

CODE ORDINANCE

Sponsored by: Assemblymember Yundt
Introduced: 03/01/22
Public Hearing: 03/15/22
Amended: 03/15/22
Adopted: 03/15/22

Motion to Amend Something
Previously Adopted Passed: 04/19/22

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 22-025**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ENACTING A LIFETIME LIMIT OF TWO TERMS FOR THE OFFICE OF BOROUGH ASSEMBLY, ALLOWING CURRENT ASSEMBLYMEMBERS IN THEIR FIRST TERM THE OPPORTUNITY TO SEEK ONE ADDITIONAL TERM, AND SUBMITTING THE QUESTION TO THE QUALIFIED VOTERS AT THE NEXT REGULAR OR SPECIAL ELECTION.

WHEREAS, the intent and rationale of this ordinance are found in the accompanying Informational Memorandum No. 22-052.

BE IT ENACTED:

Section 1. Classification. Section 2 of this ordinance is of a general and permanent nature and shall become a part of the Borough Code. All other sections are noncode.

Section 2. Amendment of section. MSB 2.12.020 is hereby amended to read as follows:

2.12.020 TERM OF OFFICE.

(A) The assembly members' term shall be three years. The qualified candidate succeeds to the candidate's elected office the first Monday following the certification of the election and acceptance of the oath of office. [NO PERSON SHALL SERVE ON THE ASSEMBLY FOR MORE THAN TWO CONSECUTIVE, FULL TERMS.]

(B) No person shall hold the office of Borough Assembly for more than two terms for life. For purposes of this section, service for more than one half of a term is considered a full term. This limitation applies to all former and current Assemblymembers except that it shall not prevent the current Borough Assemblymembers from holding the remainder of their term and to serve one additional full term.

Section 3. Submission to the voters. The Borough Clerk shall submit the following question, in substantially similar form, to the qualified voters of the Matanuska-Susitna Borough at the next regular or special Borough election.

Proposition No. _
Lifetime Term Limits for Borough Assembly

Borough code currently limits a person serving as an Assemblymember to no more than two consecutive full terms, but does not restrict the total number of terms a person can serve in their lifetime. Ordinance Serial No. 22-025 adopts lifetime term limits for the office of Borough Assembly and limits a person to serving 2 terms for life. Service for more than one-half of a term is considered a full term. The ordinance applies to all current and former Assemblymembers except that all current Assemblymembers would be allowed to seek one additional term.


Shall Ordinance Serial No. 22-025 be ratified and adopted?

Yes No

Section 4. Effective date. Section 2 of this ordinance shall take effect upon certification of the election results if ratified

by the voters at the next regular or special Borough election. All other sections of this ordinance take effect immediately.

ADOPTED by the Matanuska-Susitna Borough Assembly this 15 day of March, 2022.


EDNA DeVRIES, Borough Mayor

ATTEST:


LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

YES: Hale, Yundt, Tew, Sumner, and Bernier

NO: Nowers and McKee


SUBJECT: ORDINANCES OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ENACTING A LIFETIME LIMIT OF TWO TERMS FOR OFFICE OF BOROUGH ASSEMBLY AND BOROUGH MAYOR, ALLOWING THE CURRENT ASSEMBLYMEMBERS IN THEIR FIRST TERM AND CURRENT MAYOR THE OPPORTUNITY TO SEEK ONE ADDITIONAL TERM, AND SUBMITTING THE QUESTIONS TO THE QUALIFIED VOTERS AT THE NEXT REGULAR OR SPECIAL BOROUGH ELECTION.

AGENDA OF:

ASSEMBLY ACTION:
 amended & adopted with assembly members
 Nowers & McKee opposed. 3-15-22 ~~507~~
 reconsideration filed: 3-16-22 Amended: 4-19-22
 reconsideration failed: 4-5-22

MANAGER RECOMMENDATION: Introduce and set for public hearing.

MICHAEL BROWN, BOROUGH MANAGER: MSB

Route To:	Department/Individual	Initials	Remarks
	Originator	NS	For Assemblymember Yundt
	Finance Director	CY	
	Borough Attorney	MS	
	Borough Clerk	MSB 2/18/22	

ATTACHMENT (S) : Fiscal Note: YES ___ NO X
 Ordinance Serial No. 22-025 (3 pp)
 Ordinance Serial No. 22-026 (3 pp)

SUMMARY STATEMENT: These ordinances are sponsored by Assemblymember Yundt to propose to the voters to enact lifetime term limits on the elected offices of Mayor and Assembly much the same way as the 22nd Amendment to the United States Constitution applies to the President.

Currently, the Matanuska-Susitna Borough Assembly and Mayor have limits on the terms they may serve in office. MSB 2.12.020 limits an Assemblymember's duration in office to two full consecutive terms. Likewise, MSB 2.08.020 limits a Mayor's term to two full consecutive terms. These are not lifetime term limits, and a person can serve multiple terms. The limitation in Borough code means that no more than 2 terms may be consecutive. In other words, if a person serves 2 consecutive terms, that person can take a break

in service as Assemblymember or Mayor, and then may seek office again. See Horton v. Watson, 23 Kan. 229 (KS 1880); State ex rel. Rhodes v. Brown, 296 N.E.2d 538 (Ohio 1973); 59 ALR 2d 716.

In contract to the Matanuska-Susitna Borough limits, the 22nd Amendment to the United States Constitution provides a lifetime limit on the number of terms a person may serve as President of the United States. The 22nd Amendment provides:

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This Article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress.

In reading the 22nd Amendment, it is clear that the language is such that passage of the amendment would not force the then-sitting President to become immediately ineligible if he was in a later term. When the 22nd Amendment was ultimately ratified by the states on February 27, 1951, then President Harry Truman was in his second term. Mr. Truman did not seek nomination for another term, so there was no issue as to 22nd Amendment's applicability to him.

Currently, all Assemblymembers and Mayor are all limited under the existing Borough code to serving 2 full consecutive terms. Presently, only two elected officials have previously served in elected office. The current Mayor previously served as Mayor in 1980, and Assemblymember Sumner has served a previous term in 2018. The proposed ordinance here would enact lifetime limits, and while it is intended to apply to all people, it is not intended to impact the ability of all current sitting Assemblymembers and Mayor to serve two full consecutive terms under the present rules.

In the case of the current Assemblymembers in their first term and the current Borough Mayor, the proposed ordinance here would allow

them to complete their first term and also, should they desire it, seek a second term. Other than this one unique situation, the proposed ordinance here will prohibit all current and former Assemblymembers and Mayors from serving more than 2 terms in their lifetime. In the case of appointment or vacancy, less half of a term would not count as a term, but more than half a term would count as a term.

In drafting the ordinance here, it was determined that the language of the 22nd Amendment becomes overly complicated when adjusted to meet the intent of this ordinance. However, as noted in the title, and explained through this informational memorandum, it is the clear language and operative intent of this ordinance that all current and former Assemblymembers and Mayors are limited to serving two terms in their life. The limited exception is that the current Mayor and current Assemblymembers in their first term may seek one additional term regardless of prior service.

As per the provisions of AS 29.20.140(d) and AS 29.20.230(c) the proposed lifetime limits must be ratified by voters. These ordinances propose to submit the questions to the areawide voters of the Matanuska-Susitna Borough at the next regular or special election to be held.

RECOMMENDATION OF ADMINISTRATION: Consider legislation as proposed.