




MATANUSKA-SUSITNA BOROUGH

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MEMORANDUM

DATE: June 11, 2012

FROM: Eileen Probasco, Acting Director of Planning and Land Use 

SUBJECT: Summary of Differences between Title 43, and Former Title 27 Subdivisions

At the request of the public, industry, borough officials and staff, the attached documents have been prepared to offer a summary and clarification on the differences between the newly adopted Title 43 Subdivisions (Ordinance 11-072, adopted April 17, 2012) and former Title 27.

The following documents are included in this summary:

- June 1, 2012 narrative summary (15 pp)
- Title 43, Subdivisions, as adopted in Ordinance 11-072 (65 pp)
- Access Matrices for Title 27 and Title 43 (2 pp)
- Platting Fees

For digital copies of this summary go to: <http://www.matsugov.us/planning/divisions/platting>

Should you have questions regarding this summary, please contact the planning department at 745-9822.



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DIFFERENCES BETWEEN TITLE 43 AND FORMER TITLE 27

June 1, 2012

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43.05.005 DEFINITIONS:

- Title 43 removed definitions of Dedication, Director, Engineer, Equal or Better Access, Flag Lot, Interconnectivity, Open Space, Ordinary High Water Mark, Parcel, Final Plat, Public Access Easement, Public Improvements, Public Use Easement, Snow Storage Easement, Subdivision Construction Manual, Surface Water, Surveyor, Trail, Utility Easement, Walkway, Water Body, Watercourse, and Wetlands.
- Title 43 adopted Title 27 definition of Useable Building area, Useable Open Space Area and Useable Septic Area.
- Title 43 added a section in the Useable Septic Area definition where the water table can be 6' below ground surface under specific soils types, and a standard design is provided certified to meet Alaska Department of Environmental Conservation (ADEC) standards, and a note is provided on the plat stating "An engineered designed and certified wastewater disposal system or packaged treatment plant meeting ADEC requirements will be required on subject lots." Listing the lots and blocks affected.
- Title 43 added to the subdivision definition "...a lease of commercial property is exempt from the requirements of this title..." which was in Title 27, but in a different location in code.

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43.05.010 GENERAL

(A) Title 43 deleted any references regarding the platting of leases of longer than 10 years within municipal airports, MSB Port District and within the city limits of Houston, Wasilla and Palmer.

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43.05.015 PURPOSE AND SCOPE

(B) This section lists the documents to be incorporated within this title. Title 43 deleted Matanuska-Susitna Borough (MSB) Title 15, which deals with Planning, Official Streets and Highway Plan, Community Council Boundaries, and Board of Adjustment and Appeals (BOAA), and Title 17, which deals with Zoning and Special Land Use Districts.

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43.05.030 PENALTIES AND REMEDIES, 43.05.035 FEES, 43.05.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES, 43.05.045 PROCEDURE PAMPHLET : No changes

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43.05.050 OWNER AUTHORIZATION

(B) Certificate-to-Plat submittal requirement changed from any platting action in Title 27 to only those actions involving a vacation, abbreviated plat, preliminary plat, public use easement, waiver, or 40-acre exemption.

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43.10.010 BOARD ESTABLISHED; DELEGATION

(A) Title 43 removed 40-acre exemptions from actions requiring platting board approval. Platting Board approval is required for preliminary plats, variances, and vacations. Title 43 is silent on public use easement approvals.

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43.10.015 COMPOSITION, APPOINTMENT AND QUALIFICATIONS, 43.10.020 TERM, 43.10.025 VACANCIES, 43.10.030 COMPENSATION, 43.10.035 OFFICERS, 43.10.036 SEAL, 43.10.037 STAFF ASSISTANCE, 43.10.040 MEETINGS; QUORUM, 43.10.045 RULE OF PROCEDURE: No changes.

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43.10.050 ACTION ON APPLICATION OR APPEAL

(A) Title 27 allowed the Platting Board's authorized representative, which was the Platting Officer, to sign the Notification of Action (NOA). Title 43 requires the Platting Board chairperson sign the NOA.

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43.10.060 PLATTING BOARD PROCEDURE:

This portion was adopted from Title 27:

(E) The platting board or the platting officer shall not approve an application where it finds that 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, unless the conditions of approval resolve the violation, excepting that where multiple violations exist and the platting action is remedying one or more of these violations. This section shall not apply to a legal non-conforming use.

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43.10.060 PLATTING BOARD PROCEDURE:

(F) Title 27 allowed the Notification of Action to be mailed to the applicant within 14 days of the decision. Title 43 reduced that timeframe to 10 days.

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43.10.065 NOTICE; PUBLIC HEARING

The public noticing has been shortened from 21 to 15 days but the noticing requirements are still the same; 1200' surrounding the boundary of the subdivision and all lots within the existing subdivision. Community councils get the same 15 days notice whereas in Title 27 it was 21 days. Additional noticing: In Title 27 the planning director may direct additional noticing however Title 43 says the platting board has that discretion.

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43.15.005 GENERAL ADMINISTRATION

(A)(1) This section added that "The platting board shall not make conditions of plat approval beyond the authority and specific provisions of this title."

(B) Platting officer is now allowed to act upon 40-acre exemptions, which in Title 27 required approval by the Platting Board, as follows:

(B) The platting officer shall act upon applications for abbreviated plat approval, waivers, minor plat amendments to combine lots into one-four lot(s), 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, within twenty (20) days of acceptance of submission.

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43.15.005 GENERAL ADMINISTRATION

(E)Plats to remove lot lines are now exempt from provisions of the code: specifically the requirement of providing soils, road upgrades or construction; and as-builtting the improvements within the boundary.

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43.15.012 FORTY-ACRE EXEMPTION

- Title 27 required these actions be heard by the Platting Board through a public hearing and with public noticing. Title 43 allows the platting officer approval with no public hearing, and no public noticing.

- Title 27 allowed no more than 4 parcels created from the parent parcel within a 2-year period. Title 43 says no more than 4 parcels can be created from the parent parcel, period. In other words, Title 27 allowed serial 40-acre exemptions, Title 43 does not.
- In addition, Title 43 added other provisions for access:
 - (i) Access for parcels located two miles beyond the limits of the Core Comprehensive Planning Area may be from a trail or a constructible trail. Trail standards are listed in MSB 43.20.055(B)(5).
 - (d) The Borough shall not require the petitioner to provide a designed road or trail to meet the requirements of this subsection.

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43.15.015 PRELIMINARY PLAT

- Title 43 eliminated the requirement for well logs within 600 feet of subdivision boundary, and showing existing structures including wells and septic systems within 100 feet.
- Effective dates of preliminary plats and master plans: Title 27 provided for 48-month preliminary plat approval and platting board could only grant a 24-month extension. Master plans were given a 72-month approval and the platting board could grant a 48-month extension. Title 43 provided for 72-month preliminary plat and master plan approval and platting officer can grant two extensions totaling 48-months. Only the platting board can grant additional extensions.
- Title 27 prohibited the Platting Officer from granting additional preliminary plat and master plan extensions and only allowed former Title 16 plats extensions of no more than 12 months. Title 43 allows previously approved preliminary plats and master plans under Title 16 and 27 a 5-year administrative extension.
- Title 43 requires that staff review time of final plat shall be deducted from the approval time, which is new to the subdivision regulations.

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43.15.021 PUE ACCEPTANCE PROCEDURE

The name Applicant has been changed to offerer.

- Offerer shall prove that the easement is in a practical location where construction is feasible but shall not be required to submit road designs to prove constructability, which is different than Title 27 where the applicant was required to demonstrate with road plan and profiles if needed.
- Title 43 eliminated the allowance of the Platting Board to require access to adjoining property. Title 27 offered other wording to promote interconnectivity.
- Title 43 also eliminated the requirement of proving a public purpose for a public use easement.
- Title 43 eliminated the requirement for survey and monumentation and for a record of survey being filed.
- Title 27 established an approval time of 36 months for Public Use Easements. Title 43 removed that timeframe.

43.15.022 WAIVERS

- Residential road requirements have been superseded by pioneer standard road allowance within a road service area. Whereas Title 27 only allowed pioneer road standard if a waiver was further than one mile from a publicly maintained road.
- Survey and monumentation is required, consistent with Title 27.
- Public noticing is required consistent with Title 27.
- Title 27 put a 36 month time frame on waivers. Title 43 removed that timeframe.
- Title 27 put a cap on the number of parcels created through the waiver process to a total number of four from the parent parcel. Title 43 specifically removes that requirement, serial waivers are now allowed.

43.15.025 ABBREVIATED PLATS

- Title 27 put a cap on the number of parcels created through the abbreviated plat process to a total number of four from the parent parcel. Title 43 specifically removes that requirement, serial abbreviated plats are now allowed.
- Title 43 allows approval of an abbreviated plat to include the construction of improvements within existing publicly dedicated rights-of-way, whereas Title 27 stated the access road had to be an existing publicly maintained road.

43.15.032 ELIMINATION OR MODIFICATION OF UTILITY, DRAINAGE, SANITATION, AND SCREENING EASEMENTS

- Title 43 allows the Platting Officer to review and approve these types of eliminations and modifications contingent on assembly approval whereas in Title 27 allowed the Platting Board to review and approve with no assembly action required.
- Provisions are made in 43.15.32(A) to override objections to the elimination of these types of easements:

(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; and

(iii) findings of facts support granting the vacation.

43.15.035 VACATIONS

- Title 43 eliminated the posting requirements for vacations of public rights of way except for vacating Section Line Easements and RS 2477 type easements.
- Title 43 allows the approval of a right-of-way vacation when a governmental agency or department objects if the following conditions are met. Read below:

(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, 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; and

(c) findings of facts support granting the vacation.

