



MATANUSKA-SUSITNA BOROUGH WATERBODY SETBACK ADVISORY BOARD AGENDA

Edna DeVries, Mayor

Michael Brown, Borough Manager

CJ Koan, (Vice-Chair) Planning Commission
Kendra Zamzow, MSB Fish and Wildlife
Matthew LaCrouix, Mat-Su Salmon Habitat Partnership
Tim Alley, Design & Construct Stormwater Abatement Background
Bill Klebasadel, Design & Construct Stormwater Abatement Background
Vacant, Home Builder, Lending, Real Estate Background
Carl Brent, At-Large
Bill Kendig (Chair), At-Large
Jeanette Perdue, At-Large

PLANNING & LAND USE DEPARTMENT
Alex Strawn, Planning & Land Use Director
Kim Sollien, Planning Services Manager
Jason Ortiz, Development Services Manager
Fred Wagner, Platting Officer

Support Staff: Alex Strawn, Planning & Land Use Director

Location:
Employee Break Room of the
Dorothy Swanda Jones Building
350 E. Dahlia Avenue, Palmer

REGULAR MEETING

6:00 P.M.

DECEMBER 14, 2023

Ways to participate in the meeting:

IN PERSON: You will have 3 minutes to state your oral comment.

IN WRITING: You can submit written comments to Alex Strawn at alex.strawn@matsugov.us and Karol Riese at karol.riese@matsugov.us. Written comments are due at noon on Friday prior to the meeting.

TELEPHONIC TESTIMONY:

- Dial 1-855-290-3803; you will hear “joining conference” when you are admitted to the meeting.
- You will be automatically muted and able to listen to the meeting.
- When the Chair announces audience participation or a public hearing you would like to speak to, press *3; you will hear, “Your hand has been raised.” (There may be a delay, please be patient with the system.)
- When it is your turn to testify, you will hear, “Your line has been unmuted.”
State your name for the record, spell your last name and provide your testimony.

I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PLEDGE OF ALLEGIENCE

IV. APPROVAL OF MINUTES: November 1, 2023

V. AUDIENCE PARTICIPATION (*three minutes per person for items not scheduled for public hearing*)

VI. ITEMS OF BUSINESS

A. Borough Code Review/Analysis (Staff: Alex Strawn, Planning & Land Use Director)

1. MSB 1.45: Violations, Enforcement, and Penalties
2. MSB 17.02: Mandatory Land Use Permit
3. MSB 17.55: Setbacks and Screening Easements
4. MSB 17.65: Variances
5. MSB 17.80: Nonconforming Structures

VII. BOARD MEMBER COMMENTS

VIII. ADJOURNMENT

**MATANUSKA-SUSITNA BOROUGH
WATERBODY SETBACK ADVISORY BOARD MINUTES**

**REGULAR MEETING
November 1, 2023**

The regular meeting of the Matanuska-Susitna Borough Waterbody Setback Advisory Board was held on November 1, 2023, at the Matanuska-Susitna Borough Employee Breakroom, 350 E. Dahlia Avenue, Palmer, Alaska. The meeting was called to order at 6:00 p.m. by Planning and Land Use Director, Alex Strawn.

I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM

Board members present and establish a quorum:

Ms. CJ Koan
Ms. Kendra Zamzow
Mr. Matthew LaCroix
Mr. Tim Alley
Mr. William Klebesadel
Mr. Bill Kendig
Ms. Jeanette Perdue

Board members absent and excused were:

Mr. Carl Brent

Staff in attendance:

Mr. Alex Strawn, Planning and Land Use Director
Mr. Jason Ortiz, Development Services Manager
Ms. Peggy Horton, Planner II
Ms. Karol Riese, Planning Depart. Administrative Specialist

*Indicates that the individual attended telephonically.

II. APPROVAL OF AGENDA

Mr. Strawn inquired if there were any changes to the agenda.

GENERAL CONSENT: The agenda was approved without objection.

III. INTRODUCTION OF MEMBERS

Members of the board introduced themselves and gave a brief statement of why they applied for the board and their background.

IV. STAFF/AGENCY REPORTS & PRESENTATIONS

A. History of Waterbody Setbacks (*Alex Strawn, Planning & Land Use Director*)
Mr. Strawn provided an overview of the Waterbody Setbacks website and a presentation of the history of Borough's waterbody setback issues.

V. AUDIENCE PARTICIPATION (Three minutes per person.)

Mr. Rod Hanson of North Lakes Community Council; Mr. Schweigert (on phone); Ms. Jean Holt; Ms. Patty Fisher; and Mr. Jason Ortiz

**MATANUSKA-SUSITNA BOROUGH
WATERBODY SETBACK ADVISORY BOARD MINUTES**

**REGULAR MEETING
November 1, 2023**

VI. ELECTIONS

A. Chair

MOTION: Board Member CJ Koan nominated Board Member Bill Kendig for Chair.

VOTE: The main motion passed without objection.

B. Vice-Chair

MOTION: Board Member Bill Kendig nominated Board Member CJ Koan for Vice-Chair.

VOTE: The main motion passed without objection.

VII. APPROVAL OF SCHEDULE

A. Location, day, time, duration, and frequency of meetings

Mr. Strawn started the discussion of location of the meetings; the board elected to have the meetings in the MSB Employee Breakroom by unanimous vote; a discussion of day and frequency of the meeting was had; the board elected to have the meetings on the 2nd Tuesday of the months; on a monthly basis beginning at 6:00 p.m. for two hours; however, the next meeting, due to some member conflicts, will be scheduled for Thursday, December 14th. They also wanted a TEAMS link to the meetings so if members had to attend remotely, they would have the ability to see any presentations. Unanimous vote.

The board agreed that the next meeting, December 14th, would be a presentation of Borough Code Analysis (MSB 1.45, 17.02, 17.55, 17.65, and 17.80.

VIII. BOARD MEMBER COMMENTS

Board members were excited to be part of the board.

IX. ADJOURNMENT

The regular meeting adjourned at 7:40 p.m.

