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SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SR 3

BILL NAME: *Relating to subdivision plan review regulations.*

SPONSOR(S): *P. Fischer*

RELATED BILLS PENDING: *SB 125 (in
S. Comm. + Reg. Aff)*

DATE INTRODUCED: *2-15-83*

REFERRALS: *Resources
Community + Regional Affairs*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED: .

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

SR 3

RELATING TO SUBDIVISION PLAN REVIEW REGULATIONS.

SPONSOR: P. FISCHER

Requests DEC to adopt regulations that provide for a streamlined system of subdivision plan review and approval in accordance with recommendations of the Alaska Society of Professional Land Surveyors.

Current DEC regulations, 18 AAC 72.065 (which SB 125, also by P. Fischer would annul -- referred to Community and Regional Affairs), require review of subdivisions' proposed wastewater systems by a professional engineer registered in the State of Alaska. According to the bill sponsor, this is duplicative, as lending institutions also require that wastewater systems be reviewed and approved by a registered professional engineer.

SR 3

(3) Wastewater Engineering: Collection. Treatment, Disposal; Metcalf and Eddy, Inc., 1972; McGraw-Hill Book Company, New York, N.Y.;

(4) Recommended Standards for Sewage Works, Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Health Education Service, P.O. Box 7283, Albany, New York 12224.

(h) Copies of the referenced materials are on file in the lieutenant governor's office, and may be reviewed in any of the regional offices of the department.

(i) No person may install a package aerobic sewage treatment plant unless the plant, or a similar model in a series of plants, has been certified by the National Sanitation Foundation, unless it can be demonstrated to the department's satisfaction that the plant meets or exceeds the National Sanitation Foundation certification criteria. Approval of package plants will be made only on receipt of acceptable proof of satisfactory operation of similar systems under conditions of proposed use. A list of approved package aerobic sewage treatment plants is available from any of the regional offices of the department. (Eff. 8/10/73, Reg. 47; am 2/3/77, Reg. 61; am 3/4/78, Reg. 65)

- Authority AS 16.10.010
- AS 46.03.020(10)(A)
- AS 46.03.050
- AS 46.03.090
- AS 46.03.720

18 AAC 72.065. SUBDIVISION PLAN REVIEW. (a) Before or within five days after the time of the filing of a proposed subdivision plat with a platting authority, or, where no subdivision plat is filed with a platting authority, at least 60 days before subdividing, the person proposing the subdivision, unless the subdivision is an isolated subdivision, shall submit to the department the following information:

(1) a map of the proposed subdivision

showing lot and street layout with lot dimensions and areas, contours sufficient to show topography, drainage, all marshy or muskeg areas, and any existing or proposed improvements or bodies of water within 200 feet of the proposed subdivision;

(2) recommended or proposed type and location of water sources and sewage treatment and disposal systems on a typical lot diagram in relation to water sources and sewage treatment and disposal systems on adjacent lots;

(3) to the extent ascertainable, a statement concerning the possibility of any future community water or sewerage systems and an approximate timetable for their development;

(4) representative soil testing, logs, and borings, prepared by a professional engineer registered in the State of Alaska, in an area sufficient to determine whether soils are suitable for on-site sewage disposal and to determine the area required for soil absorption systems; however, soil tests, logs, and borings are not required if the subdivision plat clearly indicates that the area for which representative tests, logs, and borings will not be made will not be used for residential or other development which would necessitate domestic sewage treatment and disposal; moreover, representative tests, logs, and borings are not required if a means of sewage treatment and disposal other than soil absorption systems is proposed under (2) of this subsection; and

(5) a statement concerning responsibility for construction, operation and maintenance of water supply and sewage treatment and disposal facilities in the proposed subdivision.

(b) No person creating a subdivision after the effective date of this section, except an isolated subdivision, may sell, contract to sell, lease, or otherwise convey an interest in any lot or lots within that subdivision if plan approval has not previously been granted for that subdivision by the department under this section.

(c) It is the responsibility of the subdivider to provide evidence of plan approval under this section to prospective buyers, lessees or promisees.