43.15.040 SECTION LINE AND STATE RECOGNIZED RS-2477 EASEMENT VACATIONS

Title 43 adopted the same procedures as Title 27

43.15.045 PLAT APPROVAL

- Title 43 requires topographic mapping a minimum of 50 feet from proposed boundary, whereas Title 27 required topographic mapping 100 feet from proposed boundary.
- Title 43 eliminated the requirement of 2-foot contours within special flood hazard areas.
- Title 43 eliminated Cultural Resource Division review
- Title 43 eliminated the requirement to show erosion hazards.
- Title 43 eliminated the detailed requirements of Title 27 on-site drainage management. Still in place are the drainage requirements of the Subdivision Construction Manual.
- Title 43 eliminated the requirement of city review of platting actions prior to submittal to the borough.
- Title 17.29 required all proposed subdivision adjoining bodies of water to show estimated base flood elevations on each lot and to show the estimated flood hazard boundary, even if not in a mapped special flood hazard area. Ordinance 11-106, adopted November 3, 2011 modified those requirements. Currently Title 17 and Title 43 require the subdivision plat to indicate only mapped special flood hazard areas.

43.15. 049 FINAL PLAT; GENERAL PROVISIONS

- Title 43 shortened up staff review of final plats from 30 to 20 days, second review of final plat is now 10 days when it used to be 15 days.
- When creating subdivisions of more than 10 lots, Title 27 required well water supply testing of wells within 300 feet of the boundary. If no wells were available within 300 feet, the subdivider was required to drill an onsite well. Title 43 removed those requirements.
- In some instances Title 27 required interference testing of water wells, Title 43 removed that also.
- Title 27 prohibited the creation of any lots, tracts or parcels which were split by a service area boundary. Title 43 allows this.
- Title 43 added that snow storage easements can be placed within utility easements if there is no overriding surface conflict and utility easements can be placed within slope easements.
- Title 43 added minor plat alterations to approved preliminary plats. Read below:
 - (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. Any amendment or modification of the preliminary plat shall be limited to the following:
 - (a) the total number of lots may be reduced;
 - (b) the total number of lots may not be increased;
 - (c) individual lot sizes may not be reduced by more than 20 percent per lot, and at no point to less than the minimum requirements that the preliminary plat was approved under. The aggregate of the proposed reductions shall not exceed one acre;
 - (d) proposed rights-of-way or easements may be moved up to 25 feet if approved by the platting officer, if changes made do not affect existing properties;
 - (e) proposed rights-of-way or easements may be moved between 25 feet and 100 feet with the concurrence of the platting officer and the director of the Matanuska-Susitna Borough Department of Public Works, as long as changes do not increase the average daily traffic count by more than five percent or necessitate a higher road classification;
 - (f) approved external accesses cannot be change;
 - and
 - (g) amendments and modifications cannot create setback violations.

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43.15.051 FINAL PLAT SUBMITTED

- Title 43 eliminated the requirement to show protective well radii for class A & B wells.
- Title 43 eliminated the requirement to obtain an easement if the protective well radii encroached upon an adjoining property.
- Title 43 eliminated the requirement to obtain letter of non-objection if required septic system leach field separation distance extended onto an adjacent property.

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43.15.052 FINAL PLAT; PLAT NOTE

- Title 43 eliminated the requirement for establishing or showing elevation monuments when the proposed subdivision contains a special flood hazard area.
- Title 43 eliminated the requirement for a plat note concerning setbacks from shorelines.

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43.15.053 FINAL PLAT; CERTIFICATES

- Title 43 provides a plat certificate allowing surveyors to set lot corners and other monuments after the plat records.
- Title 27 required the certificate to plat title report to be updated within 14 days of recording the plat. Title 43 changed that to 90 days.
- Title 43 changed significantly the requirement to pay taxes in full for the year prior to recordation of the plat. Read below:

...In the case of real property taxes, if the taxes are not delinquent, taxes are deemed paid in full with respect to this section.

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43.15.054 FINAL PLAT; SURVEYOR REQUIREMENTS

- Title 43 reduced the lot corner rebar length from 30 to 24 inches.
- Title 43 allows monuments and markers to be set after the recordation of the plat with a subdivision agreement.

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43.15.055 FINAL PLAT; DEDICATIONS, IMPROVEMENTS, RECORDING

A section was added that repeated other subsections in code that required ADEC approval for operation of community water supply or community septic disposal systems.

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43.15.065 WAIVER OF STANDARDS FOR RESUBDIVISION OF SUBSTANDARD LOTS

Title 27 required an engineer's report stating the suitability of the lots to contain an on-site septic system. Title 43 removed this requirement.

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43.15.070 RIGHT-OF-WAY ACQUISITION PLATS

- Title 43 adopted Title 27 requirements; specifically the ability to acquire portions of the property prior to ROW acquisition plat approval.
- Title 43 retained the 120-month approval period which was also in Title 27.

- Title 27 allowed for appeals to Platting Officer's decisions within 15 days of written decision. Title 43 reduced that timeframe to 10 days.

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43.15.075 VARIANCE, STANDARDS FOR APPROVAL

(A)(4) Title 43 added the stipulation that there will be no extra fees charged for multiple variances.

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43.20.020 STANDARDS; GENERAL

No changes

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43.20.040 DEVELOPMENT STANDARDS DISTRICTS

- Title 43 eliminated references allowing the Planning Commission to establish or remove urban development districts.
- Title 43 made a specific point to eliminate any planning commission involvement on the review of development standards districts.
- Title 43 elaborated on two special land use districts within the borough; Port Mackenzie and Talkeetna.

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43.20.055 RURAL AND REMOTE ACCESS

Title 43 provides no definition for rural or remote properties or a distinction between them. Both rural and remote properties can be within a Road Service Area. Title 27 did not distinguish between properties inside or outside a Road Service Area except for waivers.

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The intent of this section of Title 43 is stated in 43.20.055(A) below:

The following provisions are intended to provide for development of recreational lots and allow homesteaders or families that have access to their property and do not need maintenance, the ability to divide their property to pass on to heirs or others.

NOTE: When the code says "primarily used as recreational or seasonal use," the borough does not have the oversight to determine whether or not the property is used in that fashion.

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43.20.055(B) contains wording that allows for dividing without road access, but does not provide the standards to weigh the requirements against.

(B) Remote Subdivision Access for Parcels Outside of a Road Service Area. The purpose of this subsection is to allow for recreational use and subdivision of lands outside of road service areas where road access to a proposed remote subdivision is not practicable given the size of the subdivision, the cost of subdividing,

assessed value of the property and the cost of providing access due to the location, topographical constraints, terrain, and it is not the desire of the subdivider to have road access, and proposes access is via trails, creeks, rivers, or lakes by snowmobile, on-foot, skis, dog team, off-road vehicle, boat or airplane.

See Access Matrix attached for comparison of the access requirements under Title 43 and Title 27.

For Waivers, 43.20.055 allows waivers inside and outside a Road Service Area (RSA) to be done with pioneer road standards. Title 27 required residential standard roads except pioneer standard was allowed if the property was outside of a Road Service Area or further than one mile from a publicly maintained road.

For Eliminating Lot Lines on a Subdivision Plat of Record, legal and physical access is not required in Title 43. Title 27 allowed the same.

For Abbreviated Plats (creating no more than 4 lots, physical road access is required and additional dedications or variances from the code are not allowed), Title 43 allows for pioneer road access inside and outside of a Road Service Area. Plat notes are required stating no borough road maintenance will be performed. Residential roads will be required if further subdividing the lots within a Road Service Area. Pioneer standard roads will be required if further subdividing the lots outside a Road Service Area. Title 43 also allows for road construction to be a condition of approval for external access which Title 27 did not. Title 27 required residential standard roads be in place prior to submitting an abbreviated plat for approval.

For Preliminary Plats (creating any number of lots and/or have additional dedications, or variances from code and/or physical access is not provided), Title 43 allows for internal and external access to be by pioneer road whether or not it is inside or outside of a Road Service Area. Title 43 also allows for no road construction outside a Road Service Area if platting 4 or fewer lots as long as legal access is available. If no physical access to the lots is provided or if pioneer roads are used, plat notes are required stating no borough maintenance will be provided and no borough funds will be spent on upgrades, similar to abbreviated plats above. Title 27 required residential road standards, both externally and internally when road construction was required.

Title 27 allowed for platting lots without physical road access where topographical constraints forbid road construction or for properties that were further than one mile from a publicly maintained road. Title 27 required alternate access be from a trail, waterbody, public airport, or railroad access point. If a trail was used, the trail had to be proven to be constructible to residential standards. Title 43 also allows for platting lots without any road access, using alternate access, such as water, public airport, or railroad within a Road Service Area, but not trail. Outside a Road Service Area, Title 43 says external access to the subdivision can also be by trail, with trail construction standards listed in 43.20.055(B)(5), the right-of-way being a 50'-

100' wide easement depending on how many lots are being created. Outside a Road Service Area, Title 43 also contemplates access to an airstrip approved by applicable agencies including FAA, DOT or other agencies. Plat note is required indicating no borough maintenance for the airstrip will be provided.

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Trail standards are:

(5) Physical Access.

