

# Matanuska-Susitna Borough



Waterbody Setback  
Advisory Board



November 1, 2023

# History of Waterbody Setback Laws in the Matanuska-Susitna Borough



July 3, 1973 - OR 73-06

OR 74-12

Chapter 16??

Sec. 08.45.112. Shorelands.

OR 81-68

OR 86-85

OR 86-101

OR 87-024

May 12, 1987

Election Certification

OR 88-190

OR 93-136

OR 01-016

OR 23-002

OR 23-049

(b) Structural Setback - Structures shall not be closer than 75 feet from the normal high water mark of a water course or body of water in a shoreland. The Commission may require a greater setback if it finds that a specific body of water possesses unique characteristics such as outstanding fish and aquatic life, shore cover, natural beauty, or other ecological attribute.

Boat houses may be located over the water provided they are not used for habitation and do not contain sanitary facilities.

July 3, 1973 - OR 73-06

## OR 74-12

Chapter 16??

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### Sec. 08.45.112. Shorelands.

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(b) Structural Setback - Structures shall not be closer than 75 feet from the normal high water mark of a water course or body of water in a shoreland. A statement to this effect shall be affixed to the plat or included in the covenants. The Commission may require a greater setback if it finds that a specific body of water possesses unique characteristics such as outstanding fish and aquatic life, shore cover, natural beauty, or other ecological attributes.

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**ORDINANCE SERIAL NO.75-061**

**MISSING ORIGINAL**

**AS OF JUNE 2, 1997**



## Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

July 22, 1976

### MEMORANDUM

To: Mayor and Borough Assembly  
From: Wesley M. Howe, Borough Manager  
Subject: Building Setback Problem

At the July 20 meeting Assembly member Jack Maze brought to the attention of the administration a complaint in respect to the building setback on Tract 3 of the Morton Subdivision; it is alleged that a building is being constructed without a ten foot side yard.

MSB 16.44.060-C (Subdivision Regulations) provides that buildings shall not be constructed closer than ten feet from the side lot line. This subdivision regulation became effective in 1973. The Borough Code requires that notice of the ten foot side yard requirement be placed on each plat or in covenants.

Morton Subdivision was created in 1966. Thus the owner was not given notice, through plat notation, of the side yard requirement. Further, the Borough does not have an enforcement system or a means of informing property owners or builders of this regulation. There is also a question of the regulation's applicability to pre 1973 subdivisions.

It is unlikely that a court would compel the owner to remove or reduce the side of the building after construction has been substantially completed unless bad faith could be proven on the part of the owner.

*Wesley M. Howe*  
Wesley M. Howe  
Borough Manager

WPH:er

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July 3, 1973 - OR 73-06

OR 74-12

Chapter 16??

**OR 81-68**

16.25.480

Setbacks.

OR 86-85

OR 86-101

OR 87-024

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OR 01-016

OR 23-002

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A. Except as provided in B and C of this section no structure or footing shall be located closer than 75 feet from the high water mark of a watercourse or body of water.

B. Docks, piers, marinas, and boathouses may be located over the water provided they are not used for habitation and do not contain sanitary facilities. Structures permitted over water under this subsection shall conform to all applicable state and federal statutes and regulations.

C. The platting authority shall require setbacks greater than 75 feet if it finds that the body of water involved has unique characteristics such as unusual fish and aquatic life, shore cover, natural beauty or other ecological characteristics and the preservation or enhancement of such warrant additional setbacks.

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Chapter 16??

16.25.480 Setbacks.

OR 81-68

**OR 86-85**

OR 86-101

OR 87-024

May 12, 1987  
Election Certification

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OR 01-016

OR 23-002

OR 23-049

C. This section does not apply to structures where construction was completed prior to January 1, 1986 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 structure. The Director of Development Services or the designee of the director shall, upon application by a property owner, determine whether a property qualifies for an exception under this subsection.