(d) Within 30 days of submission of complete plans, the department will approve the plans if the applicant demonstrates that

(1) where the person proposing the subdivision assumes responsibility for sewage treatment and disposal within the subdivision, the proposed manner of sewage treatment and disposal will meet the requirements of this chapter and ch. 70 of this title; or

(2) where the person proposing the subdivision does not assume responsibility for sewage treatment and disposal within the subdivision, there will exist practicable means of sewage treatment and disposal within the subdivision which will meet the requirements of this chapter and ch. 70 of this title.

(e) The department will, in its discretion, attach terms and conditions to approved plans necessary to insure compliance with the requirements of this chapter and ch. 70 of this title. (Eff. 2/3/77, Reg. 61; am 3/4/78, Reg. 65)

Authority: AS 46.03.020(10)(A)

AS 46.03.050

AS 46.03.090

18 AAC 72.068. WAIVER OF SUBDIVISION PLAN REVIEW IN QUALIFIED JURISDICTIONS. (a) A platting authority may petition the department to waive the exercise of sec. 65 of this chapter within its jurisdiction. The petition shall contain

(1) a copy of all pertinent ordinances relating to the review of sewage treatment and disposal matters for subdivisions;

(2) a statement of all pertinent administrative and judicial enforcement processes available to the platting authority; and

(3) a statement of administrative organization, staff, funds and other resources available to the platting authority to administer and enforce its sewage treatment and disposal requirements.

(b) Within 90 days of receipt of a completed petition, the department will grant the petition if the applicant demonstrates that, based upon the information submitted under (a) of this

Ability-Surveys

REGISTERED SURVEYORS
ENGINEERS · PLANNERS

Jerry Anderson · Marvin Hanson

Box 1263 · Homer, Alaska 99603 · (907) 235-8440

May 4, 1982

*PAUL -
I WROTE THIS LETTER
8 MONTHS AGO, & IT STILL
SAYS IT ALL!*

On June 2, 1982, the Department of Environmental Conservation proposes to adopt revised regulations revising Title 18 of the waste water regulations. For the most part, these regulations seem to be an improvement over the current regulations. A glaring exception is the portion dealing with Subdivision Review (18AAC 72.065).

This section remains essentially unchanged from the revision proposed in 1980. The Department has completely ignored testimony from the professional engineers that must complete the reports, recommendations of the Alaska Society of Professional Land Surveyors, who must design and prepare the actual subdivisions, and resolutions of the local government urging that the proposals of the Alaska Society of Professional Land Surveyors be adopted.

The regulations as proposed do not serve to protect the environment, nor do they protect the consumer. The only effect of the regulations is to impede the normal course of land division, raise the price of building lots and interfere with the platting, planning and zoning powers granted to the Borough by Titles 29 and 40.

In my work as a Professional Land Surveyor and Real Estate Broker, and during my tenure as a Borough Assemblyman, I have become painfully familiar with the problems generated by the ADEC Subdivision Regulations. The private sector, in the form of the lending institutions and a better informed consumer, require that the individual wastewater systems be reviewed and approved by a Registered Professional Engineer, rendering the mandatory subdivision review and approval an expensive exercise in futility.

I resent the way the ADEC has ignored the input they received from individuals and local government, and would urge the regulation review committee strike (18AAC 72.065) from the regulations, and substitute the procedure endorsed by resolution 81-14 of the Kenai Peninsula Borough Assembly.

Please contact me if you have any questions or desire further information. I will come to Juneau at my own expense to testify before your committee if it will be of assistance. Please give this matter your immediate attention and let me know your views.

Sincerely,

Jerry A. Anderson

Encl.
JAA/mb

Introduced by: Anderson
Date: Jan. 20, 1981
Vote: Unanimous
Action: Adopted

KENAI PENINSULA BOROUGH

RESOLUTION '81-14

URGING THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO AMEND ITS REGULATIONS REGARDING WATER QUALITY STANDARDS AND WASTEWATER REGULATIONS AND TO PROVIDE FOR ADDITIONAL PUBLIC PARTICIPATION IN ITS DECISION MAKING PROCESS.