(a) Internal access roads or trails shall be constructible. Internal and external physical trail access shall meet the following minimum standards:

- (i) a minimum of 10 feet wide;
- (ii) avoid wetlands where possible;
- (iii) be cleared and grubbed;
- (iv) have hardened surface with a minimum of one-foot thick gravel base or use existing soils where suitable as determined by an engineer;
- (v) be shaped to drain;
- (vi) provide drainage improvements such as culverts for water crossings and make grading improvements to avoid ponding in low areas:

Physical trail access is not required if certain circumstances are met, such as:

(aa) when transiting across unavoidable natural features where improvements will be continually inundated by natural forces, a subdivider will not be required as a condition of plat approval, to provide improvements that cannot be permanent due to natural circumstances. However, a subdivider must demonstrate why such areas are unavoidable, given the size of the subdivision, the expected disruption to access, and the cost of avoiding such disruption. Except that disruption which is expected to be so frequent as to render the access unusable for any significant part of a season will not be allowed;

(bb) where trails encounter large water crossings such as creeks and rivers and it is not feasible to install culverts or construct a bridge, an open water crossing will be allowed provided that it is approved by the agencies having jurisdiction over the waterway and stream bank stabilization improvements are installed where needed;

(vii) for transit across wetland or marshy conditions, installation of approved matting shall be allowed to be substituted for a hardened surface as specified above.

Title 27 required all subdividers to comply with the same access standards. Title 43 differentiates between lots created by State of Alaska Dept of Natural Resources (DNR) Remote Recreational Land Disposal Programs, and lots created by others. If the lots are created by DNR and the internal access within the staking area will be by trail, the trail should be 60' wide. The external access shall be shown on the preliminary plat, along with vehicle parking and staging areas, but there is no standard set for that access. A plat note is required on these plats that the borough is not responsible for maintenance or upgrades of any access improvements.

Title 43 allows the replatting of DNR created parcels into not more than 3 lots without showing legal or physical access. Dividing these lots further is not allowed. Title 27 required legal access to all these platted lots, no matter how they were created and at a minimum, proof that physical access was constructible. Title 27 also did not specifically limit the number of times a DNR created lot could be divided as long as it complied with the other requirements of code.

For all 40-Acre Exemptions, Title 27 required a minimum of 50' legal right-of-way to all parcels and a surveyor or engineer had to provide evidence that a residential standard road could be constructed within the right-of-way. Title 43 differentiates between those 40-Acre Exemptions within 2 miles of the Core Comprehensive Area and those outside of that area, but does not differentiate between inside and outside of a Road Service Area. Within 2 miles of the Core Comprehensive Area, the petitioner must have a 50' minimum legal right-of-way and provide evidence, using borough records only, of residential road constructability. Outside 2 miles of the Core Comprehensive Area trail access is the minimum allowed, with trail standards meeting the same requirements as those for preliminary plats, but no construction is required.

For dividing a home/headquarters site in a Borough Agricultural Rights parcel under Former Title 13, Title 27 and Title 43 are essentially the same. Legal access is required and physical access must be proven to be constructible to a residential standard by a surveyor or engineer.

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43.20.055(A)(3) Title 43 requires 60' for new rights-of way, same as Title 27.

(3) All subdivisions must contain a 60 foot right-of-way plus a 15 foot utility easement. Only a 50 foot right-of-way is required to access the subject parcel. Any existing legal and physical access to the subject parcel less than 50 feet may be approved with a variance.

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43.20.060 DEDICATION TO PUBLIC

- (C) Title 43 requires the dedication of access to all lots within the subdivision and to adjacent parcels. This conflicts with 43.20.100(D)(2) which says access to adjoining private lands does not have to be provided where legal and constructible alternative access is available.
- Title 43 adopted the Title 27 allowances for the Platting Board to require dedication of walkways where appropriate with some added stipulations and exceptions. Exceptions are

that plats of 20 lots or less shall be exempt from walkway construction unless supported by evidence of need.

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43.20.100 ACCESS REQUIRED

Title 43 changed from Title 27 in that the Platting Board now is required to waive legal and physical road requirements for subdivisions meeting the following.

(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 requirements of subsection (A). If other than road access is approved, the mode of access shall be noted on the plat.

- (C) Gated subdivisions. Title 27 allowed private rights of way where there is no possibility or public necessity to provide for public through traffic. In Title 43 the Platting Board shall approve gated subdivisions if:

(1) roads are constructed to the required borough standards.

(2) emergency services shall be provided access to deliver services within the private subdivision. Borough maintenance shall be provided access to get through the subdivision to provide services beyond the private subdivision;

(3) alternate legal access to adjoining properties is available.

- (D) Title 43 requires that if a subdivider is dedicating right-of-ways, then that subdivider shall ensure adjoining private parcels legal access along a constructible alignment and the physical road construction shall not be a condition of plat approval. This section conflicts with 43.20.060, which requires connection to adjacent parcels. Title 27 included wording which more aggressively promoted interconnectivity and addressed the dedication of roads within the current streets and highways plan.
- Title 43 also eliminated the requirement for a second point of access based on the average daily traffic count for the classification of the access road.
- Title 27 required legal accesses be dedicated and physical access constructed to adjacent stub rights-of-way when found appropriate by the Platting Board. This was eliminated in Title 43.

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43.20.120 LEGAL ACCESS

- Title 43 omitted other methodologies used for determining valid section line easements.
- Title 27 allowed for legal access if the road was within the easement and had been publicly maintained for 10 years. Title 43 eliminated that option.
- Title 43 eliminated the Major Road Corridors section of Title 27 which restricted direct lot access onto major road corridors and limited spacing of intersections on those corridors to 650' or greater.

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43.20.140 PHYSICAL ACCESS

- Title 43 eliminated the Title 27 requirement that a surveyor graphically show the new internal roads are constructed within the right-of-ways in new subdivisions.
- Title 27 clarified when the access roads needed to be upgraded. If access roads are currently maintained, Title 43 eliminates the requirement for upgrading the road to the new subdivision when the additional traffic from the lots will raise the classification of the road to a higher standard.
- Title 27.05.055 Traffic Standards, has been eliminated. Under that section a traffic impact analysis was required under certain circumstances.

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43.20.280 AREA

- This section is essentially the same as Title 27 with a few changes.
- Title 43 allows that in remote areas with limited or no access for heavy equipment, the depth of the test holes for hand-dug excavations can be determined by the engineer.
- And in all areas of the borough the number of test holes will also be determined by the engineer. Title 27 required one test hole per 2 lots or one per 5 acres, whichever is greater, or the density approved by Department of Public Works.
- For parcels greater than 400,000 sq ft, no useable area report is needed in Title 43; Title 27 required an engineer's statement of septic system constructability.
- Title 43 adopted the open space incentives that were in Title 27.
- Title 43 also adopted the utility lot option that was in Title 27.

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43.20.300 LOT AND BLOCK DESIGN

- The length of a block has been increased from 1,400 in Title 27 to 3,000 ft in Title 43.
- No lots of 2 acres or less shall have an average width to depth ratio of more than 3:1. Lots 2 to 10 acres may have an average depth of more than four times its average width.
- Title 43 eliminated building site access provision of Title 27, which required the lot have a buildable driveway route that is less than 15% grade for the first 50' from the right-of-way and meet the requirements of obtaining a driveway permit.

(D) Flag Lots: Title 43 eliminated the calculation for allowable pole length that was in Title 27. Flag lots in Title 27 were required to have a 60' wide pole portion, of uniform width. Title 43 allows flag lots with a max pole length of 1,320 (pole width of 30') and a max length of 2,640 feet (60' wide pole).

- In Title 43, the 60' wide road frontage requirement does not apply to the pole portion of flag lots.
- Title 43 eliminated the overlay of a 60' wide Public Use Easement for flag lots greater than 5 acres, which was in Title 27.
- Title 43 eliminated the geometry and residential standard road constructability requirements within the pole portion of flag lots.
- Title 27 limited the amount of flag lots allowed within a proposed subdivision. Title 43 does not.
- Title 27 also limited the number of flag lot pole portions adjoining one another to two poles. Title 43 does not have a limit.

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43.20.320 FRONTAGE is basically unchanged

43.20.340 LOT DIMENSIONS is unchanged

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43.25.015 EXISTING PLATS VALIDATED, 43.25.020 RECORDED PLATS, AND 43.25.025, SEVERABILITY

These portions of code were removed in Title 27 as the borough attorneys advised that they were no longer necessary. They are included in Title 43.

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43.35.003 APPEALS OF PLATTING OFFICER DECISION

Title 27 required appeals to be submitted within 15 days of Platting Officer written decision. Title 43 reduced the appeal timeframe to 10 days.

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43.35.005, RECONSIDERATION BY PLATTING BOARD

Title 27 required reconsiderations to be submitted within 15 days of Platting Board written decision. Title 43 reduced the reconsideration timeframe to 10 days.

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43.55 SUBDIVISION AGREEMENTS

- Title 27 limited Subdivision Agreements to only those construction activities that dealt with road construction, such as road shaping, fore slopes, ditches, back slope cleanup and driveway approaches. Title 43 does not have those restrictions.
- Title 27 required the roads be at least 85% complete. Title 43 does not have this restriction.
- Title 27 required the minimum subdivision agreement guarantee amount was a minimum of 20% of the total estimated cost of improvements as approved in the construction plans plus a 20% overrun allowance. Title 43 allows for the guarantee for the subdivision agreement to be the cost of the remaining improvements plus a 20% overrun allowance.

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43.55.055 DEFAULT

If a developer defaults on a Subdivision Agreement, Title 43 requires that those funds not used for completion of the improvements included in the agreement go back to the developer. In Title 27, those defaulted funds go directly to the road service area.

TITLE 43: SUBDIVISIONS

Chapter

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CHAPTER 43.05: GENERAL PROVISIONS

Section

43.05.005	Definition of terms
43.05.010	General
43.05.015	Purpose and scope
43.05.030	Penalties and remedies
43.05.035	Fees
43.05.040	Violations, enforcement, and penalties
43.05.045	Procedure pamphlet
43.05.050	Owner authorization

43.05.005 DEFINITION OF TERMS.

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

- "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.
- "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.
- "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.
- "Borough" means the Matanuska-Susitna Borough.
- "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 designated on the subdivision plat or other document. For the purpose of this title an easement shall not be interpreted to be a fee dedication when noted or granted on a plat, abbreviated plat, waiver or 40-acre exemption.
- "Final plat" means a drawing of a subdivision which complies with this title.
- "Governing body" means the Matanuska-Susitna Borough Assembly.
- "Land surveyor" or "surveyor" means a person currently registered as a professional land surveyor with the state of Alaska.
- "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.