BILL KENDIG, Chair

ATTEST:

KAROL RIESE, Clerk

Minutes approved: _____

CHAPTER 1.45: VIOLATIONS, ENFORCEMENT, AND PENALTIES

Section

[1.45.010 Violations](#)[1.45.020 Entitlement; conformity to code](#)[1.45.030 Inspections; right of entry](#)[1.45.040 Interference](#)[1.45.045 Penalty surcharge authorization and collection](#)[1.45.050 Enforcement orders](#)[1.45.060 Civil penalties and remedies](#)[1.45.070 Borough misdemeanors \[Repealed\]](#)[1.45.080 General penalty](#)[1.45.090 Citations for borough infractions](#)[1.45.100 Schedule of fines for infractions](#)[1.45.105 Forfeiture of traps](#)[1.45.110 Borough abatement of violations](#)[1.45.120 Liability of violator for costs](#)[1.45.130 Damage to borough property](#)**1.45.010 VIOLATIONS.**

- (A) Every act or condition prohibited by this code is unlawful and is a violation of this code.
- (B) Every act or condition that is not in compliance with a term, condition, or requirement of an entitlement, or enforcement order issued in accordance with this code, is a violation.
- (C) Each act or condition in violation of this code, and every day upon which the act or condition occurs, is a separate violation.

- (D) A violator is a person who, as principal or agent, violates this code.
- (E) In addition to any other violator, the owner of real property, motorized vehicles, personal property, waste, trash, or junk, which is used, located, or found to be in violation of this code, is a violator of the code.
- (F) The tenants, occupants, or users of any building, structure, premises, or part thereof, or any architect, builder, contractor, agent, or any occupant, user, or operator of vehicles or equipment, or any other person who commits, participates in, assists in, or maintains a violation, may each be found guilty of a separate offense and be subject to fines and penalties provided by this code.
- (G) Violations of this code may be prosecuted civilly or criminally, as specified in A.S. 29.25.070.
- (H) The remedies provided in this title are not exclusive, but are cumulative of all other remedies available at law or in equity.
- (I) A minor who violates an ordinance, in addition to injunctive and compensatory relief, may have imposed upon him a civil penalty not to exceed \$1,000 per violation. For purposes of this chapter, "minor" means a person under 18 years of age. During proceedings for violations of ordinance, the minor's parent, guardian, or legal custodian shall be present unless excused by the court for good cause.

(Ord. 04-081, §§ 38, 39, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.020 ENTITLEMENT; CONFORMITY TO CODE.

- (A) "Entitlement" as used in this code, means a permit, authorization, special limitation, right or privilege granted under borough code, including but not limited to, the following: a sale, lease, special limitation to a zoning map, plat approvals, vacations of rights-of-way or easements, waivers, variances, and exemptions.
- (B) An entitlement which does not conform to the requirements of this code is subject to revocation.

(Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.030 INSPECTIONS; RIGHT OF ENTRY.

- (A) An administrative official at any reasonable time may, upon presentation of borough identification, enter upon and inspect any land, building or premises where the official has reasonable cause to believe there exists a violation of this code, or enter upon such a building, or premises to perform a duty authorized by this code.
- (B) When consent for inspection is refused or otherwise unobtainable, an administrative official shall obtain an administrative search warrant from a court of proper jurisdiction authorizing an inspection and exhibit the warrant to the person in charge of the premises before conducting the inspection. The administrative official shall apply to the state courts for an inspection warrant, stating in the application the owner and occupant and the address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection

and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within 10 days of issuance.

(Ord. 04-081, § 40, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.040 INTERFERENCE.

(A) It is a violation for anyone who knows that a code compliance officer is performing the officer's duty, to interfere with the officer in a manner that creates a risk of physical injury to any person.

(B) Violation of this section is a minor infraction.

(Ord. 17-103, § 2, 2017; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.045 PENALTY SURCHARGE AUTHORIZATION AND COLLECTION.

The surcharge required to be imposed pursuant to AS 12.55.039 is authorized and shall be imposed as a surcharge on penalties imposed for the violation of an ordinance, code provision, or regulation of the Matanuska-Susitna Borough brought under a citation or criminal complaint that would require a proceeding in the Alaska court system if the defendant were to enter a plea of not guilty. The court may impose and collect the surcharge on all penalties imposed by the court or fines and bail forfeitures that are paid to the court.

(Ord. 98-134, § 2, 1998)

1.45.050 ENFORCEMENT ORDERS.

(A) An administrative official may issue an enforcement order which describes the violation, specifies the code being violated, and orders:

- (1) the discontinuation of a use, activity, development, or occupancy that is in violation of this code;
- (2) the abatement, or removal of development, structures, material, vehicles, equipment, or things that are in violation of this code;
- (3) the discontinuation of activity preparatory to occupancy, use, development or activity that is in violation of this code;
- (4) the suspension or revocation of an entitlement issued under this code, which is being used as authority for a violation;
- (5) any restoration, repair, or replacement necessary as a result of a violation or to eliminate a violation;
or
- (6) any other lawful action considered necessary by the manager to prevent, abate, or discontinue a violation of this code and to bring a violation into compliance with this code.

- (B) An enforcement order may require a time frame for compliance.
- (C) When an enforcement order is posted or lawfully served, all activity contrary to the terms of the order shall cease until the order is rescinded and removed, or continuance is authorized in writing by the borough manager.
- (D) Unless otherwise specified by code, an enforcement order issued hereunder which is posted at the site where the violation is occurring, if the violator cannot be located or personally served, or served on a violator personally or by certified mail, is final with respect to that violator if not appealed within 15 calendar days of its service or posting.
- (E) When necessary to avoid or abate an imminent or existing nuisance or hazard to public health, safety or welfare an enforcement order need not be issued before any lawful action is commenced with respect to a violation of this code.
- (F) The pendency of any proceeding regarding an enforcement order issued pursuant to MSB [1.45.050](#)(A) does not stay any other legal action with respect to the violation that is subject of the enforcement order.

(Ord. 04-081, § 41, 2004; Ord. 97-041(AM), § 2, 1997; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.060 CIVIL PENALTIES AND REMEDIES.