WHEREAS, the Alaska Department of Environmental Conservation, (DEC) which is responsible for monitoring water quality standards and wastewater disposal, has proposed amendments to its administrative regulations which will make these regulations more understandable, practical and usable while providing adequate protection for the public health and environment; and

WHEREAS, the Department of Environmental Conservation has invited the participation and recommendations of concerned citizens, organizations and local governments in revising and simplifying its regulations; and

WHEREAS, the Borough, through its subdivision platting and approval process, is vitally concerned with the water quality standards and wastewater disposal regulations adopted by the Department of Environmental Conservation; and

WHEREAS, the Kenai Peninsula Chapter of the Alaska Society of Professional Land Surveyors has endorsed the proposed revision of the existing environmental regulations and has proposed further simplifications and improvements in the wastewater regulations; and

WHEREAS, the Assembly, after inquiry into the issue, urges the Department of Environmental Conservation to adopt its proposed revisions to wastewater disposal regulations and to provide for further simplification and improvement of these regulations;

NOW THEREFORE BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the Assembly urges the State of Alaska Department of Environmental Conservation to adopt its proposed simplification of the wastewater disposal regulations contained in Title Eighteen of the Alaska Administrative Code and to adopt further regulations providing for the

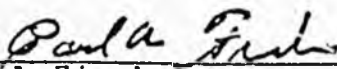
following improvements to the administrative process:

- A. Formulation of regulations which may be executed by a registered professional land surveyor, in the case of subdivision design, and by a registered professional engineer, in the case of wastewater system design, and formulation of practical guidelines which surveyors and engineers could utilize.
- B. Elimination of the redundancy in DEC's process for the approval of proposed subdivisions and wastewater disposal systems by eliminating current procedures which require both approval of the proposed subdivision design and subsequent approval of onsite wastewater disposal systems for individual lots within the subdivision by allowing the subdivider to choose between obtaining initial approval of the entire subdivision or later approval of wastewater disposal systems for individual lots.
- C. Creation of a data bank of approved wastewater disposal systems for various soil conditions.
- D. Revision of Title 18 of Alaska Administrative Code, Section 72.065, entitled Subdivision Plan Review, to provide for a streamlined system of subdivision approval in accordance with the procedures set out in Attachment A of this resolution.

Section 2. That the Clerk shall serve a copy of this resolution upon the Honorable Ernst W. Mueller, Commissioner of the State of Alaska Department of Environmental Conservation and upon Mr. Alex Viteri, Jr., of the Alaska Department of Environmental Conservation.

Section 3. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
ON THIS 20 DAY OF January, 1981.



Paul Fischer
Assembly President

ATTEST:


Borough Clerk

Kenai Peninsula Borough
Resolution 81-14
Page 2 of 2 pages

+ Attachment A

TABLE I: RECOMMENDED SUBDIVISION REVIEW
 NOTE: ALL CATEGORIES AT SUBDIVIDER'S OPTION

CATEGORY	SUBMITTALS TO A.D.E.C.	RESPONSE FROM A.D.E.C.	OTHER REQUIREMENTS	FURTHER A.D.E.C. APPROVAL
I	Definitive soils investigation report	Definitive approval	None	None
II	Data at subdivider's option: May include record soils, data, new data, topography, etc.	Recommendations to subdivider (no definite approval)	Disclosure statement on plat that A.D.E.C. approval has not been gained, and that approval of individual wastewater systems is required.	Approval of individual wastewater disposal systems*
III	No submittal	None	Disclosure statement on plat that A.D.E.C. approval has not been gained, and that approval of individual wastewater systems is required.	Approval of individual wastewater disposal systems*

*We recommend that approval may be certified by a Registered Professional Engineer in compliance with A.D.E.C. regulations and guidelines.

ATTACHMENT "A"

18 AAC 72.063. DELEGATION OF SYSTEM PLAN REVIEW. (a) A municipality may petition the department to delegate the exercise of plan review under 18 AAC 72.060 within its jurisdiction. The petition must contain a

(1) copy of ordinances governing sewers, wastewater disposal systems, and treatment works;

(2) description of pertinent administrative and judicial enforcement processes available to the municipality; and

(3) description of administrative organization, staff, funding, and other resources available to the municipality to administer and enforce its requirements.