- “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. When meander lines are nonriparian, they may become land boundary lines.
- “Monument” means a point marked on the surface of the earth for commencing or controlling a survey.
- “Municipality” means any incorporated city, town or village.
- “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” and “final plat.”
- “Platting authority” means the platting board, platting officer, planning and land use director, or other person making a platting decision.
- “Preliminary plat” means a map or delineated representation of a tract or parcel of land showing the prominent features of a proposed subdivision of such land submitted to an approving authority for the purpose of preliminary consideration.
- “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.
- “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.
- “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.
- “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.
- “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 re-subdivision, and, when appropriate to the context, the process of subdividing of the land actually subdivided.

- “Tract” means an area of land which has been defined, but has not been designated by lot and block numbers.
- “Useable building area” means area outside of minimum useable septic area and easements where building is prohibited, and outside of setbacks from the following: rights-of-way, easements for public use, section line easements, water bodies, and lot lines.
- “Useable open space area” means that area which has a seasonal high groundwater table no closer than two feet below the surface, and is outside of existing or proposed utility, slope, or public use easements and does not include any other existing or proposed easements that would normally disturb the natural vegetative state.
- “Useable septic area” means:
 - (a) that area where seasonal high water table is a minimum of eight feet below the surface. Where water is encountered at ten feet or less below the surface, the seasonal high subsurface water is to be determined between May 1st and October 30th;
 - (b) that area where slopes are less than 25 percent;
 - (c) that area which is more than 100 feet from open water, surface waters, and wetlands;
 - (d) that area which is located at least 50 feet from the top of a slope which is greater than 25 percent and has more than ten feet of elevation change;
 - (e) that area which has soils with a percolation rate faster than 60 minutes per inch or less;
 - (f) that area which is not within an area dedicated to public use;
 - (g) that area which is outside of utility or other easements that would affect the use of the areas for on-site septic installation;
 - (h) that area which is outside of a protective well radius;
 - (i) that area which is outside of any known debris burial site;
 - (j) subsection (a) of this definition may be changed to a minimum of six feet below surface if the following criteria are met:
 - (i) there are special considerations which would preclude reasonably creating useable area by placing suitable fill to provide eight feet water table clearance;
 - (ii) soil types meet the requirements given under MSB 43.20.280(A)(1)(c);

(iii) a standard design is provided which is certified to meet applicable ADEC requirements at the time of recording by a state of Alaska licensed professional engineer;

(iv) a note is provided on the plat stating: "An engineer designed and certified wastewater disposal system or packaged treatment plant meeting ADEC requirements will be required on subject lots (L#B#);" and

(k) Groundwater levels are determined between May 1st and October 30th.

(Ord. 11-072, § 3 (part), 2012)

43.05.010 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 43.05.045 to any person upon request at a reasonable charge.

(Ord. 11-072, § 3 (part), 2012)

43.05.015 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 MSB Title 43 as if fully set forth in this title:

- (1) BLM manual of survey instructions;
- (2) platting procedures pamphlet; and
- (3) Subdivision Construction Manual.

(C) Each manual, excepting for the BLM manual of survey instructions, may be modified by the platting board subject to review by the planning commission and adoption by the assembly.

(Ord. 11-072, § 3 (part), 2012)

43.05.030 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 an infraction, and upon conviction is punishable by a fine of not more than \$500 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.

(Ord. 11-072, § 3 (part), 2012)

43.05.035 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.

(Ord. 11-072, § 3 (part), 2012)

43.05.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

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

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

(Ord. 11-072, § 3 (part), 2012)

43.05.045 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.

(Ord. 11-072, § 3 (part), 2012)

43.05.050 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.

(B) A certificate to plat prepared by a title company is to be submitted with an application for a vacation, abbreviated plat, preliminary plat, public use easement, waiver, or 40-acre exemption. The title report must be current within 120 days of submittal of the application.

(Ord. 11-072, § 3 (part), 2012)

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CHAPTER 43.10: PLATTING BOARD

Section

43.10.010	Board established; delegation
43.10.015	Composition, appointment, and qualifications
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43.10.030	Compensation
43.10.035	Officers
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43.10.045	Rule of procedure
43.10.050	Action on application or appeal
43.10.055	Conflict of interest; ex parte contact
43.10.060	Platting board procedure
43.10.065	Notice; public hearing

43.10.010 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, and vacations in accordance with this title.

(Ord. 11-072, § 3 (part), 2012)

43.10.015 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.020 TERM.

(A) A board member's term shall be three years, with staggered expiration dates. An unexpired 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](#).

(Ord. 11-072, § 3 (part), 2012)

43.10.025 VACANCIES.

(A) A vacancy on the board shall be filled as provided in MSB 43.10.015 for the remainder of the term of the former member.

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

(Ord. 11-072, § 3 (part), 2012)

43.10.030 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.035 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.036 SEAL.

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

(Ord. 11-072, § 3 (part), 2012)

43.10.037 STAFF ASSISTANCE.

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

(Ord. 11-072, § 3 (part), 2012)

43.10.040 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 43.10.055.

(Ord. 11-072, § 3 (part), 2012)

43.10.045 RULE 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.050 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's decision at an abbreviated plat hearing. The board's decision shall be recorded in a notice approving or denying the action in 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.055 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; and
- (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.

(Ord. 11-072, § 3 (part), 2012)

43.10.060 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 applicant 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 43.15.015 and 43.15.045.

(C) The platting board shall approve an application after 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 conditions that it finds necessary to implement the purposes of this title. 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 development master plan prepared by the subdivider and approved by the platting board. Covenants, conditions and restrictions may be submitted with the final plat for recordation.

(E) The platting board or the platting officer shall not approve an application where it finds that 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, unless the conditions of approval resolve the violation, excepting that where multiple violations exist and the platting action is remedying one or more of these violations. This section shall not apply to a legal nonconforming use.

(F) Written notification of the 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.

(Ord. 11-072, § 3 (part), 2012)

43.10.065 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 1,200 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. 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; and

(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 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.

(Ord. 11-072, § 3 (part), 2012)

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CHAPTER 43.15: PLAT APPROVAL, ABBREVIATED PLAT SUBDIVISIONS, AND VACANCIES

Section

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<u>43.15.070</u>	Right-of-way acquisition plats
<u>43.15.075</u>	Variance; standards for approval

43.15.005 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, and minor plat amendments to combine lots into one-four lot(s), 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 platting actions on final plats and platting actions delegated as by this title, within 20 days of acceptance of submission.

(C) Leaseholds located within the Wasilla Municipal Airport and Palmer Municipal Airport are exempt from the requirement to plat.

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

(E) Plats to remove lot lines are exempt from provisions of the code:

- (1) which require soils report submittals;
- (2) requirements for road upgrades or construction; and
- (3) as-built survey.

(Ord. 11-072, § 3 (part), 2012)

43.15.010 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 works 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 works 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.012 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 manner.

(B) *Exemptions.* The platting officer 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; and
 - (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; and
- (7) The applicant demonstrates that legal access as defined by MSB 43.20.120 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; and
 - (iv) other available data.
 - (b) The platting officer shall review within ten 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) Access for parcels located two miles beyond the limits of the core comprehensive planning area may be from a trail or a constructible trail. Trail standards are listed in MSB 43.20.055(B)(5).

(d) The borough shall not require the petitioner to provide a designed road or trail to meet the requirements of this subsection.

(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 MSB Title [15](#).

(C) *Exemption document.* The document exempting a parcel from the provisions of this title shall be reviewed by the platting officer. The platting officer shall approve the exemption if the exemption meets the conditions of this subsection and shall be issued within ten days. Upon approval of the document, the platting officer 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 intent of this provision is to allow prompt approval of a 40-acre exemption.

(D) *Certificate to plat.* A certificate to plat shall be required, consistent with the requirements of MSB 43.15.053(E).

(Ord. 11-072, § 3 (part), 2012)

43.15.015 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; and
 - (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; and
- (17) one-hundred-year floodplain, when available from the Federal Emergency Management Agency (FEMA) and information required under MSB [17.29.160](#), General Standards for Flood Hazard Reduction, when required.
- (B) Within ten business days of submittal, the application shall be accepted or rejected for failure to meet the requirements of subsection (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 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 two years 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 materially changed. The 72-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 the time specified under MSB [15.39.140](#), Appeals; Commencement. The 72-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 72 months.

(3) 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 phased development master plan prepared by a subdivider and approved by the platting board. Approval of a master plan for phased development expires 72 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 subsection (C)(2) of this section. An appeal from the decision of the platting board regarding master plan approval shall be taken within the time specified under MSB [15.39.140](#), Appeals; Commencement. Filing an appeal shall extend the 72-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 any plat (master plans for phased development, abbreviated plats, regular plats) approved under provisions of the former MSB Titles [16](#) and [27](#) shall be granted an administrative extension of an additional five years effective from the date of adoption of the ordinance codified in this title. This five-year extension is in addition to all previously granted extensions and starts at the end of the previously approved expiration date of the extension or original plat expiration date, whichever is later.

(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 43.10.060(B). The applicant seeking modification shall pay a public hearing fee and meet the requirements of MSB 43.10.065. 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.021 PUBLIC USE EASEMENT ACCEPTANCE PROCEDURE.

