

CODE ORDINANCE

By: Borough Manager
Introduced: 04/05/05
Public Hearing: 04/19/05
Adopted: 04/19/05

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 05-041**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ACCEPTING THE FINAL REPORT OF CRITICAL HABITATS, INC., ON WETLAND MITIGATION BANKING OF BOROUGH-OWNED LAND; ESTABLISHING A NEW SECTION IN CODE CREATING A WETLAND MITIGATION BANK AND DEFINING ITS PURPOSES AND FUNCTIONS; AUTHORIZING THE MANAGER TO CREATE PRIVATE CONSERVATION EASEMENTS FOR WETLAND MITIGATION BANKING; AND AUTHORIZING A REQUEST FOR PROPOSALS FOR CREATION AND OPERATION OF A WETLAND MITIGATION BANK.

WHEREAS, after a nationwide solicitation, the Matanuska-Susitna Borough contracted with Critical Habitats, Inc., to determine the feasibility of the Borough creating a wetland mitigation bank on Borough-owned land; and

WHEREAS, the report has been completed and land has been identified that meets the criteria for inclusion into a mitigation bank; and

WHEREAS, the establishment of such a bank in the Borough will ensure the protection of important wetlands, assist developers in complying with federal wetland regulations, and generate new revenue for the Borough; and

WHEREAS, a certified wetland bank will continue to provide recreational and educational opportunities to the public while protecting wetland areas; and

WHEREAS, to receive federal certification for a wetland mitigation bank a high level of technical and scientific expertise is required, as well as the confidence of the federal agencies involved; and

WHEREAS, the Borough will classify certain Borough-owned wetlands for mitigation banking; and

WHEREAS, the most practical method of creating the mitigation bank will be through the use of private easements, that will function much the same way as a conservation easement; and

WHEREAS, under MSB 23.10.110 the Borough may grant reservations, or dedications, or permanent public or private easements, or rights-of-way.

BE IT ENACTED:

Section 1. Classification. Section 3 and 4 are of a general and permanent nature and shall become a part of Borough Code.

Section 2. Acceptance of report. The Assembly hereby accepts the report, findings and recommendations of the August 8, 2004, report by Critical Habitats, Inc., titled *Summary, Stakeholder Strategies, And What's Next: Mat-Su Borough Wetland Mitigation Banking Project.*

Section 3. Adoption of section. MSB 23.05.075, Wetland Mitigation Bank, is hereby adopted to read as follows:

(A) Land that is classified "wetland bank lands" shall comprise the land in the Wetland Mitigation Bank.

(B) The manager is authorized to create private conservation easements for land placed in the Wetland Mitigation Bank.

(C) Land sold from the Wetland Mitigation Bank shall be sold at fair market value.

(D) The manager shall:

(1) ensure that the required technical and scientific expertise is provided to support certification of the bank and any borough land placed in it. This shall include wetland delineations, wetland functional assessments, fish surveys, boundary delineations, and other special studies as required;

(2) provide for continuous refinement of the selection of borough-owned properties that may be placed in the Wetland Mitigation Bank and that may be in the path of development, but least suitable for development;

(3) define the credit value of the properties;

(4) define and maintain a Wetland Mitigation Bank Prospectus;

(5) implement a marketing plan over the life of the Wetland Mitigation Bank; and

(6) require an annual accounting of the expenses and income from the Wetlands Mitigation Bank and the inventory of Borough land in the Wetland Mitigation Bank;

Section 4. Amendment of subsection. MSB 23.05.070(E), Land Management Fund, is hereby is amended to read as follows:

(E) The manager shall make public an accounting of the funds deposited into the land management fund from sales, leases, or transfers of borough-owned real property at least once a year, and report to the assembly the total of lands selected, the total of disposals, **land placed in or easements sold from the Wetland Mitigation Bank,** and the balance remaining in acreage. The name of this report shall be the "Annual Report of the Matanuska-Susitna Borough's Real Property Assets." This report shall be prepared after the end of each fiscal year.

Section 5. Effective date. This ordinance shall take effect upon adoption by the Matanuska-Susitna Borough Assembly.

ADOPTED by the Matanuska-Susitna Borough Assembly this 19 day of April, 2005.

/S/

TIMOTHY L. ANDERSON, Borough Mayor

ATTEST:

/S/

MICHELLE M. MCGEHEE, CMC, Borough Clerk (SEAL)

PASSED UNANIMOUSLY: Woods, Allen, Colberg, Kvalheim, Simpson,
Colver, and Vehrs