- (A) The borough or any person aggrieved by a violation of this code may bring a civil action to perform the following:
- (1) A violation of this code may be enjoined or abated. Pursuant to A.S. 29.25.070(b), upon application for injunctive relief and a finding that a person is violating or threatening to violate this code, the superior court shall enjoin the violation.
 - (2) Any partition, sale, transfer or lease of property that creates a subdivision of land in violation of this code may be enjoined. Any transfer of real property subdivided in violation of this code may be enjoined until the violation has been cured.
 - (3) Restoration may be required for any structure, vegetation, land, water body, or other thing that is destroyed, damaged, altered, or removed in violation of this code.
 - (4) Damages may be recovered resulting or related to the violation, including but not limited to, treble damages allowable in accordance with A.S. 9.45.730.
 - (5) In addition to injunctive or compensatory relief, a civil penalty not exceeding \$1,000 for each violation and applicable attorney's fees shall be recovered.

(Ord. 04-081, § 42, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.070 Borough misdemeanors. [Repealed by Ord. 17-103, § 3, 2017]**1.45.080 GENERAL PENALTY.**

(A) A borough infraction is a minor offense that carries no jail sentence or penalty other than a fine not to exceed \$1,000. A person charged with a borough infraction is not entitled to a trial by jury or a public defender or other counsel appointed at public expense.

(B) Unless another penalty is provided in this code, any person deemed guilty of a violation that is classified as a borough infraction shall, upon conviction, be subject to a fine in accordance with MSB [1.45.100](#).

(C) Every act in violation of a provision of this code is a borough infraction unless specifically classified as a borough misdemeanor.

(Ord. 17-103, § 4, 2017; IM 04-209, pages 1 and 2, presented 7-20-04; Ord. 04-081, § 44, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.090 CITATIONS FOR BOROUGH INFRACTIONS.

(A) An administrative official authorized by the manager may issue, file, and serve citations for violations of the provisions of this code which are borough infractions.

(B) *[Repealed by Ord. 17-103, § 5, 2017]*

(C) *[Repealed by Ord. 17-103, § 5, 2017]*

(D) *[Repealed by Ord. 17-103, § 5, 2017]*

(E) *[Repealed by Ord. 17-103, § 5, 2017]*

(F) In accordance with AS 29.25.070(a), citations for the offenses listed within MSB [1.45.100](#) may be disposed of as provided in AS 12.25.195 through 12.25.230, without a court appearance, upon payment of the fine amounts listed within MSB [1.45.100](#), plus the state surcharge required by AS 12.55.039, and AS 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed within MSB [1.45.100](#). Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed within MSB [1.45.100](#). If an offense is not listed within MSB [1.45.100](#), the defendant must appear in court to answer to the charges. Fines within MSB [1.45.100](#) may not be judicially reduced.

(Ord. 17-103, § 5, 2017; Ord. 04-081, § 45, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.100 SCHEDULE OF FINES FOR INFRACTIONS.

(A) Except as otherwise specified by ordinance, the minimum fine for an infraction of this code is \$75.

(B) *[Repealed by Ord. 15-072, § 2, 2015]*

(C) The following schedule of minimum fines shall apply to the violation of the specified codes and may not be judicially reduced:

Code Reference	Description	Fine Amount
1.45.010 (B)	Violation of term, condition or requirement	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
1.45.040 (A)	Interference	\$150
1.45.050 (C)	Enforcement Orders—Failure to Comply	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
1.45.130	Damage to Borough Property	\$500
2.85.015(C)(1)	Failure to Pay Parks, Recreation and Trails Fees—Operator	\$40
2.85.015(C)(2)	Failure to Pay Parks, Recreation and Trails Fees—Owner	\$40
3.36.010	Business License Required	\$100
8.05.040	Solid Waste—Prohibited Disposal Items	\$100
8.05.050	Solid Waste—Prohibited Acts	\$100
8.05.070	Solid Waste—Unsecured Refuse	\$100
8.05.080	Solid Waste—Littering	\$500
8.07.030	Land Application of Biosolids Prohibited	\$500
8.15.030	Abuse of 911 System Prohibited	\$250
8.25.030	Water Pollution Control	\$100
8.25.030	Improper Sewage Disposal	\$500
8.25.040	Improper Use and Location of Facilities	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500

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8.25.050	Pollution of Waterbody	\$500
8.35.030	Fireworks Control—Sale Prohibition	\$500
8.35.040	Fireworks Control—Use Prohibition	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
8.50.020	Trash and Junk Violation	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
8.52.015	Violation of Amplified Sound and Vibration	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
8.55.030	Failure to Obtain Special Events Permit	\$500
8.55.100(A)	Special Events Prohibited Acts or Conditions	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
8.70.030	Unauthorized Use of Disabled Persons Parking without Permit	
	1st Offense	\$125
	2nd and Subsequent Offenses	\$250
8.70.030	Unauthorized Use of Disabled Persons Parking with Special License Plate or Permit	
	1st Offense	\$250
	2nd and Subsequent Offenses	\$500
8.75.050	Open Burning—General Restrictions	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
8.75.060(C)	Open Burning during Air Quality Advisory	

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	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
10.12.010(A)	Abatement of Abandoned Vehicles—Right-of-Way	\$150
10.12.010(B)	Abatement of Abandoned Vehicles—Borough-Owned/Controlled Property	\$150
11.10.020(A)	Failure to Obtain Encroachment Permit	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
11.10.030(C)	Unauthorized Encroachment	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
11.20.060(A)	Address Numbers Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.02.020(A)	Failure to Obtain Mandatory Land Use Permit	\$150
17.04.100	Nancy Lake State Recreation Area Special Land Use District—Conformance Required	\$150
17.04.110	Nancy Lake State Recreation Area Special Land Use District—Junk Storage	\$150
17.08.100	Hay Flats Recreation Area Special Land Use District—Conformance Required	\$150
17.08.110	Hay Flats Recreation Area Special Land Use District—Junk Storage	\$150
17.11.020	Sex Offender Residing Within Prohibited Area	\$500
17.17.040	Denali State Park Special Land Use—Conformance Required	\$150
17.17.070	Denali State Park Special Land Use—Prohibited Uses	
	1st Offense	\$150