(A) Prior to acceptance by the borough and recordation, the offeror 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 offeror shall be notified of the discrepancies and shall resubmit the application for approval.

(C) The offeror shall prove that the public use easement is in a practical location where construction is feasible. The offeror shall not be required to submit road designs.

(D) If road construction is proposed, the offeror shall demonstrate that the physical road is feasible 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) of this section, 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 subsurface estate interests in the land being dedicated.

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

(Ord. 11-072, § 3 (part), 2012)

43.15.022 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 waived, upon proof that:

(1) the applicant for approval of the plat waiver proves 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) Roads shall be constructed to a residential standard unless superseded by other provisions elsewhere within this title;

(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 larger and the waiver of subdivision requirements will create no more than four parcels, an unlimited number of waivers from the original parent parcel are allowed;

(3) no dedication of public right-of-way, easement or other 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;

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

(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 8.5-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;

(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 contract 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 now 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 ten business days of submittal, the application shall be accepted, or rejected for failure to meet the requirements of the afore subsections.

(C) Public notice of waiver subdivisions shall follow the procedures of MSB 43.10.065, pertaining to actions requiring a public hearing, and written comments on the waiver application shall be accepted. A public hearing is not required for waiver subdivisions.

(Ord. 11-072, § 3 (part), 2012)

43.15.025 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 not 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; and
- (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 43.10.060. 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.

(D) Public notice of abbreviated plats shall follow the procedures of MSB 43.10.065, pertaining to actions requiring a public hearing.

(Ord. 11-072, § 3 (part), 2012)

43.15.032 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; and
 - (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 43.10.060. The platting officer shall approve or disapprove the application within 30 calendar days of the acceptance of the application.

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

(Ord. 11-072, § 3 (part), 2012)

43.15.035 VACATIONS.

(A) All applicants and actions for vacations shall conform to A.S. 29.40.120 through 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; and
 - (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; and
- (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, 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; and
 - (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 platting authority 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. 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.040 SECTION LINE AND STATE RECOGNIZED RS-2477 EASEMENT VACATIONS.

(A) This title provides standards for the vacation of section line easements and state recognized RS-2477 easements, also referred to as rights-of-way acquired under former 43 U.S.C. 932.

(B) An application for vacation of a section line easement or RS-2477 easement shall contain the following:

- (1) a preliminary finding or approval from the appropriate agency of the state of Alaska;
- (2) documentation by a registered land surveyor establishing the existence of a valid section line easement or RS-2477 easement within the area to be vacated, stating the width of the section line easement or RS-2477 easement and verifying the existence and width of any adjoining section line easements or RS-2477 easements;
- (3) legal description of the section line easement or RS-2477 easement proposed for vacation;
- (4) reason for vacation request;
- (5) plat copies, as needed, of a section line or RS-2477 vacation plat, drawn to the requirement of the state of Alaska;
- (6) current Alaska State Department of Transportation and Public Facilities and Department of Natural Resources final approval required prior to recordation pursuant to A.S. 19.30.410;

(7) the applicant for a section line easement for RS-2477 easement vacation must place a sign, notifying the public of the date, time, and place of the public hearing, at the easement where the proposed vacated area lies between, 30 days prior to public hearing. The sign shall be designated based on standards set by the platting division and located in a manner clearly visible to the public. The applicant shall submit an affidavit verifying that this posting has been made. Location and format of signs shall be determined by platting staff;

(8) demonstration that a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses pursuant to A.S. 19.30.410. In making this determination, the platting board shall consider comments from utilities concerning the adequacy of alternative access to provide for utility facilities and services; and

(9) demonstration that the vacation shall meet the standards set forth under MSB 43.15.035.

(Ord. 11-072, § 3 (part), 2012)

43.15.045 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 ten 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 FEMA mapped special flood hazard areas, and flood hazard information required under MSB [17.29.160](#), General Standards for Flood Hazard Reduction, when required;

(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; and

(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.

- (B) The application shall be accepted or rejected for failure to meet the requirements of subsection (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 immediately accepted.
- (C) The statutory 60-calendar-day period for approval or nonapproval 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.049 FINAL PLAT; GENERAL PROVISIONS.

- (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, 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 20 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 second final plat within ten 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 such that it would not be split by a service area.

(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 within 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. Any amendment or modification of the preliminary plat shall be limited to the following:

- (a) The total number of lots may be reduced;
- (b) The total number of lots may not be increased;
- (c) Individual lot sizes may not be reduced by more than 20 percent per lot, and at no point to less than the minimum requirements that the preliminary plat was approved under. The aggregate of the proposed reductions shall not exceed one acre;
- (d) Proposed rights-of-way or easements may be moved up to 25 feet if approved by the platting officer, if changes made do not affect existing properties;
- (e) Proposed rights-of-way or easements may be moved between 25 feet and 100 feet with the concurrence of the platting officer and the director of the Matanuska-Susitna Borough Department of Public Works, as long as changes do not increase the average daily traffic count by more than 5 percent or necessitate a higher road classification;
- (f) Approved external accesses cannot be changed; and
- (g) Amendments and modifications cannot create setback violations.

(Ord. 11-072, § 3 (part), 2012)

43.15.051 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 inches, or 31.5 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 included 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 platted is a resubdivision of a part or 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; and

(3) principal road systems, major water bodies and water courses, and location of subdivision.

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

(Ord. 11-072, § 3 (part), 2012)

43.15.052 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 floodplain 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 used to make the determination of the floodplain. A flood hazard area, if identified, shall be labeled "Flood Hazard Area" in one-inch-high letters. The base flood elevation and floodplain shall be shown as required by MSB [17.29.160](#), General Standards for Flood Hazard Reduction.

(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 _____, 20___, 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.053 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____, 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____, 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____, and that this plat has been approved for recording in the office of the recorder in the _____ district in which the plat is located.

_____, 20____

Planning and Land Use Director

ATTEST:

Platting Clerk

(E) *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.

(F) *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 the taxes are not delinquent, taxes are deemed paid in full with respect to this section. The certificate shall be as follows:

CERTIFICATION OF PAYMENT OF TAXES

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

_____, 20____

Tax Collection Official (Borough)

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

Tax Collection Official (City)

(Ord. 11-072, § 3 (part), 2012)

43.15.054 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. 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 five-eighths-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 (B) of this section, 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) of this section, 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 willfully disturbs or destroys a record survey monument shall be responsible for its replacement or be guilty of an infraction 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 plat administratively. A public hearing shall be held for lot line elimination plats. Public notice shall be provided as required by MSB 43.10.065, Notice; Public Hearing, for actions requiring a public hearing.

(Ord. 11-072, § 3 (part), 2012)

43.15.055 FINAL PLAT; DEDICATIONS, IMPROVEMENTS, RECORDING.

(A) Offers to dedicate rights-of-way, 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) of this section. 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 43.55, when applicable. The execution of a guarantee under MSB 43.55 does not change, waive, or extend the period of time during which the preliminary plat approval is effective; and
- (3) for subdivisions served by a community water and/or sewer system(s) that are subject to regulatory approval by the Regulatory Commission of Alaska (RCA), a certificate of approval to operate from the Alaska Department of Environmental Conservation is provided. This provision applies to subdivisions, phases of master plans, and previously approved master plan phases that are subject to RCA jurisdiction.

(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 subsections (B) and (C) of this section, 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.

(Ord. 11-072, § 3 (part), 2012)

43.15.065 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) of this section;
- (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 applicable 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 nonconforming 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 violates the applicable provisions 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 17 or this title.

(Ord. 11-072, § 3 (part), 2012)

43.15.070 RIGHT-OF-WAY ACQUISITION PLATS.

(A) *Alternate procedure.* A plat for a subdivision created by a government agency's acquisition of a road, street, highway, right-of-way, railroad right-of-way, or airport parcel is subject to approval under this section and 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; and
- (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) of this section 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 borough and the government agency applying for the plat; the borough 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; and
- (4) the state, its agencies, instrumentalities, or political subdivision and the Matanuska-Susitna Borough may acquire or obtain conveyances, including dedication of lots or tracts of a right-of-way acquisition plat, before submittal of a right-of-way acquisition plat for approval by the Matanuska-Susitna Borough. A right-of-way acquisition conveyance may be recorded before approval and recording of the right-of-way acquisition plat.

(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 a government agency applying for the plat requests a public hearing before the platting board.

(3) The public notice and hearing requirements applicable to plats submitted for approval by the platting board apply to right-of-way acquisition plats submitted to the borough for action. If the submitting agency requests a public hearing before the platting board, or if the agency appeals the borough decision under subsection (D) (6) of this section, 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 120 months. The platting board or platting officer may grant an extension of up to 120 months for recording 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. 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 ten calendar days. An appeal under this subsection is treated as an original subdivision application.

(7) Unless otherwise agreed to in writing by the platting officer, all monumentation, remonumentation, right-of-way alignment, and reconstruction and other requirements of the borough 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 borough. Any survey markers that control the length or direction of any property line shall be reset according to the new location. Monumentation shall be in accordance with standards set forth in MSB 43.15.054.

(E) *Application.* Except to the extent otherwise agreed to in writing by the platting officer, the provisions of this title other than those specifically excepted under this section shall apply to right-of-way acquisition plats.

(Ord. 11-072, § 3 (part), 2012)

43.15.075 VARIANCE; STANDARDS FOR APPROVAL.

(A) A variance from the requirements of MSB 43.20 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 43.20 shall result in undue substantial hardship to the owner of the property; and
- (4) when applying for multiple variances, there shall be only one variance fee charged.