July 3, 1973 - OR 73-06

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OR 86-85

**OR 86-101**

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**November 4, 1986**

16.25.480 Setbacks.

A. Except as provided in subsection B of this section, no structure or footing shall be located closer than [SEVENTY-FIVE] forty-five feet from the high water mark of a watercourse or body of water.

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## 16.25.480 Setbacks.

C. Subsection A of 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 structure. The Director of Development Services or the designee of the director shall, upon application by a property owner, determine whether a property qualifies for an exception under this section.

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## May 12, 1987 Election Certification

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# SAMPLE BALLOT

To Be Removed by Election Judge

To Be Removed by Election Judge

FOLD TO THIS LINE

## MATANUSKA-SUSITNA BOROUGH SPECIAL ELECTION

MAY 5, 1987

### SETBACK & PUBLIC EASEMENT INITIATIVE AREAWIDE

- Mark only by use of cross marks, "X" marks, check or plus signs. Place marks in squares.
- Marks must be inside or touching the squares so as to indicate the intent of the voter. Erasures and corrections will invalidate only that part of the ballot on which it appears.
- If you spoil or mar your ballot you may return it to the election judge and receive another ballot.

SHALL AN ORDINANCE READING AS FOLLOWS BE APPROVED TO RESTORE THE BUILDING SETBACK OF 75 FEET FROM LAKES AND STREAMS, AND ON BOROUGH LAND ESTABLISH A 50 FOOT PUBLIC EASEMENT, IN THE MATANUSKA-SUSITNA BOROUGH?

"The purpose of this ordinance is to maintain fisheries resources, water quality and public access to water.

Setbacks. A. No structure or footing shall be located closer than seventy-five feet from the ordinary high-water mark of a watercourse or body of water, except as provided in subsection B of this section.

B. Docks, piers, marinas and boathouses may be located closer than seventy-five feet and over the water provided they are not used for habitation and do not contain sanitary facilities. Water wells may be located no closer than ten feet from the ordinary high-water mark.

C. In this section, a "structure" is any dwelling or habitable building or garage.

The Borough shall establish a minimum 50-foot public easement landward from the ordinary high water mark before it sells or leases its land adjacent to any lake larger than three acres, adjacent to any anadromous fish stream, or any of its land reasonably required for public access to such lakes or streams. At the least, the easement shall allow the passage of the public by foot, dogsled, or horseback.

If a majority vote favors the ordinance, this ordinance becomes effective upon certification of the election."

☐ YES

IM 87 - 1 9 0

☐ NO



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MATANUSKA-SUSITNA BOROUGH

ORDINANCE SERIAL NO. 88 - 190 AM

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB TITLE 16, SUBDIVISION REGULATIONS, IN ITS ENTIRETY AND ADOPTING MSB TITLE 16, PLATTING REGULATIONS, AND AMENDING MSB TITLE 17 ZONING BY ADDING A NEW CHAPTER 17.55, ENTITLED SETBACKS AND SCREENING EASEMENTS.

July 3, 1973 - OR 73-06

OR 74-12

Chapter 16??

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**December 7, 1993**

**AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ADOPTING  
CHAPTER 17.01 ACKNOWLEDGEMENT OF EXISTING LAND USE REGULATIONS,  
AND CHAPTER 17.57 NONCONFORMITIES.**

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**17.01 Replaced with 17.02 March 2007  
17.57 Replaced with 17.80 March 1995**

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AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.80 (NONCONFORMING STRUCTURES) FOR CLARIFICATION OF REQUIREMENTS FOR ALTERATION, ENLARGEMENT, REPLACEMENT, AND RECONSTRUCTION OF NONCONFORMING STRUCTURES.

**MSB 17.80.060 (A) (2)**

(2) a nonconforming structure may not be enlarged or altered vertically or horizontally, in a way which would increase the height, width, depth, area, or volume of the structure except as specifically allowed by current code for similar new structures in that location. [AS LONG AS THE ADDITION CONFORMS TO CODE] ...