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	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.17.080	Denali State Park Special Land Use—Compliance	\$150
17.17.090	Denali State Park Special Land Use—Building Height Limits	\$150
17.17.110	Denali State Park Special Land Use—Setback Requirements	\$150
17.17.120	Denali State Park Special Land Use—Vegetation Buffer	\$150
17.17.130	Denali State Park Special Land Use—Signs	\$150
17.18.060	Chickaloon Special Land Use District—Conditional Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.18.070	Chickaloon Special Land Use District—Prohibited Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.18.080	Chickaloon Special Land Use District—Compliance	\$150
17.19.040	Glacier View Special Land Use District—Conformance Required	\$150
17.19.060	Glacier View Special Land Use District—Conditional Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.19.070	Glacier View Special Land Use District—Prohibited Uses	
	1st Offense	\$150
	2nd Offense	\$300

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	3rd and Subsequent Offenses	\$500
17.20.030(A)	Knik Sled Dog and Recreation Special Land Use District—Conformity Required	\$150
17.20.050	Knik Sled Dog and Recreation Special Land Use District—Conditional Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.20.060(A)	Knik Sled Dog and Recreation Special Land Use District—Prohibited Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.23.040	Point MacKenzie Port Special Use District—Conformance Required	\$150
17.23.060	Point MacKenzie Port Special Use District—Prohibited Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.23.150	Point MacKenzie Port Special Use District—Development Permit Required	\$150
17.25.030	Talkeetna Special Land Use District—Conformance Required	\$150
17.25.045	Talkeetna Special Land Use District—Setbacks	\$150
17.25.050	Talkeetna Special Land Use District—Main Street Talkeetna District	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.055	Talkeetna Special Land Use District—West Talkeetna Townsite District	
	1st Offense	\$150

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	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.060	Talkeetna Special Land Use District—Spur Road North District	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.065	Talkeetna Special Land Use District—Spur Road Central Land Use District	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.070	Talkeetna Special Land Use District—Spur Road South Land Use District	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.075	Talkeetna Special Land Use District—Christiansen Lake Land Use District	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.25.100	Talkeetna Special Land Use District—Conditional Use Permits	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.27.040	Sutton Special Land Use District—Conformance Required	\$150
17.27.060	Sutton Special Land Use District—Conditional Uses	
	1st Offense	\$150
	2nd Offense	\$300

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	3rd and Subsequent Offenses	\$500
17.27.070	Sutton Special Land Use District—Prohibited Uses	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.28.020(C)	Earth Material Extraction without a Permit	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.28.030(D)	Earth Material Extraction—Permit Required Water Table Extraction	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.28.030(E)	Earth Material Extraction—Interim Materials District	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.28.060	Earth Material Extraction—Site Development Standards—Interim Materials District	\$300
17.28.200(A)	Earth Material Extraction—Interim Materials District Violations, Enforcement and Penalties	\$150
17.29.065	Flood Damage Prevention—Building in Flood Hazard Area	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.29.100	Flood Damage Prevention—Development Permit Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.30.025(D)	Earth Material Extraction—Violation of Nonconforming Uses	\$300
17.30.037(A)	Earth Material Extraction—Conditional Use Permit—	

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17.30.007(A)	Earth Material Extraction—Conditional Use Permit— High Water Table	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.30.140(B)	Earth Material Extraction—Permit Required	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.30.140(C)	Earth Material Extraction—Violation of Condition of Conditional Use Permit	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.36.060	Residential Planned Unit Development Prohibition	\$150
17.48.020	Mobile Home Park Ordinance—Development Prohibition	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.52.050	Residential Land Use District—Conditional Use Permit	\$150
17.55.010(A)	Setbacks—Structure Placed within 25 Feet from Public Right-of-Way	\$300
17.55.010(B)	Setbacks—Structure Placed within 10 Feet of Lot Line	\$300
17.55.010(G)	Setbacks—Structure Placed within 10 Feet from Railroad Right-of-Way	\$300
17.55.020	Setbacks—Structure Placed Too Close to Water Body	\$300
17.55.020(E)	Setbacks—Sewage Disposal System	\$300
17.58.050	Motorized Uses on Lakes and Waterways—Safety	\$150
17.58.060	Motorized Uses on Lakes and Waterways—Buoys and Signs	\$150
17.58.100(B)	Limitation of Motorized Uses on Designated Lakes and Waterways—Noise Control	\$150
17.58.100(C)	Limitation of Motorized Uses on Designated Lakes and Waterways—No-Wake Zone	\$150
17.58.100(D)	Limitation of Motorized Uses on Designated Lakes and	

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17.58.100(D)	Limitation of Motorized Uses on Designated Lakes and Waterways—Hours of Operation	\$150
17.58.100(E)	Limitation of Motorized Uses on Designated Lakes and Waterways—Special Events Permits	\$150
17.58.110	Prohibition of Motorized Uses on Cottonwood Creek	\$150
17.59.060(B)	Lake Management Plan Implementation—Quiet Hours	\$150
17.59.060(C)	Lake Management Plan Implementation—No-Wake Zone	\$150
17.59.060(D)	Lake Management Plan Implementation—Motorized Watercraft Use	\$150
17.59.060(E)	Lake Management Plan Implementation—Special Permit	\$150
17.59.060(F)	Lake Management Plan Implementation—Winter Motor Vehicle Control	\$150
17.59.060(G)	Lake Management Plan Implementation—Ice House Registration	\$150
17.60.030	Operating without a Conditional Use Permit	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.60.110(A)	Conditional Use Permits—Junkyards and Refuse Area Standards	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.60.120(D)	Conditional Use Permits—Standards for Correctional Community Residential Centers	\$150
17.60.215(C)	Conditional Use Permits—Failure to Correct a Violation of Conditions	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.61.030(A)	Core Area Conditional Use Permit Requirements—	

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	Conditional Use Permit Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.61.080(A)	Core Area Conditional Use Permit Requirements— Noise Standards	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.61.090(A)	Core Area Conditional Use Permit Requirements— Traffic Standards	\$150
17.61.100(A)	Core Area Conditional Use Permit Requirements— Hazardous Materials Standards	\$150
17.62.020(B)	Coal Bed Methane—Exploration Permit Application Required	
	1st Offense	\$300
	2nd and Subsequent Offenses	\$500
17.63.015(A)	Race Track Regulations—Conditional Use Permit Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.64.050	Conditional Use Permit for Waste Incinerators— Conditional Use Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.64.140(A)	Conditional Use Permit for Waste Incinerators— Violations, Enforcement and Penalties	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500

