

CODE ORDINANCE

Sponsored by: Assemblymembers Yundt and
Tew

Introduced: 06/20/23

Public Hearing: 07/18/23

Defeated: 07/18/23

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 23-049**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.55 TO ALLOW STRUCTURES TO BE CONSTRUCTED WITHIN 75 FEET OF A WATERBODY, SO LONG AS CERTAIN ENGINEERING STANDARDS TO PROTECT WATER QUALITY ARE APPLIED.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of Subsection. MSB 17.55.004(A) is hereby amended by adding the following definition:

• "Lake" means a standing body of open water that occurs in a natural depression fed by one or more streams from which a stream may flow, that occurs due to the widening or natural blockage or cutoff of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream. The term also includes artificial lakes or ponds created by excavation, as well as artificial blocking or restriction of the flow of a river, stream, or tidal area.

• "Runoff pollution mitigation measures" means any combination of bio-swales, rain gardens, riparian buffers, flow barriers, filter strips, or other features adequate to treat and retain all stormwater or snowmelt runoff associated with a development.

• "Qualified professional" means a professional civil engineer or other professional registered with the state of Alaska under Alaska Statute 08.48 qualified to practice the type of work required by this chapter.

Section 3. Amendment of Section. MSB 17.55.020 is hereby amended to read as follows:

(A) Except as provided in subsections s (B) and (F) of this section, no structure or footing shall be located closer than 75 feet from the ordinary high water mark of a body of water. Except as provided otherwise, eaves may project three feet into the required setback area.

(B) Docks, piers, marinas, aircraft hangars, and boathouses may be located closer than 75 feet and over the water, provided they are not used for habitation and do not contain sanitary or petroleum fuel storage facilities. Structures permitted over water under this subsection shall conform to all applicable state and federal statutes and regulations.

(1) Boathouses or aircraft hangars which are exempt from a minimum shoreline setback for structures shall:

(a) be built over, in, or immediately adjacent to a waterbody and used solely for storing boats and boating accessories;

(b) be designed, constructed and oriented for primary access by boats or aircraft directly to a waterbody;

(c) not have more than incidental accessory access to a street or driveway; and

(d) not be usable as a garage or habitable structure without significant alteration.

(C) In the city of Wasilla, this section does not apply to structures where construction was completed prior to November 16, 1982. Elsewhere in the borough, this section does not apply to structures where construction was completed prior to January 1, 1987, if the present owner or owners of the property had no personal knowledge of any violation of the requirements of this section prior to substantial completion of the structures. The director of the Planning Department shall, upon application by a property owner, determine

whether a property qualifies for an exception under this subsection.

(1) An application for a shoreline setback exception shall include a filing fee as established by resolution of the assembly.

[(D) IN THIS SECTION, A "STRUCTURE" IS ANY DWELLING OR HABITABLE BUILDING OR GARAGE.]

(E) No part of a subsurface sewage disposal system shall be closer than 100 feet from the ordinary high water mark of any body of water. The planning commission shall require this distance be increased where necessary to protect waters within the borough.

(F) Structures are allowed to be located within 75 feet of the ordinary high water mark of a lake, but no less than 25 feet, if runoff pollution mitigation measures are designed and installed under the supervision of a qualified professional.

(1) Engineered plans and specifications shall be submitted for an engineering review as part of a mandatory land use permit, in accordance with MSB 17.02.

(2) The development shall be designed and constructed in accordance with local, state, and federal laws.

(3) The landowners are responsible for maintenance of approved runoff pollution mitigation measures specified in their permit as long as the structure permitted under this subsection remains within 75 feet of a lake.

Section 4. Effective date. This ordinance shall take effect upon adoption.

POSTPONED INDEFINITELY by the Matanuska-Susitna Borough Assembly this 18 day of July, 2023.

DEFEATED UNANIMOUSLY: Nowers, McKee, Yundt, Tew, Fonov, and
Bernier