

CODE ORDINANCE

Sponsored by:
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 11-073**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB TITLES 17.02 MANDATORY LAND USE PERMIT AND 17.29.160 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

BE IT ENACTED:

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

Section 2. Amendment of section. MSB 17.02.020 is hereby amended as follows:

17.02.020 Land Use Permit

(A) The land owner or authorized agent shall obtain a land use permit from the Matanuska-Susitna Borough Planning Department prior to the commencement of:

(1) The construction or placement of any building, **which:** [WHOSE GROSS FLOOR AREA IS 480 SQUARE FEET OR GREATER;]

(a) will be sited on a lot of one acre or less;

(b) will be sited within 50 feet of a public right of way or street;

(c) will be sited within 15 feet of a side or rear lot or parcel boundary;

(d) will be sited within a special flood hazard area, under the definitions set forth in MSB 17.29.

[(2) ANY ADDITION EXCEEDING 10 PERCENT OF A BUILDING'S GROSS FLOOR AREA AND THAT RESULTS IN A TOTAL GROSS FLOOR AREA OF 480 SQUARE FEET OR GREATER;

(3) AN INCREASE IN THE NUMBER OF DWELLING UNITS WITHIN THOSE AREAS OF THE BOROUGH WITH LAND USE REGULATIONS ADDRESSING THE NUMBER OF DWELLING UNITS;

(4) A CHANGE IN THE PRINCIPAL USE OF ANY LOT OR BUILDING WITHIN THOSE AREAS OF THE BOROUGH WITH LAND USE REGULATIONS ADDRESSING SUCH USES;

(5) ANY DEVELOPMENT WITHIN A SPECIAL FLOOD HAZARD AREA, UNDER THE DEFINITIONS SET FORTH IN MSB 17.29;

(6) THE CONSTRUCTION OR PLACEMENT OF ANY STRUCTURE WITHIN 75 FEET OF ANY WATERCOURSE OR WATERBODY, UNDER THE DEFINITION SET FORTH IN MSB

17.55.020(D).]

7. Exemption. Structures or additions of 480 square feet or less than shall not be subject to the provisions of (A)(1) of this section.

[(B) PERMITTED CONSTRUCTION ACTIVITIES SHALL COMMENCE WITHIN THREE YEARS FROM THE DATE OF ISSUANCE OF THE PERMIT. THE APPLICANT MAY REQUEST THAT THE PLANNING AND LAND USE DIRECTOR APPROVE UP TO TWO 12-MONTH TIME EXTENSIONS.]

(C) THE PLANNING AND LAND USE DIRECTOR MAY ADMINISTRATIVELY GRANT MINOR MODIFICATIONS TO AN APPROVED PERMIT AS LONG AS THE PROPOSED MODIFICATION COMPLIES WITH ALL CODE STANDARDS. MINOR MODIFICATIONS SHALL CONSIST OF NO MORE THAN A FIVE PERCENT CHANGE IN GROSS FLOOR AREA OR A CHANGE OF LESS THAN 10 LINEAR FEET IN THE PLACEMENT OF A BUILDING. THE APPLICANT SHALL SUBMIT AN UPDATED SITE PLAN AND A NARRATIVE DESCRIPTION OF THE PROPOSED MODIFICATION FOR THE PLANNING DIRECTOR'S REVIEW. NO FEE IS REQUIRED FOR THE SUBMISSION OF A REQUEST FOR A MINOR MODIFICATION TO AN APPROVED PERMIT.]

Section 3. Amendment of section. MSB 17.02.030 and

17.02.040 is hereby amended as follows:

17.02.030 Procedure

(A) A complete land use permit application shall be submitted to the planning and land use director on a form provided by the planning and land use department.

(B) A complete land use permit application will contain the following attachments:

[(1) A VICINITY MAP;

(2) A NONCERTIFIED SITE PLAN FOR ANY OF THE FOLLOWING:

(A) CONSTRUCTION, PLACEMENT, OR ADDITIONS TO A SINGLE-FAMILY DWELLING OR TO A DETACHED BUILDING THAT IS LOCATED ON A PROPERTY WITH A SINGLE-FAMILY DWELLING AS THE PRINCIPLE USE; OR

(B) CONSTRUCTION, PLACEMENT, OR ADDITION TO A COMMERCIAL BUILDING THAT RESULTS IN THE BUILDING'S GROSS FLOOR AREA EQUALING LESS THAN 1,500 SQUARE FEET;