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17.67.020(D)	Tall Structure—Permit Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.70.020	Permit Required—Alcoholic Beverage	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.73.050(A)	Multifamily Development Design Standards—Approval Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.75.040(A)	Single-Family Residential Land Use District—Conformance Required	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
17.76.050	Large Lot Single-Family Residential Land Use District—Conformance Required	
	1st Offense	\$150
	2nd Offense	\$300
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17.80.080	Nonconforming Structures—Repairs and Maintenance	\$150
17.80.090	Nonconforming Structures—Restoration of Damaged Property	\$150
17.90.015(A)	Operating an Adult Business	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
19.12.015	Trapping on School Property	
	1st Offense	\$150

	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
23.05.050(A)	Use of Borough-Owned Property	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
23.05.050(B)	Real Property—Removal of Resources	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
24.05.105	Trapping Prohibited	
	1st Offense	\$150
	2nd Offense	\$300
	3rd and Subsequent Offenses	\$500
43.05.030(A)	Subdivisions—Illegal Sales	\$500
43.05.030(B)	Subdivisions—Illegal Filing	\$500
43.05.030(C)	Subdivisions—Unlawfully Subdivided—Violation of Terms	\$500
43.05.040(A)	Subdivisions—Violations, Enforcement and Penalties	\$150

(Ord. 23-048, § 4, 2023; Ord. 22-073, § 2, 2022; Ord. 21-036, § 2, 2021; Ord. 19-032, § 5, 2019; Ord. 17-103, § 6, 2017; Ord. 17-021, § 12, 2017; Ord. 15-072, §§ 2, 3, 2015; Ord. 14-104, § 4, 2014; Ord. 07-170(AM), § 4, 2007; Ord. 04-081, § 46, 2004; Ord. 00-156, § 2, 2000; Ord. 99-112, § 2, 1999; Ord. 99-053, § 2, 1999; Ord. 96-013AM, § 4, 1996; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.105 FORFEITURE OF TRAPS.

Ownership rights of any trap found on public school property owned by the borough, or any trap found on borough-owned property which is part of the Crevasse Moraine system, Lazy Mountain Recreation Area, Matanuska River Park, Alcantra Athletic Complex, West Bodenbug Butte, and Jordan Lake Park, are forfeited upon conviction of MSB 2.85.020(D) or 19.12.015.

(Ord. 17-021, § 13, 2017)

1.45.110 BOROUGH ABATEMENT OF VIOLATIONS.

(A) Nothing within this title shall prevent the borough from taking other lawful action necessary to prevent or

remedy any violation.

(B) If borough actions conducted in accordance with code have not resulted in abatement of the violation, the borough manager may authorize the necessary and appropriate actions to abate the violation and to comply with the code. These actions may include, but are not limited to: eviction of persons, collections of money, retrieval, restoration, repair, protection, stabilization, impoundment, storage, removal, decontamination, and disposal of vehicles, equipment, animals, material, structures, land, water, soil, snow, vegetation, litter, trash, waste, junk, or hazardous material as is appropriate.

(Ord. 04-081, § 47, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.120 LIABILITY OF VIOLATOR FOR COSTS.

(A) In addition to applicable penalties and damages assessed due to violations of this code, the violator is liable for any costs reasonably incurred by the borough in abating the violation. Reasonable costs include, but are not limited to: directly related administrative costs, attorney fees, and costs related to litigation, posting and publication of notices, process service and costs related to actions taken pursuant to MSB [1.45.110\(B\)](#). These costs shall become a lien on the violator's property, if the property was the subject of the abatement action, or shall become collectible and subject to any collection actions the borough employs to collect other debts.

(Ord. 04-081, § 48, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

1.45.130 DAMAGE TO BOROUGH PROPERTY.

(A) A person commits the infraction of damaging borough property if the person conceals, damages, mutilates, destroys, removes, vandalizes, defaces, or tampers with borough owned or leased property.

(Ord. 04-081, § 49, 2004; Ord. 95-088(SUB)(am), § 15 (part), 1995)

CHAPTER 17.02: MANDATORY LAND USE PERMIT

Section

[17.02.010 Intent and applicability](#)

[17.02.020 Land use permit](#)

[17.02.030 Procedure](#)

[17.02.040 Action on applications](#)

17.02.010 INTENT AND APPLICABILITY.

(A) It is the intent of this chapter to improve the level of compliance with existing borough code by establishing a mandatory land use review process and directly providing regulatory information to persons proposing development within the borough outside of the cities of Houston, Palmer, and Wasilla.

(B) This chapter is applicable within all areas of the Matanuska-Susitna Borough outside of the cities of Houston, Palmer, and Wasilla and the Port District, as established in MSB 18.02.020, Boundaries.

(C) There are federal, state, and local requirements governing land use. It is the responsibility of the individual land owners to obtain a determination whether such requirements apply to the development of their land. Any land within the boundaries of the Matanuska-Susitna Borough is subject to land use and development regulations. It is not the intent of this chapter to replace or supersede regulations of other chapters within this title. Additional information and permits, such as flood damage prevention, mobile home park ordinance, conditional uses, and regulation of alcoholic beverages may be required in accordance with the borough code. This title will be amended and updated as necessary when new MSB Title 17 regulations are adopted.

(D) A land use permit is not required where commencement of construction or placement, as defined in MSB 17.125, occurred before the effective date of the ordinance codified in this chapter.

(Ord. 10-108, § 2, 2010; Ord. 07-121, § 2, 2007; Ord. 06-192(AM), § 3 (part), 2007)

17.02.020 LAND USE PERMIT.

(A) The land owner or authorized agent shall obtain a land use permit from the Matanuska-Susitna Borough Planning Department prior to the commencement of:

(1) *[Repealed by Ord. 11-073, § 2, 2011]*

(2) *[Repealed by Ord. 11-073, § 2, 2011]*

(3) *[Repealed by Ord. 11-073, § 2, 2011]*

(4) *[Repealed by Ord. 11-073, § 2, 2011]*

(5) *[Repealed by Ord. 13-025, § 2, 2013]*

(6) construction or placement of any building within 75 feet of any watercourse or water body;

(B) A landowner or authorized agent may voluntarily request a land use permit for any structure or use not required to obtain a permit under this chapter.