(Ord. 11-072, § 3 (part), 2012)

This page of the Matanuska-Susitna Borough Code is current through Ordinance 12-064, passed May 15, 2012.
Disclaimer: The Borough Clerk's Office has the official version of the Matanuska-Susitna Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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CHAPTER 43.20: SUBDIVISION DEVELOPMENT STANDARDS

Section

43.20.020	Standards; general
43.20.040	Development standards districts
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43.20.300	Lot and block design
43.20.320	Frontage
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43.20.020 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.

(Ord. 11-072, § 3 (part), 2012)

43.20.040 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 of 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 43.10.065.

(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.

(Ord. 11-072, § 3 (part), 2012)

43.20.055 RURAL AND REMOTE ACCESS.

(A) The provisions of this subsection provide a different set of access and road construction standards for rural and remote access and supersede other provisions of this title. The following provisions are intended to provide for development of recreational lots and allow homesteaders or families that have access to their property and do not need maintenance the ability to divide their property to pass on to heirs or others.

(1) If the subject property is intended for use primarily as a recreational or seasonal use subdivision and is outside of a road service area, pioneer roads are allowed for physical access; provided, that:

(a) a note be placed on the plat that no borough funds will be expended to upgrade the roads; and

(b) before borough maintenance will be provided, the road will have to be upgraded by someone other than the borough and accepted for maintenance by the public works department; and

(c) for subdivisions greater than ten lots, a parking area of sufficient size shall be reserved and constructed if no provisions are made for winter maintenance of the subdivision roads.

(2) The petitioner will not be required to upgrade any road prior to the subject parcel that is or has been maintained by the state or borough. The petitioner will not be denied a subdivision approval if there is an existing legal and physical access to the subject parcel.

(3) All subdivisions must contain a 60-foot right-of-way plus a 15-foot utility easement. Only a 50-foot right-of-way is required to access the subject parcel. Any existing legal and physical access to the subject parcel less than 50 feet may be approved with a variance.

(a) The provisions of this subsection are intended for remote areas of the borough where no or few services are provided. For a plat of four lots or less outside of a road service area, legal access shall be provided to all of the lots and construction of a road is not required; provided, that:

(i) a note shall be placed on the plat to state that if any of the lots or parcels are further subdivided which would create more than the four original lots created, a road must be constructed to pioneer standards and until accepted by the borough, no borough maintenance will be provided nor any borough funds shall be spent on upgrades.

(b) For a plat or waiver of four lots or less within a road service area created for conveyance to heirs, family members, or others, physical access to the lots may be by a pioneer standard road within a 50-foot right-of-way; provided, that:

(i) a note shall be placed on the plat or waiver stating:

(aa) to further subdivide any of the lots or parcels, the road(s) must be constructed to residential standards; and

(bb) until accepted by the borough, no borough maintenance will be provided nor any borough funds shall be spent on upgrades.

(B) Remote subdivision access for parcels outside of a road service area. The purpose of this subsection is to allow for recreational use and subdivision of lands outside of road service areas where road access to a proposed remote subdivision is not practicable given the size of the subdivision, the cost of subdividing, assessed value of the property and the cost of providing access due to the location, topographical constraints, and terrain, and it is not the desire of the subdivider to have road access, and proposed access is via trails, creeks, rivers, or lakes by snowmobile, on foot, skis, dog team, off-road vehicle, boat, or airplane. The following legal and physical access requirements apply:

(1) Legal access shall be provided for internal roads or trails to all parcels, and internal roads shall be a minimum of 60 feet wide. Legal access can be provided for by plat or by a recorded public use easement document, or other public access easement such as a section line easement.

(2) External legal access to a remote subdivision can be provided by any of the following and shall be a minimum of 100 feet wide for terrestrial access to accommodate reroutes of trails within the right-of-way or easement, excepting that for subdivisions of ten lots or less may be 50 feet wide;

(a) a navigable waterway;

(b) a float plane accessible lake; or

(c) an airstrip as approved by applicable agencies including FAA, DOT or other agencies; where an airstrip is used, a plat note shall be added that no maintenance or upgrades will be provided by the borough.

(3) *Private property rights.* Access routes shall not trespass upon private lands, and shall avoid conflicts with adjoining and nearby private properties.

(4) Sufficient land area shall be dedicated for parking at the permanent public access point unless the applicant demonstrates that it is unnecessary to serve the proposed subdivision. Physical improvement shall be made to a required parking area to handle the average number of vehicles using the area at one time, to include clearing and grubbing, a base constructed of suitable soils, and grading and drainage improvements as necessary.

(5) *Physical access.*

(a) Internal access roads or trails shall be constructible. Internal and external physical trail access shall meet the following minimum standards:

- (i) a minimum of ten feet wide;
- (ii) avoid wetlands where possible;
- (iii) be cleared and grubbed;
- (iv) have hardened surface with a minimum of one-foot-thick gravel base or use existing soils where suitable as determined by an engineer;
- (v) be shaped to drain;
- (vi) provide drainage improvements such as culverts for water crossings and make grading improvements to avoid ponding in low areas:

(aa) when transiting across unavoidable natural features where improvements will be continually inundated by natural forces, a subdivider will not be required as a condition of plat approval to provide improvements that cannot be permanent due to natural circumstances. However, a subdivider must demonstrate why such areas are unavoidable, given the size of the subdivision, the expected disruption to access, and the cost of avoiding such disruption. Except that disruption which is expected to be so frequent as to render the access unusable for any significant part of a season will not be allowed;

(bb) where trails encounter large water crossings such as creeks and rivers and it is not feasible to install culverts or construct a bridge, an open water crossing will be allowed; provided, that it is approved by the agencies having jurisdiction over the waterway and stream bank stabilization improvements are installed where needed;

(vii) for transit across wetland or marshy conditions, installation of approved matting shall be allowed to be substituted for a hardened surface as specified above.

(6) All subdivisions under this section shall have a plat note which reads: "the borough is not responsible for maintenance or upgrades of any access improvements to lots or parcels created under this provision."

(C) *DNR remote recreational projects.* The purpose of this subsection is to specify the legal and physical access requirements for parcels created under the Alaska Department of Natural Resources (DNR) Remote Recreational Land Disposal Programs(s) and only these standards shall apply. This program typically consists of large staking areas of state land where selected entrants stake their own parcel within the staking area which is subsequently surveyed and conveyed to the entrants by the state.

(1) *Preliminary plat approval.* The DNR shall submit a preliminary plat application to the platting officer for review and approval by the platting board containing the following:

- (a) boundary of the proposed staking area;
- (b) proposed external winter and/or summer access, vehicle parking, and staging areas to the staking area;
- (c) the maximum number of proposed parcels; and
- (d) identify a proposed main trail or means of access through the staking area from the access point or points;
 - (i) if a trail is the main access within the staking area it shall be within a 60-foot-wide right-of-way.

(2) *Final plat submittal and approval.*

- (a) The final plat for this section shall conform with provisions of MSB 43.15.051.
- (b) The final location of the main trail or access through the staking area may be adjusted by the petitioner from the location shown on the preliminary plat.
- (c) Add a plat note: 1) the borough is not responsible for maintenance or upgrades of any access improvements to parcels created under this provision.

(3) *Replatting remote recreational parcels.* The provisions of this section shall apply to the subdivision of parcels created under DNR land disposal programs including Remote Parcel, Open to Entry (A.S. 38.05.077), Homesteads (A.S. 38.09) and Remote Recreational land programs which occurred before and after enactment of this code provision.

- (a) Said parcels may be subdivided into not more than three lots with each having a minimum lot size of approximately two and one-half acres (plus or minus one-half acre).
- (b) Lots created herein are exempt from other legal and physical access provisions contained within this code.
- (c) A note shall be placed on the plat that wastewater disposal systems shall comply with ADEC regulations.

(D) For a rural or remote subdivision in a road service area where the physical access to a proposed subdivision will be improved, connectivity will be improved, and the primary purpose of the proposed subdivision is for seasonal or recreational use.

(1) The platting board may approve a reduction in road standards to a pioneer standard road within and leading to a subdivision; provided, that:

- (a) a note be placed on the plat that no borough funds will be expended to upgrade the roads;
- (b) before borough maintenance will be provided, the roads will have to be upgraded and accepted for maintenance by the public works department; and
- (c) for subdivisions greater than ten lots, a parking area of sufficient size shall be reserved and constructed if no provisions are made for winter maintenance of the subdivision roads.

(Ord. 11-072, § 3 (part), 2012)

43.20.060 DEDICATION TO PUBLIC.

(A) All roads shall be dedicated to the public, except as provided in subsection (D) of this section; 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 rights-of-way for projected traffic through the subdivision.

(D) The platting board may require the dedication or improvement, or dedication and improvement of rights-of-way, tracts, or easements no narrower than ten feet in width to accommodate the construction of walkways up to eight feet in width in any of the following circumstances:

- (1) if a walkway is indicated as appropriate in the borough's comprehensive plan or other ordinance, i.e., special land use district (SPUD);
- (2) if the walkway is reasonably necessary to provide safe and efficient pedestrian access to a school, playground, park, shopping center, public cemetery, transportation, or other community facility; or
- (3) if the walkway is reasonably necessary to provide connectivity to a dedicated right-of-way in an adjoining subdivided or unsubdivided parcel.

(4) The above requirements for dedication of additional right-of-way for a walkway shall apply only where a walkway cannot be contained within the legal right-of-way reserved for a street;

(a) plats or master plans of 20 lots or less shall be exempt from requirements to construct a walkway, unless evidence is presented supporting the need for pedestrian safety or the walkway will provide connectivity to other pedestrian facilities.

(Ord. 11-072, § 3 (part), 2012)

43.20.100 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) of this section 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 requirements of subsection (A) of this section. If other than road access is approved, the mode of access shall be noted on the plat.