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(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) .

FAILED



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Chapter 16??

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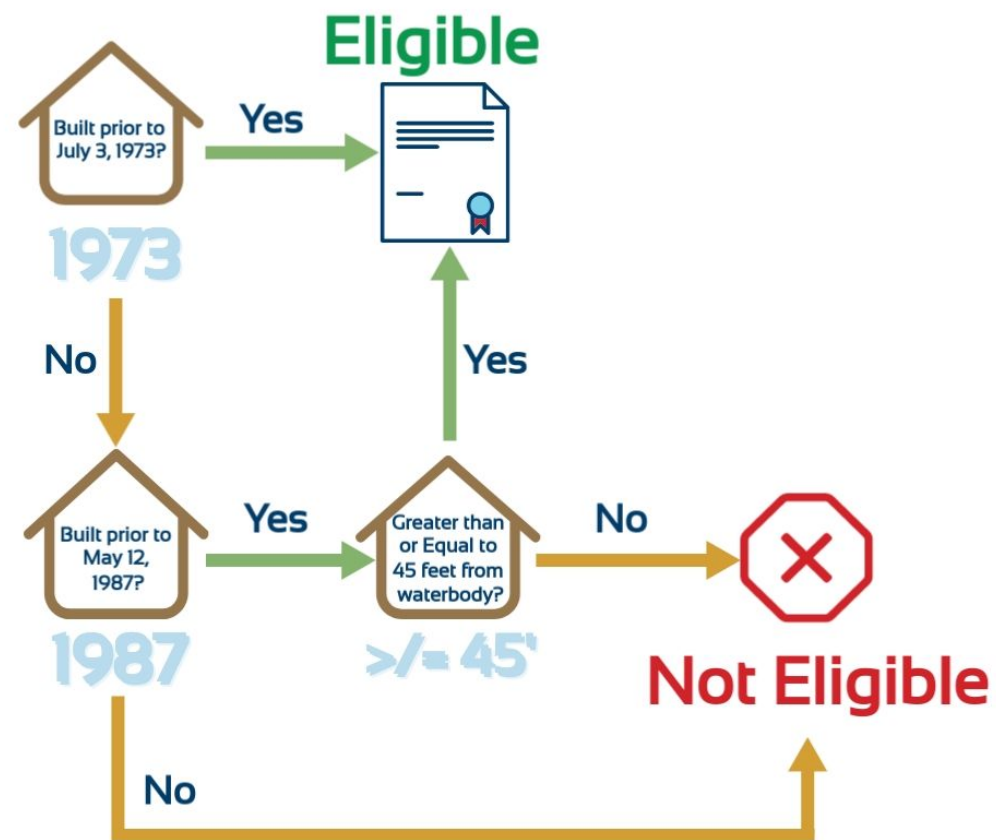
OR 23-002

**OR 23-049**

(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.

FAILED





# Waterbody Setbacks

Year Built	Before July 3, 1973	July 3, 1973 to May 12, 1987	May 12, 1987 - Present
Shoreline	Grandfather	Illegal	Illegal
45 Feet	Grandfather	Grandfather	Illegal
75 Feet	Legal	Legal	Legal

# Matanuska-Susitna Borough Shoreland Setbacks

## Analysis and Recommendation



Prepared by:

Land Design North  
510 L Street, Suite 101  
Anchorage, Alaska 99501



“The intent of the waterbody setback is to preserve the integrity of the Borough’s lakes, streams, rivers, and wetlands by maintaining and improving water quality, shore cover, fish and wildlife habitat, and aesthetic values.”

A structure that is placed 75 feet back with vegetation cleared to the edge of the shoreline may increase the threat to water quality and in turn harm fish and wildlife habitat and the aesthetic qualities of the site by increasing the amount of NPS running into the waterbody. Whereas a structure setback of only 45 feet with vegetation retained between the structure and the shoreline may do more to protect water quality. The vegetation can slow runoff, trap sediment, and act as a natural filter to remove pollutants.