(C) A permit is not required under this chapter when the proposed use is subject to another permit within this title.

(Ord. 22-104, § 2, 2022; Ord. 13-025, § 2, 2013; Ord. 11-073, § 2, 2011; Ord. 06-192(AM), § 3 (part), 2007)

17.02.030 PROCEDURE.

(A) A complete land use permit application shall be submitted to the planning and land use director on a form provided by the planning and land use department.

(B) A complete land use permit application will contain the following attachments:

(1) *[Repealed by Ord. 22-104, § 3, 2022], 2011]*

(2) site plan;

(a) site plans are not required to be certified but shall clearly identify the following:

(i) north arrow;

(ii) boundaries of parcel;

(iii) size, location, and setback dimensions of proposed structures;

(iv) names and location of adjacent roadways;

(v) location of rights-of-way and public easements within and adjacent to the parcel;

(vi) location and name of adjacent water bodies;

(vii) location of subsurface sewage disposal systems; and

(viii) intended use of proposed structures.

(3) *[Repealed by Ord. 11-073, § 3 (part), 2011]*

(4) *[Repealed by Ord. 11-073, § 3 (part), 2011]*

(C) *[Repealed by Ord. 11-073, § 3 (part), 2011]*

(D) *[Repealed by Ord. 11-073, § 3 (part), 2011]*

(E) An application fee as established by the assembly, payable to the Matanuska-Susitna Borough, shall be submitted with the application. If more than one land use permit fee is required under this chapter, the applicant shall pay only one fee, whichever is the highest.

(F) A copy of the application shall be retained in the planning and land use department files.

(Ord. 22-104, § 3, 2022; Ord. 11-073, § 3 (part), 2011; Ord. 06-192(AM), § 3 (part), 2007)

17.02.040 ACTION ON APPLICATIONS.

(A) The planning and land use director or designated staff shall determine whether an application for a land use permit is complete. For incomplete applications, a written explanation of application deficiencies shall be provided within seven working days of the date the application is received in the planning and land use department.

(B) *[Repealed by Ord. 22-104, § 4, 2022], 2011]*

(C) In reviewing a land use permit application, the planning and land use director shall make specific findings explaining how the proposal does or does not conform to the requirements of this title. The planning and land use director also may provide options as to how the proposal may conform to these requirements.

(D) The planning and land use director shall render a decision within ten working days from the date the application is determined complete.

(1) Permits under this chapter shall be reviewed and approved based on compliance with borough code, including but not limited to the following:

- (a) setbacks;
- (b) special land use districts;
- (c) flood hazard areas;
- (d) driveway permits;

(e) conditional uses; and

(f) multifamily development permits.

(E) If a decision is not rendered within the allotted review time, the applicant shall be entitled to a complete refund of fees.

(F) *[Repealed by Ord. 22-104, § 4, 2022], 2011]*

(G) *[Repealed by Ord. 22-104, § 4, 2022], 2011]*

(H) *[Repealed by Ord. 22-104, § 4, 2022], 2011]*

(I) Appeals from a decision granting or denying a land use permit under this chapter shall be filed and conducted in accordance with MSB 15.39.

(Ord. 22-104, § 4, 2022; Ord. 11-073, § 3 (part), 2011; Ord. 06-192(AM), § 3 (part), 2007)

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.
- “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: 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. 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 other-wise 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)

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CHAPTER 17.65: VARIANCES

Section

[17.65.010 Intent](#)

[17.65.020 Requirements for granting a variance](#)

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[17.65.050 Initiation of a variance request](#)

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[17.65.080 Record of variances](#)

[17.65.090 Termination of variances](#)

[17.65.100 Appeal procedure](#)

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17.65.010 INTENT.

This chapter addresses variances not otherwise addressed within this title. It is not intended that this chapter replace or supersede variance regulations of other chapters within this title, nor is it intended that this chapter address variances to conditional uses.

(Ord. 90-56, § 3 (part), 1990)

17.65.020 REQUIREMENTS FOR GRANTING A VARIANCE.

(A) In order to grant a variance to the regulations of MSB title 17, the planning commission must find that each of the following requirements has been met:

- (1) There are unusual conditions or circumstances that apply to the property for which the variance is sought.
- (2) The strict application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties under the terms of this title.
- (3) The granting of the variance will not be injurious to nearby property, nor harmful to the public welfare.

(4) The granting of the variance will be in harmony with the objectives of this title and any applicable comprehensive plans.

(5) The deviation from the requirement of this title that is permitted by the variance will be no more than is necessary to permit a reasonable use of the property.

(Ord. 90-56, § 3 (part), 1990)

17.65.030 CASES WHERE VARIANCE IS ILLEGAL.

(A) A variance from this title may not be granted if:

- (1) special conditions that require the variance are caused by the person seeking the variance;
- (2) the variance will permit a land use in a district in which that use is prohibited;
- (3) the variance is sought solely to relieve pecuniary hardship or inconvenience.

(Ord. 90-56, § 3 (part), 1990)

17.65.040 VARIANCE; CONDITIONS OF APPROVAL.

(A) The planning commission, in granting a variance, may prescribe any conditions and safe-guards that it deems to be necessary or desirable to:

- (1) assure conformity with this title and any applicable comprehensive plans;
- (2) protect adjacent properties;
- (3) protect the public health, safety and welfare.

(Ord. 90-56, § 3 (part), 1990)

17.65.050 INITIATION OF A VARIANCE REQUEST.

(A) A request to the planning commission for a variance to the requirements of MSB title 17 may be initiated by the property owner or the manager's authorized agent.

(B) A variance application shall be filed with the planning director on a form provided by the planning department.

(C) An application for a variance shall include:

- (1) a legal description of the property involved;

- (2) a description of the variance requested, including the code section reference;
- (3) a specific statement of the reasons why the variance is required and conforms to the requirements of MSB [17.65.020](#);
- (4) a site plan or as-built of the particular parcel or parcels affected, submitted under the seal of a professional land surveyor, which shows all information relevant to the variance request;
- (5) an appropriate filing fee as established by the assembly, payable to the borough.

