

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.55 TO REDUCE THE MINIMUM BUILDING SETBACK REQUIREMENT FROM PEDESTRIAN EASEMENTS.

**AGENDA OF:** September 16, 2025

**ASSEMBLY ACTION:**

**AGENDA ACTION REQUESTED:** Refer to Planning Commission for 90 days.

Route To	Signatures
Originator	<div>9 / 3 / 2 0 2 5</div> <div>X      A l e x   S t r a w n</div> <div>S i g n e d   b y :   A l e x</div>
Department Director	<div>9 / 3 / 2 0 2 5</div> <div>X      A l e x   S t r a w n</div> <div>S i g n e d   b y :   A l e x</div>
Finance Director	<div>9 / 3 / 2 0 2 5</div> <div>X      L i e s e l   Z a n t o   f o r   C H</div> <div>S i g n e d   b y :   L i e s e l   W a l l a n d</div>
Borough Attorney	<div>9 / 3 / 2 0 2 5</div> <div>X      J o h n   A s c h e n b r e n n e r   f o r   N . S .</div> <div>S i g n e d   b y :   J o h n   A s c h e n b r e n n e r</div>
Borough Manager	<div>9 / 3 / 2 0 2 5</div> <div>X      M i c h a e l   B r o w n</div> <div>S i g n e d   b y :   M i k e   B r o w n</div>
Borough Clerk	<div>9 / 3 / 2 0 2 5</div> <div>X      B r e n d a   J .   H e n r y   f o r</div> <div>S i g n e d   b y :   B r e n d a   H e n r y</div>

**ATTACHMENT (S) :** Ordinance Serial No. 25-111 (4pp)  
 MSB 17.55 (5pp)  
 Planning Commission Resolution No. 25-\_\_\_\_ ( pp)

**SUMMARY STATEMENT:** This ordinance is at the request of Assemblymember Nowers.

A 25-foot public right-of-way setback was originally adopted in 1973 by assembly ordinance.

This ordinance adds two new definitions and establishes a minimum building setback of ten feet from pedestrian easements. The code currently requires a 25-foot setback from public rights-of-way, including public easements, and a 10-foot setback from lot lines and railroad rights-of-way, but it does not explicitly address pedestrian easements. As a result, some property owners have

inadvertently built too close to these easements and fallen into violation of Borough code. The proposed change resolves these issues and provides a clear, consistent standard by requiring a 10-foot setback from pedestrian easements.

The 10-foot setback aligns with existing requirements for other boundaries, protects pedestrian walkways from encroachment, ensures safe and accessible connections, and promotes consistency throughout the code. Reducing the setback from 25 feet to 10 feet increases property usability by allowing more flexible site design and building placement, and may also encourage developers to dedicate additional pedestrian easements.

The proposed ordinance is consistent with the MSB comprehensive plan.

#### Matanuska-Susitna Borough Comprehensive Plan

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-1: Protect and enhance the public safety, health, and welfare of Borough residents.

Policy LU1-1: Provide for consistent, compatible, effective, and efficient development within the Borough.

**RECOMMENDATION OF ADMINISTRATION:** Refer to Planning Commission and then introduce and set for public hearing.

## 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.
- “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.
- “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: signs; 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.
- “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. 22-063, § 3, 2022; Ord. 21-019, § 2, 2021; 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.

(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;

- (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)