(C) Gated subdivisions and private roads shall be approved, provided they meet the following criteria:

- (1) roads are constructed to the required borough standards;
- (2) emergency services shall be provided access to deliver services within the private subdivision. Borough maintenance shall be provided access to get through the subdivision to provide services beyond the private subdivision;
- (3) alternate legal access to adjoining properties is available.

(D) A subdivider proposing to create roads shall ensure access to adjoining privately owned parcel(s) beyond a proposed subdivision as follows:

- (1) legal access shall be provided along a constructible alignment;
 - (a) geometrical alignment shall meet a minimum of subcollector standards unless the applicant demonstrates that it is not necessary;
 - (b) provided that constructing physical access to said adjoiners shall not be a condition of plat approval; and
- (2) access to adjoining lands does not have to be provided where legal and constructible alternative access is available.

(E) A subdivision plat whose sole purpose is to separate/divide a home/headquarters site in a Matanuska-Susitna Borough agricultural rights parcel under former MSB Title 13 is exempt from the road construction standards of the MSB Subdivision Construction Manual; provided, that the following conditions are fulfilled:

- (1) prior to preliminary plat submittal the agriculture rights property owner is to obtain assembly approval of the sale of the home/headquarters site through an application made to the borough land and resource management division; and
- (2) the maximum parcel size is five acres for the home/headquarters site; and
- (3) only two parcels can be created from the farm unit parcel, the home/headquarters site and the remainder;
- (4) the applicant demonstrates that legal access as defined in MSB 43.20.120, Legal Access, exists to all parcels or tracts created, and the suitability of the legal access for future residential road construction is documented by a registered land surveyor or civil engineer hired by the applicant;
- (5) the property is to be surveyed and monumented and a plat submitted in conformance with MSB 43.15.015, Preliminary Plat, 43.15.045, Plat Approval, 43.15.049, Final Plat, General Provisions, and 43.15.051, Final Plat Submitted;
- (6) a plat note declaring that the borough is not responsible for road construction or road maintenance; and
- (7) a plat note restricting further subdivision of the parcels being created.

(Ord. 11-072, § 3 (part), 2012)

43.20.120 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.

(Ord. 11-072, § 3 (part), 2012)

43.20.140 PHYSICAL ACCESS.

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

- (1) be located entirely within dedicated or legal rights-of-way; and
- (2) conform to existing requirements of the Subdivision Construction Manual.

(Ord. 11-072, § 3 (part), 2012)

43.20.280 AREA.

(A) Unless designated otherwise by another authority having jurisdiction, minimum lot sizes shall be as follows:

(1) Except as allowed under subsections (A)(2), (3), and (4) of this section, all lots within this district shall contain at least 40,000 square feet of area with at least 10,000 square feet of useable building area and 10,000 square feet of contiguous useable septic area. Lots having 20,000 square feet or less of the total of useable building area and useable septic area shall have 10,000 square feet of contiguous useable septic area surrounded by a well exclusion area extending 100 feet from the perimeter, delineated and reserved on the plat at the discretion of the platting board.

(a) Water table and ability of soils to accept effluent shall be determined by a number of borings or test holes sufficient to indicate subsurface conditions over the entire area of the subdivision. All of the borings and test holes shall be located within the perimeter of the proposed subdivision. Borings and test holes must have the following minimum depths below the ground surface:

- (i) in areas known or suspected to contain permafrost, the lesser of:
 - (aa) twenty feet deep; or
 - (bb) a depth at which permafrost or an impermeable layer is encountered; and
- (ii) the least depth associated with the following conditions, where they apply:
 - (aa) two feet below the depth where the water table is encountered;
 - (bb) twelve feet deep for shallow trench or bed systems;

- (cc) sixteen feet deep for areas where deep trench or seepage pits will likely be used; or
 - (dd) the depth to bedrock, clay, or other impermeable strata with an expected percolation rate slower than 120 minutes per inch;
 - (ee) as determined by the engineer, a lesser depth as required to verify useable areas is acceptable for hand-dug excavations on parcels with limited or no access for heavy equipment.
- (b) The minimum number of test holes shall be:
- (i) determined by the engineer;
 - (ii) when the water table is encountered in the test holes, the depth to the seasonal high water table must be determined by:
 - (aa) monitoring test holes or soil borings at times between May and October (inclusive);
 - (bb) soil mottling or staining analyses;
 - (cc) interpretation of levels of standing open water;
 - (dd) local knowledge and experience, if approved by the borough; or
 - (ee) a combination of these methods.
 - (iii) the depth to any seeps must be noted and may require subsequent monitoring.
- (c) Soils in a useable wastewater disposal area must be:
- (i) clearly shown to be visually classified as GW, GP, SW, or SP, under the Unified Soils Classification System and expected to have a percolation rate of 15 minutes per inch or less (faster);
 - (ii) clearly shown to be GM or SM under the Unified Soils Classification System by a sieve analysis; or
 - (iii) shown by a percolation test conducted in accordance with Alaska State Department of Environmental Conservation (ADEC) regulations to have a percolation rate of 60 minutes per inch or less (faster).
- (d) These borings or test holes shall be accomplished under the direct supervision of a state of Alaska registered civil engineer, who shall submit soil logs and other findings in writing to the Matanuska-Susitna Borough certifying 10,000 square feet of contiguous useable area for septic drain field use.
- (e) 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.

(f) The platting authority shall exempt the submission requirements of MSB 43.15.045(A)(2) for purposes of fulfilling useable area requirements for subdivisions 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 to elimination of lot lines or moving one or more lot lines a distance of ten feet or less; or

(iii) an Alaska registered engineer submits a certified report verifying useable area on each lot for a waiver of requirement MSB 43.15.045(A)(2); or

(iv) an engineer or land surveyor submits a detailed topographic narrative for a waiver of MSB 43.15.045(A)(1).

(2) Lots containing at least 20,000 square feet but less than 40,000 square feet must be serviced by an approved public or community water or public or community septic system. The platting authority may approve lots having at least 20,000 square feet, provided each lot is serviced by an approved public or community water system or public or community wastewater system. A community wastewater disposal system shall include a common wastewater disposal site on separate lot(s) that serves the entire subdivision.

(3) The platting authority may approve lots having less than 20,000 square feet but at least 7,200 square feet if served by a community or municipal water system and community or municipal sewage disposal facilities.

(4) For those areas not served by municipal sewer and water, lots less than 20,000 square feet must be approved by a planned unit development as authorized by MSB 17.36.

(B) Within jurisdictions having authority, minimum lot sizes and dimensions shall be those established under or pursuant to the applicable provisions 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 this title applies.

(C) 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 not less than 80 percent of the minimum required.

(D) Exclusive of open space, lots designated or dedicated for a public or utility purpose with no on-lot sewer shall have no minimum lot size but shall have restrictions, requirements, designations, or dedications noted on the plat.

(E) *Open space incentive.* The intent of this subsection is to support the goals, policies, and objectives of the Matanuska-Susitna Borough Parks, Recreation, and Open Space Plan.

(1) Minimum individual lot area may be reduced up to 25 percent by the dedication of an equal area of useable open space within the subdivision; provided, that:

(a) each non-open space lot has 10,000 square feet of contiguous useable septic area delineated on the plat, unless served by a community wastewater system;

(b) the open space area is connected by public access, or is attached to an existing open space or greenbelt area that has public access. If it is proposed to attach to an existing open space or greenbelt area, the access must be in an area that is feasible for the intended use; and

(c) open space shall be irrevocably dedicated to the municipality or borough, or irrevocably dedicated to the subdivision owners and cannot be resubdivided.

(2) Additional non-useable area may be attached to the useable open space area, but shall not be used for calculations in the reduction of lot size.

(3) Open space area is exempt from lot configuration; however, the minimum width of any open space area shall be a minimum of 20 feet.

(4) Useable open space area shall be a minimum of 30,000 contiguous square feet.

(5) The proposed open space area shall connect to adjacent open space areas when prudent and feasible.

(6) Open space area shall be delineated and identified on the plat.

(7) Community wells and community septic systems shall not be allowed on open space dedicated to a municipality or the borough but are allowed in open space areas if accepted by the subdivision owners. Protective well radii may be allowed in open space areas.

(Ord. 11-072, § 3 (part), 2012)

43.20.300 LOT AND BLOCK DESIGN.

(A) For rural districts, the length of a block shall be not less than 400 feet, no more than 3,000 feet, or less than 800 feet along collector or arterial roads.

(B) No lot under two acres in size 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 unuseable 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 ratio due to unuseable area or natural ground slope exceeding 25 percent grade.

(C) Lots two acres to ten acres may have an average depth of more than four times its average width.

(D) *Flag lots.*

(1) Flag lots are allowed with a maximum pole length of 2,640 feet and the flag pole portion shall not count in the width to length ratio;

(a) for poles up to 1,320 feet or upon survey where a one-quarter section aliquot part dimension exceeds 1,320 feet, the width of the pole portion must be a minimum of 30 feet wide and the 60-foot road frontage requirement does not apply;

(b) for a pole length greater than 1,320 feet and not exceeding 2,640 feet, the pole width must be a minimum of 60 feet wide.

(Ord. 11-072, § 3 (part), 2012)

43.20.320 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.

(Ord. 11-072, § 3 (part), 2012)

43.20.340 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.

(Ord. 11-072, § 3 (part), 2012)

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CHAPTER 43.25: EXISTING PLAT STATUS AND VALIDATION

Section

- [43.25.015](#) Existing plats validated
- [43.25.020](#) Recorded plats
- [43.25.025](#) Severability

43.25.015 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 recorded under this title.

(Ord. 11-072, § 3 (part), 2012)

43.25.020 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.

(Ord. 11-072, § 3 (part), 2012)

43.25.025 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.