(Ord. 90-56, § 3 (part), 1990)

17.65.070 PLANNING COMMISSION ACTION.

The planning commission shall hear any interested parties and shall render a written decision on the variance application within 30 calendar days from the closure of public hearing.

(Ord. 90-56, § 3 (part), 1990)

17.65.080 RECORD OF VARIANCES.

The planning department shall keep a record of all variances.

(Ord. 90-56, § 3 (part), 1990)

17.65.090 TERMINATION OF VARIANCES.

(A) Any variance granted shall become null and void if:

- (1) the variance is not exercised within one year after being granted;
- (2) any structure or characteristic of use permitted by a variance is moved, removed or discontinued.

(Ord. 90-56, § 3 (part), 1990)

17.65.100 APPEAL PROCEDURE.

Decisions by the planning commission on a variance application may be appealed to the borough board of adjustment and appeals. Appeals shall be filed and conducted in accordance with MSB 15.39.

(IM 96-013, page 1 (part), presented 3-19-96; Ord. 90-56, § 3 (part), 1990)

17.65.110 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), § 30 (part), 1995)

CHAPTER 17.80: NONCONFORMING STRUCTURES

Section

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17.80.010 INTENT.

(A) Within the Matanuska-Susitna Borough there may exist lots, permanent structures, and uses of land and structures, which were lawful before the effective date of the applicable regulations but which would be prohibited, regulated or restricted under the terms of current regulations, or a future amendment. Except as otherwise provided by code, it is the intent of this chapter to permit nonconforming permanent structures to remain until they are removed or abandoned but not to encourage their perpetuation. It is not intended that this chapter replace or supersede nonconformity regulations in other chapters within this title. This ordinance is promulgated pursuant to AS 29.40.040(A)(2) "Land Use Regulations" and encourages the minimization of the unfavorable effects of the construction of structures that do not conform to code.

(B) Nothing in this chapter requires a change in the plans or construction of any building actually under construction or development prior to the effective date of adoption of this ordinance as long as the building was allowable under the code in effect at the start of development. Where excavation, demolition or removal of an existing building has begun in preparation of rebuilding, such excavation, demolition or removal shall be considered to be actual construction or development, provided that continuous progress is being made toward

completion of the project. Development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.020 LEGAL NONCONFORMING STRUCTURES.

(A) The following structures qualify as legal nonconforming structures without an administrative determination, however, an administrative determination may be issued if requested by the property owner:

- (1) structures built lawfully and made nonconforming by adoption of subsequent ordinances;
- (2) structures built in violation of the ordinance existing at the time of construction, then made legal by adoption of subsequent ordinance, and later made nonconforming by adoption of subsequent ordinances;
- (3) permanent structures which were constructed lawfully after the date of adoption of the Acknowledgement of Existing Regulations, Chapter 17.01, but which were made unlawful after the date of start of construction due to adoption of subsequent regulations.

(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](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.030 FEES.

(A) Applications for determination of legal nonconforming status, made pursuant to MSB [17.80.020](#)(A)(1), (2) and (3), and (B)(1) and (2), are not subject to fees set forth in MSB [17.80.070](#).

(B) Applications for determination of legal nonconforming status, made pursuant to MSB [17.80.020](#)(B)(3) are subject to fees as set forth in MSB [17.80.070](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.040 WRITTEN DETERMINATION REQUIRED.

Nonconforming structures, covered under MSB [17.80.020\(B\)\(3\)](#), shall not have legal nonconforming status for purposes of this chapter unless a written administrative determination of legal nonconforming status has been issued by the planning director, pursuant to MSB [17.80.070](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.050 NONCONFORMING LOTS OF RECORD.

Structures and accessory buildings may be erected on nonconforming lots of record as long as they meet all applicable provisions of code. This provision shall apply even though the lot fails to meet the requirements for area, or width, or both, currently applicable.

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.060 STANDARDS FOR NONCONFORMING STRUCTURES.

(A) Where a permanent structure exists that could not be built under the terms of the current regulations, the structure may continue to exist as long as it remains lawful subject to subsections (1) through (4) of this subsection. However:

(1) a nonconforming structure may not be enlarged or altered in any way unless the alteration or enlargement is otherwise specifically allowed by code. Any nonconforming structure or portion of a nonconforming structure may be altered to decrease its nonconformity.

(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. A nonconforming structure which straddles a required minimum setback line may be expanded vertically or horizontally only where the expansion is located outside the minimum setback distance.

(3) the physical location of a nonconforming structure may be changed only to reduce or eliminate the nonconformity.

(4) an existing structure devoted to a use not permitted by code shall not be enlarged, extended, moved, or structurally altered.

(B) Structures found in violation of any of the standards set forth in subsection (A) of this section, are not eligible for a determination of legal nonconforming status.

(C) Structures which are in trespass are not eligible for a legal nonconforming status determination.

(D) *[Repealed by Ord. 17-142, § 3, 2018]*

(E) The planning director may not grant legal nonconforming status, pursuant to MSB [17.80.070](#), unless the applicant provides evidence that the structure was erected prior to the adoption of the Acknowledgment of Existing Land Use Regulations, MSB 17.01.

(F) The planning director will consider public health, safety, and welfare concerns raised in comments received pursuant to MSB [17.80.070](#)(C) when making a determination whether to grant a legal nonconforming determination.

(Ord. 17-142, § 3, 2018; Ord. 01-016, § 2, 2001; Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.070 APPLICATION FOR A DETERMINATION OF LEGAL NONCONFORMING STATUS.

(A) An application for a determination of legal nonconforming status may be initiated by the property owner or his authorized agent. The application shall be filed with the planning director on a form provided by the planning department. The application shall be accompanied by a nonrefundable application fee, established by the assembly, and made payable to the Matanuska-Susitna Borough. The planning director may not grant legal nonconforming status unless the applicant provides evidence that the structure was erected prior to the adoption of the Acknowledgment of Existing Land Use Regulations chapter except as noted herein.

