These borings or test holes shall be accomplished under the direct supervision of a state of Alaska registered engineer, who shall submit soil logs and other findings in writing to the Matanuska-Susitna Borough for review and recommendations.

(b) Where lots, tracts or parcels exceed five acres in size or are proposed to be combined, 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.

(c) The platting authority shall waive the submission requirements of MSB 16.15.045(A)(1) and (2) for subdivision of land where:

(i) the subdivision has a minimum lot size of 9.183 acres or 400,000 square feet; 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 **5**to elimination of lot lines, to create fewer lots,

elimination of a setback violation, or moving one or more lot lines a distance of 10 feet or less.

(2) The platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved community water system.

(3) The platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved community sewage disposal system.

(4) The platting authority may approve lots having at least **20,000** [7,200] square feet, provided that each lot having less than 20,000 square feet shall be served by an approved community water systems and community sewage disposal facilities.

(C) Within jurisdictions having authority, minimum lot sizes and dimensions shall be those established under or pursuant to the applicable provision of MSB Title 17; however, where a size or dimension has not been established under or pursuant to MSB Title 17, the applicable provision of MSB Title 16 applies.

(D) If a condemnation by a governmental agency reduces the area of a lot below the minimum required by this section, the area after condemnation shall be the minimum area required for that lot if [THAT LOT MET THE

MINIMUM REQUIREMENTS BEFORE THE] condemnation and the resulting area after the condemnation is no less than 80 percent of the minimum required.

16.20.300 LOT AND BLOCK DESIGN

(A) For rural districts, the length of a block shall be not less than 400 feet, no more than 1,400 feet, or less than 800 feet along collector or arterial roads.

(B) No lot shall have an average depth of more than three times the average width, except:

(1) Lots of 40,000 square feet minimum shall have an average width of at least 125 feet when they exceed the three-to-one ratio due to unusable area or natural ground slope exceeding 25 percent;

(2) Lots of 20,000 square feet minimum shall have an average width at least 85 feet when they exceed the three-to-one ration due to unusable area or natural ground slope exceeding 25 percent grade.

16.20.320 FRONTAGE

(A) Lots shall contain a minimum of 60 feet of frontage, unless located on a cul-de-sac, in which case minimum frontage may be 45 feet.

16.20.340 LOT DIMENSIONS

(A) 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.

16.25.015 EXISTING PLATS VALIDATED

(A) All plats recorded pursuant to any law in force prior to September 5, 1988, and not subsequently vacated are hereby validated, notwithstanding irregularities, and given the same legal status of those plats recorder under this title.

16.25.020 RECORDED PLATS

(A) The recording of any plat made in compliance with this title shall serve to establish the identity of all lands shown on the plat.

16.25.025 SEVERABILITY

(A) If any provisions of this title shall be declared invalid, the invalidity shall not affect any other portion of this title which can be given effect without the invalid provision, and to this end the provisions of this title are declared to be severable.

16.35.003 APPEALS OF PLATTING OFFICER DECISION

(A) Appeals to the platting board shall be filed within ten calendar days of the platting officer's

written decision on abbreviated plats, 40-acre exemptions, waivers, right-of-way acquisition plats, airport acquisition plats, and elimination or modification of utility, drainage, sanitation, and screening easements.

(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 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.

16.35.005 RECONSIDERATION BY PLATTING BOARD

(A) The platting board may reconsider its decision upon petition of any person entitled to appeal the decision under MSB 15.39.120 filed within ten days of the date the written "Notification of platting board action" is issued.

(B) The platting board may reconsider its decision

only if it finds:

(1) there was a clerical error in the decision;

(2) the decision resulted from fraud, misrepresentation or mistake;

(3) there is newly discovered evidence or a change in circumstances which by due diligence could not have been discovered before the original hearing;

(4) the board acted without jurisdiction in the original proceeding; or

(5) there was substantial procedural error in the original proceedings.

(C) The petitioner shall state one or more of the bases for reconsideration listed in MSB 16.35.005 (B)(1) through (5) in the petition for reconsideration and briefly explain why those bases for reconsideration apply to the petition.

(D) The platting board shall review the petition at its next regular meeting and decide whether to reconsider the matter. The decision to reconsider the matter shall be based on the petition and any oral argument of the petitioner, which the board may decide to hear.

(E) If the petition for reconsideration is granted,

the platting board shall set the matter on its agenda for rehearing only after notifying all people giving testimony and all people required to receive notice of the original petition under MSB 16.05. Parties shall have ten days from the date of notice that a reconsideration hearing has been granted to file written comments and inform the platting division of their intent to participate in the hearing.

(F) The reconsideration hearing shall be conducted in the same manner as the original proceeding.

(G) The platting board's decision at the reconsideration hearing shall be final, and no further petitions for reconsideration shall be entertained.

(H) The timely filing of a motion for reconsideration shall suspend the time for filing an appeal until the motion for reconsideration is resolved by the platting board.

(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.

16.35.015 APPEALS

(A) Appeals from decisions of the platting board may be made under the provisions of MSB 15.39.

16.55.010 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.

(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, plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, 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 16.55.030;

(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 16.55.037;

(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 **construed** [CONSTRUCTED] as part of the subdivision agreement;

(11) a provision that all work shall be performed pursuant to Matanuska-Susitna Borough applications 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.

16.55.015 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.

16.55.020 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. Further extensions [MAY BE APPROVED ONLY BY THE PLATTING BOARD. AN EXTENSION] approved under this section does not constitute an extension of the period of time during which the preliminary plat approval is effective.

16.55.025 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.

(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 method of public improvement guarantee provided for in MSB 16.55.030;

(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.

16.55.030 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 methods 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. The guarantee shall remain in effect until final acceptance of the public improvements and 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. Cost estimates for each required public improvement shall be approved by 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 percent
Over \$500,000	10 percent

(C) *Methods of public improvement guarantee.*

The subdivision agreement shall include one or more of the following methods 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). 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 deposit a cash sum equal to the estimated cost of 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) 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) 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.

16.55.035 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 the warranty. 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.

16.55.037 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 16.55.030 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.

<i>Total Construction</i>	<i>Percent to Secure</i>
<i>Cost</i>	<i>Warranty</i>
\$0 to \$500,000	10 percent
\$500,000 to \$1,000,000	7½ percent
\$1,000,000 and higher	5 percent

16.55.040 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 bond, deposit or letter of credit amount forfeited or demand payment of the note.

16.55.050 RELEASE OF WARRANTY

(A) Inspection shall be made by the borough at the end of the warranty period and prior to [O] the release of guarantees. All deficiencies shall be corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies, the borough shall release

security.

16.55.055 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 bonded, 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;

(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 years 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 of the warranty security;

(2) successful completion of the warranty period; or

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

16.55.060 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 as well as an action in contract.

16.55.065 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 subdivisions 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 extent of its coverage of the actions.

Section 4. Effective date. This ordinance shall take effect upon adoption by the Matanuska-Susitna Borough Assembly.

ADOPTED by the Matanuska-Susitna Borough Assembly this ____ day of _____, 2011.

LARRY DEVILBISS, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)