(Ord. 11-072, § 3 (part), 2012)

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CHAPTER 43.35: RECONSIDERATION AND APPEALS

Section

- [43.35.003](#) Appeals of platting officer decision
- [43.35.005](#) Reconsideration by platting board
- [43.35.015](#) Appeals

43.35.003 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.

(Ord. 11-072, § 3 (part), 2012)

43.35.005 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 subsections (B)(1) through (5) of this section 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 43.05. 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.

(Ord. 11-072, § 3 (part), 2012)

43.35.015 APPEALS.

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

(Ord. 11-072, § 3 (part), 2012)

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CHAPTER 43.55: SUBDIVISION AGREEMENTS

Section

43.55.010	Subdivision agreement required
43.55.015	Assembly approval required
43.55.020	Completion date
43.55.025	Cost of required public improvements
43.55.030	Guarantee of completion of public improvements
43.55.035	Release of guarantee
43.55.037	Warranty
43.55.040	Warranty; correction of deficiencies
43.55.050	Release of warranty
43.55.055	Default
43.55.060	Enforcement
43.55.065	Other municipalities as beneficiary

43.55.010 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 43.55.030;
- (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 43.55.037;

- (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 constructed as part of the subdivision agreement;
- (11) a provision that all work shall be performed pursuant to Matanuska-Susitna Borough specifications 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.015 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.020 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 approved under this section do not constitute an extension of the period of time during which the preliminary plat approval is effective.

(Ord. 11-072, § 3 (part), 2012)

43.55.025 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 43.55.030;
- (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.

(Ord. 11-072, § 3 (part), 2012)

43.55.030 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) of this section. 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) of this section 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) of this section 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.035 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.037 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 43.55.030 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.

Total Construction Cost	Percent to Secure Warranty
\$0 to \$500,000	10 percent
\$500,000 to \$1,000,000	7.5 percent
\$1,000,000 and higher	5 percent

(Ord. 11-072, § 3 (part), 2012)

43.55.040 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.050 RELEASE OF WARRANTY.

(A) Inspection shall be made by the borough at the end of the warranty period and prior to 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.

(Ord. 11-072, § 3 (part), 2012)

43.55.055 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 bond, 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; and
- (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.

(Ord. 11-072, § 3 (part), 2012)

43.55.060 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 codified in this chapter as well as an action in contract.

(Ord. 11-072, § 3 (part), 2012)

43.55.065 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 subdivision 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.

(Ord. 11-072, § 3 (part), 2012)

This page of the Matanuska-Susitna Borough Code is current through Ordinance 12-064, passed May 15, 2012.
Disclaimer: The Borough Clerk's Office has the official version of the Matanuska-Susitna Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Borough Website: <http://www.matsugov.us/>
(<http://www.matsugov.us/>)
Borough Telephone: (907) 745-4801
Code Publishing Company
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(<http://www.codepublishing.com/ellibrary.html>)

Title 43 Access Matrix

CODE	TYPE OF PLATTING ACTION	INSIDE RSA	APPLICABLE CODE REFERENCE	OUTSIDE RSA	APPLICABLE CODE REFERENCE
43.15.022	Waiver of 4 lots or less	I, A, C, 1	43.20.055(A)(3)(b)	I, C, 1	43.20.055(A)(1)
43.15.025	Elimination of Common Lot Lines	V, 2	43.15.005	V, 2	43.15.005
43.15.015 & 43.15.025	Platting 4 lots or less w/ road access (Abbreviated Plat)	I, A, C, 1, 12	43.20.055(A)(3)(b)	I, B, C, 2, 12	43.20.055(A)(3)(a)
43.15.015	Platting 4 lots or less w/o external road access	2, 4	43.20.100(B)	I, B, 2, 3, 4	43.20.055(A)(3)(a) & 43.20.055(B) & 43.20.100(B)
43.15.015	Platting more than 4 lots w/ road access (Preliminary Plat)	I, II, 1, 5, 6, 11, 12	43.20.055(D) & 43.20.100(A) & 43.20.120(A)	I, II, C, 1, 6, 12	43.20.055(A)(1) & 43.20.055(A)(3)
43.15.015	Platting more than 4 lots w/o external road access	2, 4	43.20.100(B)	II, III, IV, 3, 4, 6, D	43.20.055(A)(1)(c) & 43.20.055(B) & 43.20.100(B)
43.15.015	Platting w/ trail access (no roads)	n/a		III, IV, C, E, 3, 7	43.20.055(B)
43.15.012	40-Acre Exemptions within 2 miles of the Core Comprehensive Area	I, 2, 9	43.15.012(B)(7)	I, 2, 9	43.15.012(B)(7)
43.15.012	40-Acre Exemptions outside 2 miles of the Core Comprehensive Area	I, 2, 3, 8	43.15.012(B)(7)& 43.20.055(B)(5)	I, 2, 3, 8	43.15.012(B)(7)& 43.20.055(B)(5)
43.15.015	DNR Remote Recreational Projects	II, C, 10	43.20.055(C)(1)(b) & 43.20.055(C)(2)	II, C, 10	43.20.055(C)(1)(b) & 43.20.055(C)(2)
43.15.015	Replatting Remote Recreational Parcels created by DNR	V, 2	43.20.055(C)(3)(b)	V, 2	43.20.055(C)(3)(b)
43.20.100	Matanuska-Susitna Borough Agricultural Rights Parcels under Former Title 13	I, C, 2, 9	43.20.100(E)(4)	I, C, 2, 9	43.20.100(E)(4)

LEGEND
RSA = Road Service Area
ROW = Right-of-way
DNR = State of Alaska Department of Natural Resources
Roman Numerals = Minimum Legal Access Requirements
Capital Letters = Additional Comments
Numerals = Minimum Physical Access Requirements

MINIMUM LEGAL ACCESS REQUIREMENTS
I -- 50' wide existing legal ROW
II -- Internal 60' wide new legal ROW
III -- External 100' wide legal ROW for more than 10 lots
IV -- External 50' wide legal ROW for 10 lots or less
V -- No Legal Access Required

ADDITIONAL COMMENTS
A -- Further Subdividing requires Residential Road Construction
B -- Further Subdividing requires Pioneer Road Construction
C -- Note shall be placed that no borough road maintenance will be provided
D -- Note shall be placed that no borough airstrip maintenance will be provided
E -- Physical access not required if certain circumstances are met; 43.20.055(B)(5)(aa) & (bb)

MINIMUM PHYSICAL ACCESS REQUIREMENTS
1 -- Pioneer Road Standard
2 -- No Road Construction Required
3 -- Trail Access Standards
4 -- Alternate access (Water, Air, Railroad)
5 -- Residential Road Standard
6 -- Provide parking area for more than 10 lots w/o winter road maintenance
7 -- Provide sufficient area for parking unless proven unnecessary
8 -- Limited requirement for proving trail construction feasibility
9 -- Limited requirement for proving residential construction feasibility
10 -- Show proposed winter and/or summer access, vehicle parking and staging areas
11 -- Where external access is to be improved, pioneer standard is allowed
12 -- If publicly maintained (state, borough, cities), no upgrade is required

CODE	TYPE OF PLATTING ACTION	ALLOWABLE ACCESS	APPLICABLE CODE REFERENCE
27.15.080	Waiver of 4 lots or less	2, 4	27.15.080(A)(1)(a)
27.15.060	Elimination of Common Lot Lines on a Subdivision Plat of Record	III, 1	27.15.060(B) & 27.20.030(C)
27.15.090	Platting 4 lots or less w/ road access (Abbreviated Plat)	I, IV, 1, 4	27.20.030(A) & 27.20.035(A) & 27.20.045(A)
27.15.040	Platting 4 lots or less w/o external road access	I, II, IV, 3, 7, 8	27.20.030(B)
27.15.040	Platting more than 4 lots w/ road access (Preliminary Plat)	I, IV, 4, 5	27.20.030(A) & 27.20.035(A) & 27.20.450(A)
27.15.040	Platting more than 4 lots w/o external road access	I, II, IV, 3, 7, 8	27.20.030(B)
N/A	Platting w/ trail access (no roads)	N/A	
27.15.030	40-Acre Exemptions	I, 2, 8	27.15.030(B)(7)
27.15.040	DNR Remote Recreational Projects	I, II, IV, 3, 7, 8	27.20.030(B)
27.15.040	Replatting Remote Recreational Parcels created by DNR	I, II, IV, 3, 7, 8	27.20.030(B)
27.20.045	Matanuska-Susitna Borough Agricultural Rights Parcels under Former Title 13	I, A, B, 1, 8	27.20.045(D)(4)

LEGEND
RSA = Road Service Area
ROW = Right-of-way
DNR = State of Alaska Department of Natural Resources
Roman Numerals = Minimum Legal Access Requirements
Capital Letters = Additional Comments
Numerals = Minimum Physical Access Requirements

MINIMUM PHYSICAL ACCESS REQUIREMENTS
1 -- No Road Construction Required
2 -- Outside RSA or further than one mile from a publicly maintained road, only pioneer road access is required
3 -- Alternate access (Water, Air, Railroad)
4 -- Residential Road Standard
5 -- If traffic from new subdivision will increase the ADT to cause a higher classified road system, then developer would be required to upgrade the existing road, whether maintained or not.
7 -- Provide sufficient area for parking unless proven unnecessary
8 -- Required to show the feasibility of residential construction

MINIMUM LEGAL ACCESS REQUIREMENTS
I -- 50' wide existing legal ROW
II -- Internal 60' wide new legal ROW
III -- Legal access is not required to be shown
IV -- External 60' wide new legal ROW

ADDITIONAL COMMENTS
A -- Note shall be placed that borough is not responsible for road maintenance created