

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.55 TO EXEMPT SIGNS FROM SETBACKS TO RIGHTS-OF-WAY AND PROPERTY LINES.

AGENDA OF: *May 4, 2021*

ASSEMBLY ACTION:
adopted without objection. 5.18.21 KBJ

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: *UMB*

Route To:	Department/Individual	Initials	Remarks
	Originator A. Strawn	<i>KR</i>	<i>for Alex Strawn</i>
1	Planning & Land Use Director A. Strawn	<i>KR</i>	<i>for Alex Strawn</i>
2	Borough Attorney	<i>MS</i>	
3	Borough Clerk	<i>Jan 4/20/21</i>	<i>[Signature]</i>

ATTACHMENT (S) : Fiscal Note: YES ___ NO X
 Planning Commission Resolution No. 21-03 (2 pp)
 Matanuska-Susitna Borough Code 17.55 Setbacks and Screening Easements (5 pp)
 Ordinance Serial No. 21-019 (2 pp)

SUMMARY STATEMENT: This ordinance is brought at the request of Assemblymember Sumner. The intent of this ordinance is to add signs as an exempt structure from setbacks to rights-of-way and property lines.

With regard to land use, signs are similar in nature to other currently exempt structures such as fences, flagpoles, and utility poles.

Signs by their nature are business-related and a generally accepted part of a community.

This ordinance will apply to all special land use districts within the Borough except for Talkeetna since it has its own definition of structure and specific sign standard.

COMPREHENSIVE PLAN

This ordinance implements the following goals of the MSB Comprehensive Plan which reads as follows:

MSB Comprehensive Plan (2005 Update)

Goal (E-3): Create an attractive environment for business investment.

Policy E3-2: Institute appropriate land use guidelines and regulations that reduce land use conflicts and protect residents and businesses.

Goal (LU-3): Encourage commercial and industrial development that is compatible with residential development and local community desires.

Policy LU3-2: Allow local communities, through local community based plans, to refine Borough-wide regulations addressing development patterns and impacts while maintaining consistency with the goals and policies of the Borough-wide Comprehensive Plan.

MSB Economic Development Strategic Plan

Strategy 5E: Focus on quality development to improve the appearance of the Borough's built environment.

Action 5E.1: **Continue to update MSB planning code.** MSB leadership and planning staff should continue working with citizen groups, community councils, and incorporated cities to ensure that the Borough's land and resources are efficiently used for the benefit of Mat-Su's economy and population as well as to protect its natural beauty.

RECOMMENDATION OF ADMINISTRATION:

Staff respectfully requests adoption of an ordinance amending the definition of structure within 17.55 setbacks and screening easements to exempt signs as structures.

By: Alex Strawn
Introduced: March 15, 2021
Public Hearing: April 5, 2021
Action: *Approved*

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. PC 21-03**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION
RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING MSB 17.55 TO EXEMPT
SIGNS FROM SETBACKS TO RIGHTS-OF-WAY AND PROPERTY LINES.

WHEREAS, the Assembly adopted an ordinance creating Chapter
17.55, Setbacks and Screening Easements; and

WHEREAS, the Assembly adopted Ordinance 89-072, clarifying
the definition of a structure to remove unintended setback
regulations other than those intended by the original ordinance;
and

WHEREAS, the Assembly adopted Ordinance 93-042 further
defining temporary building as a structure used 30 days or less
and decks and steps 18 inches above average grade; and

WHEREAS, the Assembly adopted Ordinance 13-164 adding utility
boxes and other incidental structures related to utility services
as exempt structures; and

WHEREAS, the Assembly adopted Ordinance 17-088 further
defining structures as on or above ground; and

WHEREAS, signs by their nature are business related and
generally accepted part of a community; and

WHEREAS, signs are similar in nature to other currently exempt
structures such as fences, flagpoles, and utility poles; and

WHEREAS, AS 19.25.000 Purpose (1) to protect the public safety and the welfare of persons using the highways of the state by having outdoor advertising signs, displays, and devices along the highways controlled.

WHEREAS, AS 19.25.075 (b) states it is the intent of the people of the State of Alaska that Alaska shall forever remain free of billboards.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends adoption of an ordinance amending MSB 17.55.004, Setbacks and Screening Easements to exempt signs from setbacks to rights-of-way and property lines.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 5th day of April, 2021.




COLLEEN VAGUE, Chair

ATTEST



KAROL RIESE, Planning Clerk

(SEAL)

YES: (7) Anderson, Vague, Chesbro, Ortiz, Mossanen, Elder, Glashan
NO: 

CHAPTER 17.55: SETBACKS AND SCREENING EASEMENTS

Section

17.55.004 Definitions

17.55.005 General

17.55.010 Setbacks

17.55.015 *Shorelands; definition [Repealed]*

17.55.020 Setbacks for shorelands

17.55.040 Violations, enforcement, and penalties

17.55.004 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- "Aircraft hangar" means a roofed structure which is used to completely or partially enclose and store aircraft and aircraft accessories.
- "Boathouse" means a roofed structure which is used to completely or partially enclose and store boats and boating accessories.
- "Building" means any structure intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.
- "Building line" means the line of that part of the building nearest the property line.
- "Dedication" means the reservation of land to a public use by the owner manifesting the intention that it shall be accepted and used presently or in the future for such public purpose. A dedication by the owner under the terms of this section is a conveyance of an interest in property which shall be deemed to include the warranties of title listed in A.S. 34.15.030. The dedication of streets, alleys, sidewalks, or public open space shall convey a fee interest in the area dedicated. The dedication of all other public rights-of-way shall be deemed to create an easement in gross to perform the indicated function in the area depicted.
- "Engineer" means a registered professional civil engineer authorized to practice engineering in the state of Alaska.