Another challenge with the history of setbacks in the Borough is the fluctuating distances and general lack of compliance by property owners. The low compliance is at least partially symptomatic of the lack of understanding of the ordinance’s purpose. This has resulted in inconsistent development around waterbodies and in turn has made enforcement very difficult.

Unfortunately, this site-specific approach to defining setback distances requires significant resources to inventory all lands, develop a fair implementation process to avoid arbitrary and capricious decisions, and to enforce. For this reason, most governing bodies designate a set distance from a waterbody for structures and include minimum performance standards regulating the use of the buffer zone.

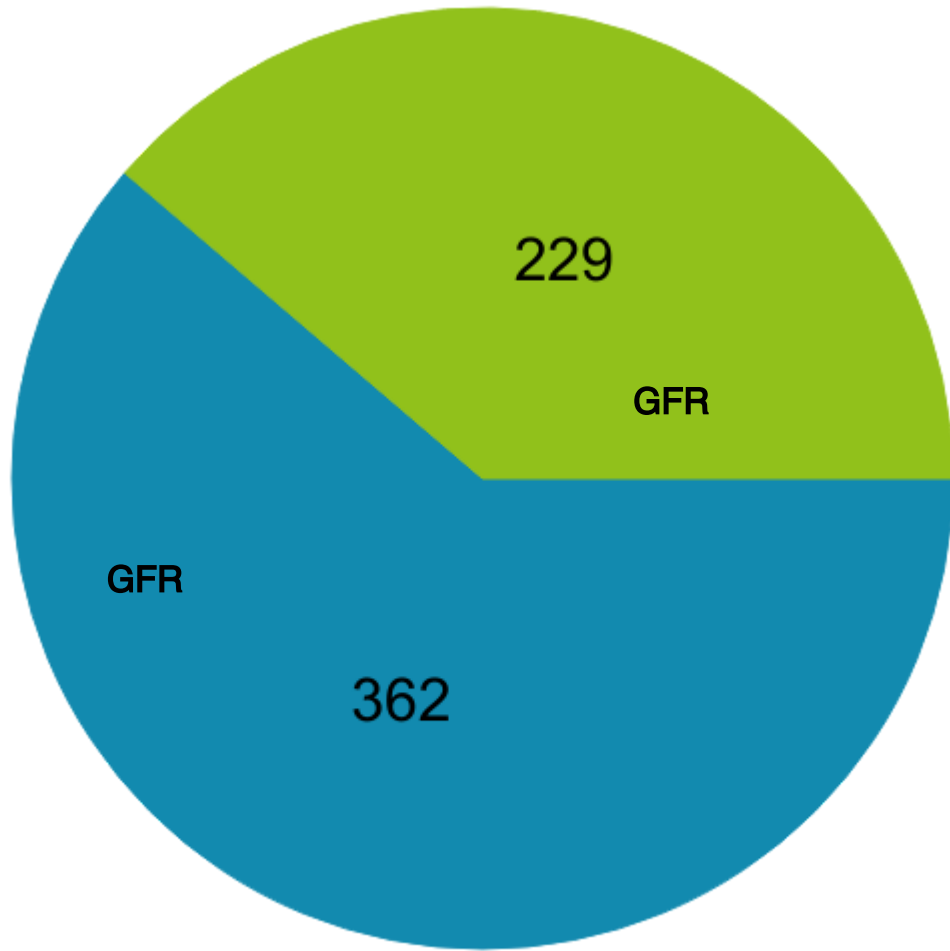
Riparian buffers are essential for maintaining the health of lakes. These vegetated areas along the water's edge act as natural filters, trapping sediment, nutrients, and pollutants before they reach the lake. This not only improves water quality but also provides habitat for wildlife and stabilizes the shoreline, preventing erosion. Riparian buffers are crucial for preserving the ecological balance and recreational value of lakes.