(3) A CERTIFIED SITE PLAN, PREPARED AND SEALED BY AN ARCHITECT, PROFESSIONAL ENGINEER, A LAND SURVEYOR AUTHORIZED TO ENGAGE IN THAT PROFESSION BY THE STATE OF ALASKA, OR A CONTRACTOR WITH A

RESIDENTIAL ENDORSEMENT AS DEFINED IN 12 AAC21.650-670, FOR ANY OF THE FOLLOWING:

(A) CONSTRUCTION OR PLACEMENT OF A DUPLEX; OR

(B) CONSTRUCTION OR PLACEMENT OF A BUILDING FOR MULTIFAMILY, COMMERCIAL, OR INDUSTRIAL USE; OR

(C) CONSTRUCTION OR PLACEMENT OF AN ADDITION TO AN EXISTING BUILDING FOR MULTIFAMILY, COMMERCIAL OR INDUSTRIAL USE; OR

(D) CONSTRUCTION, PLACEMENT, OR ADDITION TO AN ACCESSORY BUILDING WHEN LOCATED ON A MULTIFAMILY, COMMERCIAL, OR INDUSTRIALLY USED PROPERTY; AND

(4) FOR APPLICATIONS PERTAINING TO COMMERCIAL OR INDUSTRIAL USES, ELEVATION DRAWINGS DEPICTING THE REFERENCED DEVELOPMENT.]

(5) Proof that a survey of the subject property by a licensed professional surveyor has been performed and all the property lines have been marked;

or

(6) submission of a certified site plan,

prepared and sealed by an architect, professional engineer, or a land surveyor and that the building(s) or structure(s) will be staked by a licensed professional surveyor prior to construction.

[(C) ALL SITE PLANS SHALL CONFORM TO THE SITE PLAN REQUIREMENTS WHICH ARE ATTACHED TO THE LAND USE PERMIT APPLICATION.]

(D) FOR APPLICATIONS PERTAINING TO MUTIFAMILY, COMMERCIAL, OR INDUSTRIAL USES, A TEMPORARY PERMIT WILL BE ISSUED THAT WILL BE FINALIZED UPON SUBMITTAL OF AN AS-BUILT PLAN.]

(E) An application fee as established by the assembly, payable to the Matanuska-Susitna Borough, shall be submitted with the application. If more than one land use permit fee is required under this chapter, the applicant shall pay only one fee, whichever is the highest.

(F) A copy of the application shall be retained in the planning and land use department files.

17.02.040 ACTION ON APPLICATIONS.

(A) The planning and land use director or

designated staff shall determine whether an application for a land use permit is complete. An incomplete application shall be sent to the applicant with a written explanation of application deficiencies within seven working days of the date the application is received in the planning and land use department.

(B) A driveway permit application may be submitted with a land use permit application. The fee payment can be made concurrently with the land use permit fees. Approved driveway permits will be issued from the department of public works by mail within two to four weeks from the date a complete application is submitted.

(C) In reviewing a land use permit application, the planning and land use director shall make specific findings explaining how the proposal does or does not conform to the requirements of this title. The planning and land use director also may provide options as to how the proposal may conform to these requirements.

(D) The planning and land use director shall render a decision within 10 working days from the date

the application is determined complete for applications containing a certified site plan. The director will render a decision within 20 working days from the date the application is determined complete for applications containing a noncertified site plan.

(E) If a decision is not rendered within the allotted review time, the applicant shall be entitled to a complete refund of fees.

(F) The planning and land use director may revoke any permit if the development does not conform to the approved application.

(G) For applications that require exceptional review and analysis due to the complexity of the proposal, the borough and the applicant may enter into an agreement to extend the application review time.

(H) A copy of the approved permit shall be posted on the subject property in a location and manner clearly visible to the public for the duration of the permitted construction activities.

(I) Appeals from a decision granting or denying a land use permit under this chapter shall be filed and conducted in accordance with MSB 15.39.

Section 4. Amendment of section. MSB 17.29.160 is hereby amended as follows:

GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

(A) In all areas of special flood hazard, the following standards are required:

(1) *Anchoring.*

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes must likewise be elevated and anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors and other techniques set out in "Manufactured Home Installation in Flood Hazard Areas," a guidebook published by the Federal Emergency Management Agency.