(B) In addition to the completed application form, the submittal shall contain the following items:

- (1) description and photographs of the structure;
- (2) as-built drawing(s), prepared by a professional surveyor, registered in the state of Alaska, verifying the location(s) or the structure(s);
- (3) any other documentation the planning director may deem necessary to evaluate the application.

(C) When an application is submitted, the borough shall give notice of the application by publication in a newspaper of general circulation in the borough at least 15 calendar days before the earliest date the planning director may render a decision.

(D) Notice of the application shall be mailed to owners of all property within 600 feet of the lot lines of the property containing the nonconforming structure at least 10 calendar days prior to the earliest date upon which the planning director may make a final decision on the application. The notice shall contain the following:

- (1) the earliest date a decision may be rendered;
- (2) brief description of the application;
- (3) a vicinity map of the area surrounding the subject property;
- (4) legal description of the subject property;

- (5) the names of the applicants and owners of the subject property;
- (6) the planning department's telephone number; and
- (7) identify the location where the application and other supporting material will be available for public inspection.

(E) Prior to the date of the decision, the applicant shall pay the cost of all mailings or advertisements required by this section.

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.080 REPAIRS AND MAINTENANCE.

Except as otherwise addressed by code, nothing in this chapter shall prevent keeping in good repair a nonconforming permanent building or a building in which a nonconforming use is conducted. However, any building that is declared by an authorized official to be unsafe or unlawful by reason of physical condition shall not be restored, repaired or rebuilt in violation of the standards set forth in MSB [17.80.060\(A\)](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.090 RESTORATION OF DAMAGED PROPERTY.

(A) Except as otherwise addressed by borough code, nothing in this ordinance shall prevent restoration and subsequent continued occupancy and use of a permanent building destroyed to up to 50 percent of its replacement value by fire, explosion, or other casualty or act of God.

(B) A dwelling made nonconforming through adoption or amendments to Title 17, Zoning, may be replaced or reconstructed within two years after accidental damage or accidental destruction by fire, explosion, or other casualty or act of God. Reconstruction or replacement not completed within two years of the date of the damage is prohibited except in compliance with current regulations. Replacement or reconstruction may be undertaken in the same three dimensional space that it occupied prior to damage or destruction even though the damage or destruction exceeded 50 percent of its replacement value provided it was a legal structure at the date of construction. Except as otherwise specifically allowed by code, reconstruction and replacement shall not increase the height, depth, area, or volume of the structure beyond that which existed on the date the structure became a pre-existing legal nonconforming structure.

- (1) The borough manager may grant a one time extension of the allowed time to complete rebuilding of a pre-existing legal nonconforming structure which is otherwise eligible for reconstruction under this section. To grant the time extension authorized under this section, the borough manager must find from evidence presented that:

(a) the requirement to rebuild within two years from the date of destruction would result in undue hardship on the applicant;

(b) the applicant diligently pursued reconstruction during the original two-year period; and

(c) the need for an extension is caused by unforeseen and unavoidable circumstances beyond the control of the applicant.

(2) The extension shall be for a specific amount of time, not to exceed three years from the original two-year deadline.

(3) An application for the three-year extension of time to rebuild a pre-existing legal nonconforming structure shall be submitted in writing to the borough manager and shall provide sufficient detail to describe the proposed structure and its compliance with applicable borough code. The application must also contain the evidence required by MSB [17.80.090](#)(B)(1)(a-c).

(4) The borough manager will review the application and make a decision regarding the request. A public hearing is not required. Appeals of this decision are as prescribed in MSB 15.39.030.

(C) The percentage of loss, under MSB [17.80.090](#)(A) and (B) shall be determined by an independent adjuster or appraiser who is Financial Institutions Reform and Recovery Enforcement Act (FIRREA) certified or the appraisal must be accompanied by the appraiser's license number and certification of type of appraisal they are licensed to perform.

(Ord. 01-016, § 3, 2001; Ord. 99-197, § 2, 1999; Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.100 TERMINATION OF NONCONFORMITIES.

When a legal nonconforming permanent structure is abandoned for a period of one year or more, the building shall not then be used except in compliance with this chapter. For the purposes of this chapter, abandonment means discontinuation or failure to complete construction and begin use, for a continuous period of more than one year. Whether the property owners intended to abandon the structure is not relevant to an abandonment determination. Reconstruction of a damaged nonconforming structure is not prohibited after the one-year period if the reconstruction was prohibited due to lawful orders issued by a court or in the course of an arson or criminal investigation.

(Ord. 95-011(SUB1), § 3 (part), 1995)

17.80.110 VIOLATIONS AND ENFORCEMENT.

Violations and enforcement of this chapter shall be consistent with the terms and provisions of Chapter 17.56.

(Ord. 95-011(SUB1), § 3 (part), 1995)

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Date: November 2, 2023
From: Rod Hanson
Group Affiliation: North Lakes Community Council
RE: Communications

Message:

Board Members and Staff,

Thank you for listening to my comments at your first Board meeting last night. As the rest of the meeting unfolded, I appreciated the thoughtfulness of each Board member as you organized for the upcoming challenge. I spoke about the importance of public communications and have a few more specific suggestions for you to consider:

1. I was impressed with the depth of your respective backgrounds as you introduced yourselves to each other and those in attendance. I believe there would be significant benefit in building public trust for this process if you were to each prepare a brief biography and post it on your website. The diversity of this Board is it's strength. Play to your strengths.
2. I will endeavor to attend each of your meetings as a representative for NLCC. I won't always have comments, but I can be a conduit for information flow to our area residents. I would suggest a specific written invitation be extended to all MSB Community Councils to have a representative attend your meetings. Not all will take you up on the invitation, but the fact that you do such outreach would be another step to building public confidence in the eventual recommendations. This Board has the opportunity to "walk the talk" and set a great example for public outreach through Community Councils.
3. Although there would be some work involved, a brief written summary of each meeting and your "next steps" would be valuable information and could be distributed through the community councils as well as posted on your website.
4. Look for opportunities to gather and summarize public concerns and input through the use of a questionnaire or survey. Again, using the Community Councils as a conduit would be seen as a positive by many residents.

I again thank each of you for your commitment to this important topic. I look forward to the outcomes and results of your efforts.

Please reach out to me if you would like to discuss or have any questions about my comments.

Regards,

Rod Hanson