# Structures built within 75'

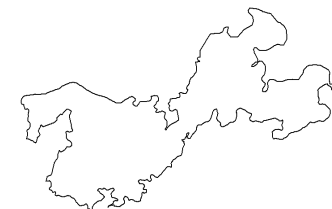
Pre-1973  
Lakes only

591



Distance from  
waterbody

■ <45' ■ 45'-75'



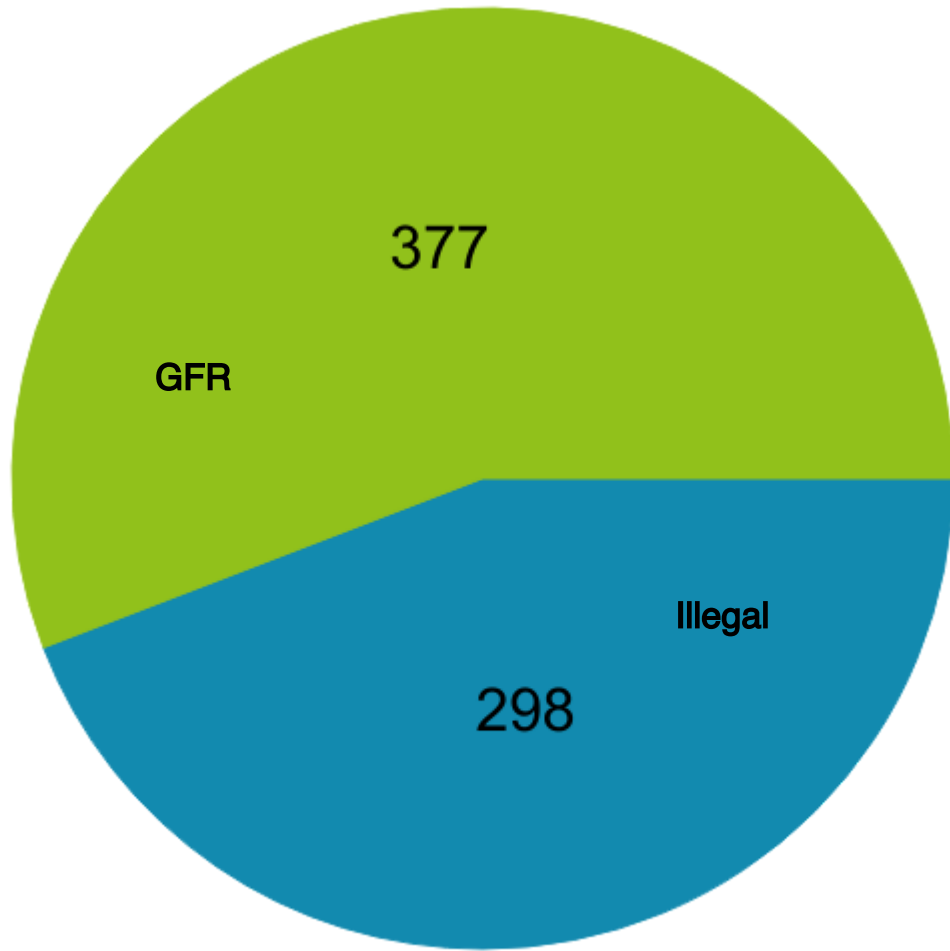
**39% of are on Big  
Lake (228)**

# Structures built within 75'

1973-1987

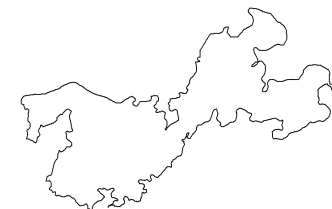
Lakes only

675



Distance from  
waterbody

■ <45' ■ 45'-75'