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- “Incidental” means subordinate and minor in significance and bearing a reasonable relationship to the primary use.
- “Lot” means the least fractional part of subdivided lands having limited fixed boundaries and having an assigned number, or other name through which it may be identified.
- “Lot depth” means the average distance between front and rear lot lines.
- “Lot frontage” means all property abutting the right-of-way of a dedicated street or road easement, measured along the right-of-way between side lot lines of a lot.
- “Lot width” means the average distance between side lot lines.
- “Official streets and highway plan” means a map and attendant document depicting the proposed system of freeway, arterial, and collector streets in the borough, as adopted by the planning commission and by the assembly, and which is on file in the planning department office, together with all amendments thereto subsequently adopted.
- “Ordinary high water mark” means the mark made by the action of water under natural conditions on the shore or bank of a body of water which action has been so common and usual that it has created a difference between the character of the vegetation or soil on one side of the mark and character of the vegetation and soil on the other side of the mark.
- “Parcel” means an unsubdivided plot of land.
- “Right-of-way” means a strip of land reserved, used, or to be used for a street, alley, walkway, airport, or other public or private purpose.
- “Structure” means anything that is constructed or created and located on or above the ground, or attached to something fixed to the ground. For purposes of minimum setbacks and building separation requirements, the following are not considered structures unless specifically addressed by code: fences; retaining walls; parking areas; roads, driveways, or walkways; window awnings; a temporary building when used for 30 days or less; utility boxes and other incidental structures related to utility services; utility poles and lines; guy wires; clotheslines; flagpoles; planters; incidental yard furnishings; water wells; monitoring wells; and/or tubes, patios, decks, or steps less than 18 inches above average grade.
- “Subdivision” means the division of a tract or parcel of land into two or more lots, sites, or other divisions, or the combining of two or more lots, tracts, or parcels into one lot, tract, or parcel for the purpose, whether immediate or future, of sale or lease for more than ten years, including any resubdivision and when appropriate to the context, the process of subdividing or the land actually subdivided.

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- "Surveyor" means a professional land surveyor who is registered in the state of Alaska.
- "Utility box" means electric transformers, switch boxes, telephone pedestals and telephone boxes, cable television boxes, traffic control boxes, and similar devices.
- "Utility services" means the generation, transmission, or distribution of electricity, gas, communications, and municipal water and sewer systems.

(Ord. 17-088(SUB), § 2, 2017; Ord. 13-164, §§ 2, 3, 2013; Ord. 93-042, § 2 (part), 1993; Ord. 89-072, § 2 (part), 1989; Ord. 88-221, § 2 (part), 1988)

17.55.005 GENERAL.

This chapter establishes minimum structural setbacks from lot lines, water courses and water bodies, rights-of-way, and specific screening easements for certain lands within subdivisions in the Matanuska-Susitna Borough except where otherwise specified in special land use district regulations within this title.

(Ord. 03-053, § 2, 2003; Ord. 88-190, § 3 (part), 1988)

17.55.010 SETBACKS.

(A) No structure or building line shall be placed within 25 feet from the right-of-way line of any public right-of-way, except no furthestmost protruding portion of any structure shall be placed within ten feet from the right-of-way line of any public right-of-way when the pre-existing lot:

- (1) measures 60 feet or less in frontage on a public right-of-way, and is not located on a cul-de-sac bulb; or
- (2) comprises a nonconforming structure erected prior to July 3, 1973. This setback shall be known as the structure or building line setback.

(B) Except where specifically provided otherwise by ordinance, no furthestmost protruding portion of any structure or building line shall be located nearer than ten feet from any side or rear lot line.

(C) Except as otherwise specified by code, eaves may project a maximum of three feet into required setback areas.

(D) The setback requirements of this section do not apply to property within the cities of Palmer and Wasilla.

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(E) If a condemnation by a governmental agency reduces the building line setback of a structure below 25 feet, but there remains at least ten feet setback, and the setback reduced by the condemnation met the requirements of this section prior to the condemnation, the resulting setback shall be the setback requirements for the lot.

(F) For purposes of this chapter, commercial or industrial buildings on separate but adjacent parcels, which otherwise meet the setback requirements, may have connecting pedestrian walkways, enclosed or not. Pedestrian walkways:

(1) shall not contribute to the building area or the number of stories or height of connected buildings; and

(2) must comply with the current adopted edition of the International Building Code, except that the outside width of the walkway shall not exceed 30 feet in width, exclusive of eaves.

(G) No furthestmost protruding portion of any structure or building line shall be located nearer than ten feet from railroad rights-of-way, except that utilities and rail dependent structures may extend up to railroad rights-of-way.

(Ord. 11-159, § 2, 2011; Ord. 11-019, § 2, 2011; Ord. 93-042, § 2 (part), 1993; Ord. 88-190, § 3 (part), 1988)

17.55.015 Shorelands; definition. [Repealed by Ord. 17-088(SUB), § 3, 2017]

17.55.020 SETBACKS FOR SHORELANDS.

(A) Except as provided in subsection (B) 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;

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- (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.

(Ord. 17-088(SUB), § 4, 2017: IM 96-019, page 1, presented 3-19-96; Ord. 93-095, § 2, 1993; Ord. 93-042, § 2 (part), 1993; Ord. 90-052, § 3, 1990; Ord. 88-190, § 3 (part), 1988; initiative election of 5-5-87)

17.55.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

(A) Except as otherwise specified in this chapter violations of this chapter are infractions.

(B) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

(Ord. 95-088(SUB)(am), § 26 (part), 1995)

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