(b) Within 90 days after receipt of a completed petition, the department will grant the petition if it finds, after review of submitted data, that

(1) the ordinances of the municipality governing sewers, domestic wastewater treatment works, and disposal systems are at least as stringent as the requirements of this chapter; and

(2) the municipality has sufficient resources and enforcement authorities to ensure uniform compliance with requirements for sewers, domestic wastewater treatment works, and disposal systems and is consistently enforcing its ordinances.

(c) The department may issue a preliminary decision to deny a petition. Denial of a petition entitles the municipality to an adjudicatory hearing.

(d) If the department believes that a municipality delegated plan review is no longer meeting a requirement of this section, the department will reassert the authority exercised under 18 AAC 72.060. A preliminary decision to reassert authority must be served on the municipality and entitles the municipality to an adjudicatory hearing.

(e) When the department reasserts plan review authority under (d) of this section, the requirements of 18 AAC 72.060 apply to any person who has not substantially built a proposed sewer, disposal system, or treatment works before the effective date of the reassertion of authority.
(Eff. 12/30/82, Register 84)

Authority: AS 46.03.020

AS 46.03.050

AS 46.03.090

18 AAC 72.065. SUBDIVISION PLAN REVIEW. (a) A person proposing a subdivision, except an isolated subdivision, shall submit the following information to the department within five days after the submission of a proposed subdivision plat to a platting authority or, where no plat is filed, 60 days before subdividing:

(1) a drawing and written description showing proposed sewers, domestic wastewater treatment works and disposal systems, and potential or existing drinking water sources for each typical set of onsite conditions existing within the subdivision; the department will, in its discretion, waive the requirements of this paragraph when it finds the information is not needed for plan review;

(2) a plot plan showing spatial relationships between wastewater disposal and drinking water systems on nearby lots; the department will, in its discretion, waive the requirements of this paragraph when it finds the information is not needed for plan review;

(3) soil information sufficient to determine suitability for a domestic wastewater disposal system, if a soil absorption system is proposed, including soil tests, borings, test holes, or percolation tests required by 18 AAC 72.026, approved and signed by a registered engineer;

(4) a map of the proposed subdivision showing

(A) lot and street layout with lot dimensions and areas;

(B) contours which show topography, drainage, muskey, and marshy or wet areas;

(C) existing or proposed improvements;

(D) waters located within and 200 feet around the proposed subdivision;

(E) waters suitable for drinking water sources; and

(F) nearest road or highway accesses;

(5) a statement and timetable concerning the possible development of future community drinking water or sewer systems to the extent known;

(6) a statement identifying persons who will own, operate, and maintain water supply systems, sewers, treatment works, and disposal systems in the proposed subdivision;

(7) types and amounts of sewage, graywater, or other wastes that would be generated on a typical lot in the subdivision;

(8) information, including a timetable, for domestic wastewater disposal systems which require electrical service or road access, including electrical service needed for domestic wastewater treatment and pumping equipment, transportation access for material and equipment needed to construct the proposed domestic wastewater treatment works, disposal system, holding tank, and septic tank pumping service; and

(9) location of storm sewers, drainage ditches, their ultimate discharges, and treatment, if required to protect receiving waters.

(b) The department will issue a decision to the applicant within 30 days after receipt of complete subdivision plans.

(c) The department will, in its discretion, attach terms and conditions to subdivision plans needed to ensure compliance with this chapter.

(d) The subdivider shall include the terms and conditions of the department's subdivision plan approval for domestic wastewater treatment and disposal systems on the subdivision's plat and instruments.

(e) The department will place its approval of the plans on the subdivision's final plat before recording. Department approval must appear on the plat of record and recorded instruments.