(2) *Construction materials and methods.*

(a) All new construction and

substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) *Utilities.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into floodwaters;

(c) On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

(4) *Subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is less. [;]

[(E) WITHIN FEDERAL EMERGENCY
MANAGEMENT (FEMA) FLOOD INSURANCE RATE MAP (FIRM)
DESIGNATED A ZONES, PROPOSED SUBDIVISIONS WILL

ESTABLISH AND DEPICT AN ESTIMATED BASE FLOOD ELEVATION FOR EACH PARCEL AND DEPICT THE BASE FLOOD HAZARD AREA ON THE PRELIMINARY AND FINAL PLAT;

(F) OUTSIDE FEMA FIRM DESIGNATED A ZONES:

(I) ALL APPLICATIONS FOR SUBDIVISION SHALL INCLUDE A STATEMENT BY AN ALASKA REGISTERED LAND SURVEYOR OR AN ALASKA REGISTERED CIVIL ENGINEER DESCRIBING THE LIKELIHOOD OF ANY PART OF THE SITE BEING SUBJECT TO AN INUNDATION BY THE BASE FLOOD EVENT. IF NO HAZARD EXISTS, IT SHALL BE STATED;

(II) PROPOSED SUBDIVISIONS WHICH CONTAIN, OR ARE ADJOINING, A WATER BODY MUST PROVIDE ON THE PLAT AN ESTIMATED BASE FLOOD HAZARD BOUNDARY, AND AN ESTIMATED BASE FLOOD ELEVATION FOR EACH PARCEL; AND

(III) WHERE THE PLANNING DIRECTOR DETERMINES AN AREA OF THE PROPOSED PLAT MAY BE AFFECTED BY UNMAPPED BASE FLOOD HAZARDS ORIGINATING FROM OUTSIDE THE PROPOSED SUBDIVISION BOUNDARIES, THE DIRECTOR MAY REQUIRE THE APPLICANT TO PROVIDE INFORMATION ESTABLISHING REASONABLY RELIABLE FLOOD

HAZARD DATA AND PROVIDING ON THE PLAT AN ESTIMATED
BASE FLOOD HAZARD BOUNDARY AND AN ESTIMATED BASE FLOOD
ELEVATION FOR EACH PARCEL CREATED BY THE PROPOSED
PLATTING ACTION.

(G) REVIEW GUIDELINES:

(I) WHERE ELEVATION DATA IS NOT
AVAILABLE EITHER THROUGH THE FLOOD INSURANCE STUDY OR
FROM ANOTHER AUTHORITATIVE SOURCE PURSUANT TO
MSB 17.29.130(A)(4), THE SITE SHALL BE REVIEWED BY A
SOURCE APPROVED BY THE PLANNING DIRECTOR TO ESTABLISH
REASONABLY RELIABLE FLOOD HAZARD DATA. THE TEST OF
REASONABLENESS IS A JUDGMENT BY THE PLANNING DIRECTOR
AND INCLUDES BUT IS NOT LIMITED TO USE OF FEMA FIRM
STUDY GUIDELINES, HISTORICAL DATA, HIGH WATER MARKS,
SATELLITE AND AERIAL IMAGERY, PHOTOGRAPHS OF PAST
FLOODING, AND OTHER RELEVANT DATA; AND

(II) THE DETERMINATION OF THE
LEVEL OF DETAIL OF THE APPLICANT'S BASE FLOOD
ELEVATION DATA AND ANALYSIS MUST BE BASED UPON THE
FOLLOWING CRITERIA:

(AA) THE SIZE AND COMPLEXITY
OF THE PROPOSED SUBDIVISION;

(BB) THE PERCENTAGE OF THE SUBDIVISION THAT IS FLOOD PRONE;

(CC) THE PROPOSED USE OF THE FLOOD PRONE AREA. FOR EXAMPLE, IS THE PROPOSED USE STRUCTURAL DEVELOPMENT OR IS IT BEING RESERVED FOR OPEN SPACE, OR OTHER PERVIOUS SURFACE; AND

(DD) WHETHER CONSTRUCTION IS EXPECTED TO TAKE PLACE SOON AFTER SUBDIVISION OR IS FURTHER DEVELOPMENT UNLIKELY BEFORE A DETAILED FEDERAL FLOOD HAZARD STUDY IS CONDUCTED FOR THE AREA.

(H) WITHIN AREAS WHERE A FEDERAL EMERGENCY MANAGEMENT (FEMA) FLOODWAY MAP OR OTHER AUTHORITATIVE GOVERNMENT SOURCE HAS PRODUCED A MAPPED FLOODWAY FOR THE SITE, THE SUBDIVISION PRELIMINARY AND FINAL PLAT SHALL ALSO DEPICT THE RESPECTIVE AREA OF THE MAPPED FLOODWAY.]

(B) Review of development permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source pursuant to MSB 17.29.130(A)(4), applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe

from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, and the like, where available. Failure to elevate at least two feet above highest adjacent grade in these zones may result in higher insurance rates.

Section 5. 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)