

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ADOPTING MSB 01.10.300 TO REQUIRE VOTER RATIFICATION OF ANY ORDINANCE REGULATING THE DISCHARGE OF FIREARMS.

AGENDA OF: May 3, 2022

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Introduce and set for public hearing.

MICHAEL BROWN, BOROUGH MANAGER: MB

Route To:	Department/Individual	Initials	Remarks
	Originator	NS	for Assemblymember Yundt
	Planning Director <i>A. Strawn</i>	<i>(S)</i>	
	Finance Director	<i>PS</i>	
	Borough Attorney	<i>PS</i>	
	Borough Clerk	<i>Yundt 4/25/22</i>	<i>(750)</i>

ATTACHMENT (S): Fiscal Note: YES NO
 Ordinance Serial No. 22-051 (2 pp)

SUMMARY STATEMENT: This ordinance is sponsored by Assemblymember Yundt to require voter ratification of any ordinance regulating firearms.

AS 29.35.145 provides:

(a) The authority to regulate firearms and knives is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating the possession, ownership, sale, transfer, use, carrying, transportation, licensing, taxation, or registration of firearms or knives.

(b) Municipalities may enact and enforce ordinances
 (1) that are identical to state law and that have the same penalty as provided for by state law;

(2) restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that people, domestic animals, or property will be jeopardized; ordinances enacted or enforced under this paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19, Constitution of the State of Alaska, to bear arms in defense of self or others;

(3) restricting the areas in their respective jurisdictions in which firearms or knives may be sold; a business selling firearms or knives may not be treated more restrictively than other businesses located within the same zone; and

(4) prohibiting the possession of firearms or knives in the restricted access area of municipal government buildings; the municipal assembly shall post notice of the prohibition against possession of firearms or knives at each entrance to the restricted access area.

(c) The prohibition on taxation in (a) of this section does not include imposition of a sales tax that is levied on all products sold within a municipality.

(d) This section applies to home rule and general law municipalities.

(e) In this section,

(1) "firearms" includes firearms, or any other element relating to firearms or parts thereof including ammunition and reloading components;

(2) "restricted access area" means the area beyond a secure point where visitors are screened and does not include common areas of ingress and egress open to the general public.

This ordinance would add an additional local rule for the Matanuska-Susitna Borough that ordinances regulating discharge of firearms under this state law would not take effect unless ratified by the voters. Benefits of this proposal is that the electorate can show direct support for ordinance and also demonstrate whether the electorate agrees that there is a "reasonable likelihood that people, domestic animals, or property will be jeopardized" sufficient to adopt local regulations governing the discharge of firearms.

The Matanuska-Susitna Borough Assembly is aware of the Alaska Supreme Court's holding in *Griswold v. City of Homer*, 186 P.3d 558

(Alaska 2008) indicating that voter referendum of planning ordinances is not proper under Alaska law. However, the potential regulation of firearms and authority to do so is not part of the Matanuska-Susitna Borough's planning powers under AS 29.40.010-200. Rather, the ability to regulate firearms flows from AS 29.35.145 and, as such, there is no prohibition on requiring voter approval of local laws restricting discharge of firearms.

RECOMMENDATION OF ADMINISTRATION: Introduce and set for public hearing.