

CODE ORDINANCE

Sponsored by:  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 23-001**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.55 AND MSB 17.80 TO ALLOW BUILDINGS TO BE BUILT WITHIN 75 FEET OF A WATERBODY.

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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 17.55.020 is hereby amended to read as follows:

(A) Except as provided in subsections (F) and (G), [(B)] of this section, no [STRUCTURE OR FOOTING] building greater than 480 square feet shall be located closer than 75 feet from the ordinary high water mark of a body of water. [EXCEPT AS PROVIDED OTHERWISE,] [E]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) Buildings that are in existence or have commenced construction within 75 feet of a waterbody prior to April 1, 2023 are granted pre-existing legal nonconforming status in accordance with MSB 17.80.020 (A) .

(G) New buildings greater than 480 square feet, or proposals to enlarge or alter existing buildings granted pre-existing legal nonconforming status under (F) of

this section, may be located within 75 feet of a waterbody provided:

(1) they are designed and constructed in accordance with plans sealed by a professional structural engineer licensed in the State of Alaska in accordance with Alaska Statute 08.48.

(a) the building shall be designed in a manner that ensures structural integrity, provides suitable soils for a stable foundation, and protects surface and subsurface water quality.

(2) prior to construction, the engineered plans and specifications shall be submitted to the planning department for an engineering review by a public works engineer as part of a mandatory land use permit, in accordance with MSB 17.02.

(3) the development is constructed in accordance with local, state, and federal laws.

Section 3. Amendment of subsection. MSB 17.55.010(E) is hereby amended to read as follows:

(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.

(1) structures that have a reduced building setback due to condemnation under this subsection are granted pre-existing legal nonconforming status in accordance with MSB 17.80.020 (A) .

Section 4. Amendment of subsection. MSB 17.80.020(B) is hereby amended as follows:

(B) The following structures require an administrative determination in order to be granted legal nonconforming status;

(1) structures granted a variance in accordance with Chapter 17.65;

[(2) STRUCTURES BUILT IN VIOLATION OF SHORELINE SETBACK ORDINANCES EXISTING AT THE TIME OF CONSTRUCTION, AND SUBSEQUENTLY GRANTED AN EXEMPTION FROM SHORELINE SETBACKS IN ACCORDANCE WITH MSB 17.55.020(C);]

(3) permanent structures built in violation of ordinances existing at the time of construction, and subsequently granted legal nonconforming status in accordance with MSB 17.80.070.

Section 5. Effective date. This ordinance shall take effect

upon adoption.

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

EDNA DeVRIES, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)