(f) A person creating a subdivision after February 3, 1977, except an isolated subdivision, may sell, contract to sell, lease, or otherwise convey an interest in any lot within that subdivision only with plan approval for that subdivision under this section. (Eff. 2/3/77, Reg. 61; am 3/4/78, Reg. 65; am 12/30/82, Register 84)

Authority: AS 46.03.020
AS 46.03.050
AS 46.03.090

18 AAC 72.068. DELEGATION OF SUBDIVISION PLAN REVIEW. (a) A planning authority may petition the department to delegate the exercise of subdivision plan review under 18 AAC 72.055 within its jurisdiction. The petition must contain a

(3) Wastewater Engineering: Collection, Treatment, Disposal; Metcalf and Eddy, Inc., 1972; McGraw-Hill Book Company, New York, N.Y.;

(4) Recommended Standards for Sewage Works, Great Lakes-Upper Mississippi River Board of State Sanitary Engineers, Health Education Service, P.O. Box 7283, Albany, New York 12224.

(h) Copies of the referenced materials are on file in the lieutenant governor's office, and may be reviewed in any of the regional offices of the department.

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Authority: AS 16.10.010
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(1) a map of the proposed subdivision

showing lot and street layout with lot dimensions and areas, contours sufficient to show topography, drainage, all marshy or muskeg areas, and any existing or proposed improvements or bodies of water within 200 feet of the proposed subdivision;

(2) recommended or proposed type and location of water sources and sewage treatment and disposal systems on a typical lot diagram in relation to water sources and sewage treatment and disposal systems on adjacent lots;

(3) to the extent ascertainable, a statement concerning the possibility of any future community water or sewerage systems and an approximate timetable for their development;

(4) representative soil testing, logs, and borings, prepared by a professional engineer registered in the State of Alaska, in an area sufficient to determine whether soils are suitable for on-site sewage disposal and to determine the area required for soil absorption systems; however, soil tests, logs, and borings are not required if the subdivision plat clearly indicates that the area for which representative tests, logs, and borings will not be made will not be used for residential or other development which would necessitate domestic sewage treatment and disposal; moreover, representative tests, logs, and borings are not required if a means of sewage treatment and disposal other than soil absorption systems is proposed under (2) of this subsection; and

(5) a statement concerning responsibility for construction, operation and maintenance of water supply and sewage treatment and disposal facilities in the proposed subdivision.

(b) No person creating a subdivision after the effective date of this section, except an isolated subdivision, may sell, contract to sell, lease, or otherwise convey an interest in any lot or lots within that subdivision if plan approval has not previously been granted for that subdivision by the department under this section.

(c) It is the responsibility of the subdivider to provide evidence of plan approval under this section to prospective buyers, lessees or promisees.

(d) Within 30 days of submission of complete plans, the department will approve the plans if the applicant demonstrates that

(1) where the person proposing the subdivision assumes responsibility for sewage treatment and disposal within the subdivision, the proposed manner of sewage treatment and disposal will meet the requirements of this chapter and ch. 70 of this title; or

(2) where the person proposing the subdivision does not assume responsibility for sewage treatment and disposal within the subdivision, there will exist practicable means of sewage treatment and disposal within the subdivision which will meet the requirements of this chapter and ch. 70 of this title.

(e) The department will, in its discretion, attach terms and conditions to approved plans necessary to insure compliance with the requirements of this chapter and ch. 70 of this title. (Eff. 2/3/77. Reg. 61; am 3/4/78. Reg. 65)

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18 AAC 72.068. WAIVER OF SUBDIVISION PLAN REVIEW IN QUALIFIED JURISDICTIONS. (a) A platting authority may petition the department to waive the exercise of sec. 65 of this chapter within its jurisdiction. The petition shall contain

(1) a copy of all pertinent ordinances relating to the review of sewage treatment and disposal matters for subdivisions;

(2) a statement of all pertinent administrative and judicial enforcement processes available to the platting authority; and

(3) a statement of administrative organization, staff, funding and other resources available to the platting authority to administer and enforce its sewage treatment and disposal requirements.

(b) Within 90 days of receipt of a completed petition, the department will grant the petition if the applicant demonstrates that, based upon the information submitted under (a) of this