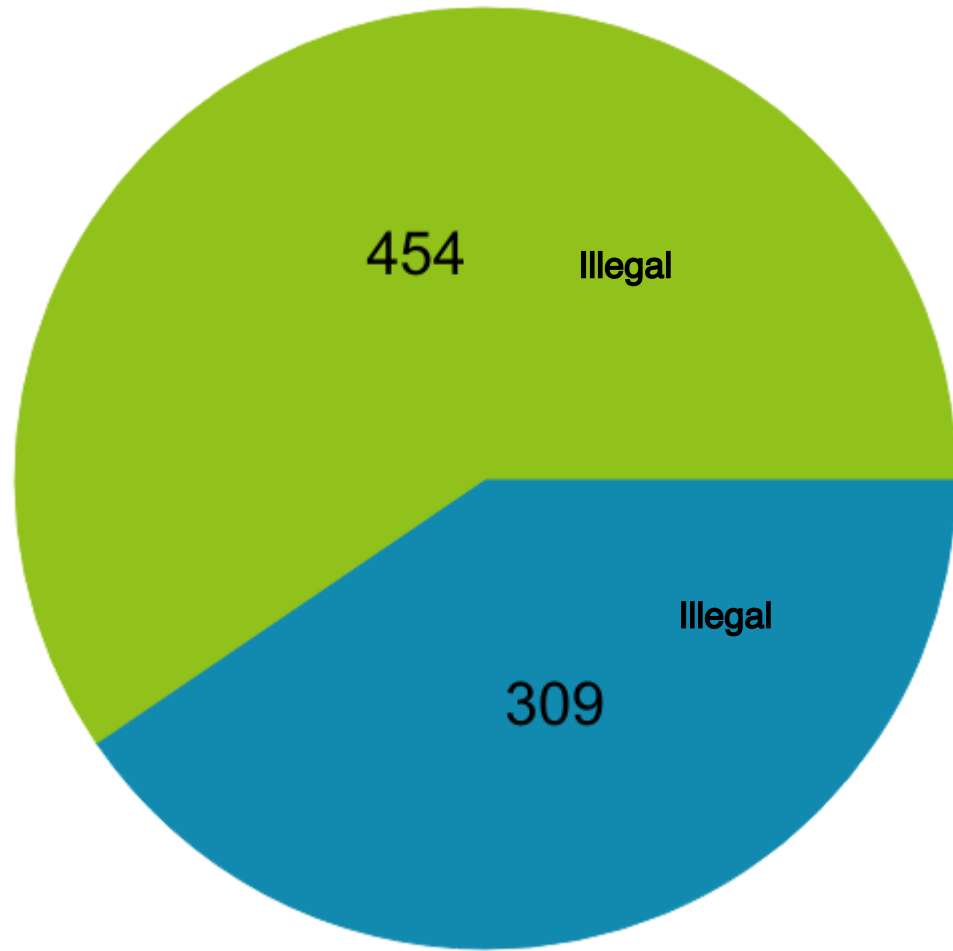


19% of are on Big  
Lake (131)

# Structures built within 75'

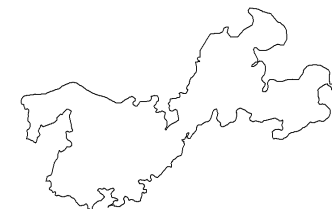
1987-Present  
Lakes only

763



Distance from  
waterbody

■ <45' ■ 45'-75'



22% of are on Big  
Lake (171)

# Other Meeting Topics

- Code compliance overview
- Mandatory land use Permit overview
- Analysis of existing setback violations
- Financing and sale of illegal structures
- 1998 Setback Analysis
- Review of riparian buffer ordinance
- Non-point source pollution, riparian buffers, fish habitat, and water quality
- In-depth review: MSB 17.65 - Variances
- In-depth review: MSB 17.55 - Setbacks & Screening Easements
- In-depth review: MSB 17.80 - Nonconforming Structures
- Recommended changes to MSB 17.55 and MSB 17.80