



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822 • www.matsugov.us

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 LaCroix, Mat-Su Salmon Habitat Partnership
Tim Alley, Design & Construct Stormwater Abatement Background
Bill Klebasadel, Design & Construct Stormwater Abatement Background
William Haller, 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
Vacant, Planning Services Manager
Jason Ortiz, Development Services Manager
Fred Wagner, Platting Officer

Location:

Employee Breakroom

*Dorothy Swanda Jones Building
350 E. Dahlia Avenue, Palmer*

Support Staff: Alex Strawn, Planning & Land Use Director

REGULAR MEETING

6:00 P.M.

July 9, 2024

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 Lacie Olivieri at Lacie.olivieri@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: Regular Meeting: June 25, 2024

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

VI. ITEMS OF BUSINESS

A. Updated Draft Resolution

B. Draft Ordinance

VII. BOARD MEMBER COMMENTS

VIII. ADJOURNMENT



MATANUSKA-SUSITNA BOROUGH WATERBODY SETBACK ADVISORY BOARD MINUTES

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

The Regular meeting for the Waterbody Setback Advisory Board was held on Tuesday, June 25, 2024, at 350 E. Dahlia Avenue, Palmer, Alaska. Chair Bill Kendig called the meeting to order at 5:05 p.m.

Members present; 7 - Cj Koan, Bill Kendig, Matthew LaCroix, Bill Haller, Carl Brent, Tim Alley arrived at 5:18, Bill Klebesadel arrived at 5:28

Members absent/excused; 2 – Kendra Zamzow, Jeanette Perdue

Quorum established.

II. APPROVAL OF AGENDA

Bill Haller motioned to approve the agenda. CJ Koan Seconds. Motion approved.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES:

Regular Meeting: June 11, 2024

CJ Koan Motioned to approve the minutes. Bill Haller Seconds.

The minutes from the regular meeting held on June 11, 2024, were approved without any objections.

V. AUDIENCE PARTICIPATION

Jean Holt spoke for 2 minutes about what she has observed while attending the water body setback meetings since the assembly established the board.

VI. ITEMS OF BUSINESS

- A. Draft Ordinance—Vote on ordinance framework: More significant questions were raised, leading to a vote to delineate the framework of the ordinance the Advisory Board intends to propose to the assembly.

VII. BOARD MEMBER COMMENTS

Matt LaCroix was surprised by how different the conversation was this week compared to the last meeting. Everyone felt like there were very good discussions. Bill Kendig thanks the staff for their work.

VIII. ADJOURNMENT

CJ Koan motioned to adjourn. Bill Haller Seconds.
The meeting was adjourned at 6:57 p.m.

Bill Kendig, Chair

ATTEST:

Lacie Olivieri, Clerk

Date Approved: _____

Action:

**MATANUSKA-SUSITNA BOROUGH
WATERBODY SETBACK ADVISORY BOARD
RESOLUTION SERIAL NO. 24-01**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH WATERBODY SETBACK ADVISORY BOARD RECOMMENDING CHANGES TO MSB 17.55 - SETBACK AND SCREENING EASEMENTS, MSB 17.80 - NONCONFORMING STRUCTURES, MSB 17.02 - MANDATORY LAND USE PERMIT, AND MSB 17.65 - VARIANCES.

WHEREAS, the Matanuska-Susitna Borough Assembly established the Waterbody Setback Advisory Board through IM No. 23-175 and Ordinance No. 23-175 on 8/15/2023 to review and recommend any changes to the Borough code relating to waterbody setbacks and related issues. These related issues should include variances/non-conformities, how to deal with structures built in violation of the 1973 and 1987 ordinances, possible remedies for structures in violation, and any other issues the Board believes are pertinent. To the extent possible, the Advisory Board is required to identify possible solutions, identify ways to enforce and implement those solutions and identify resources needed to implement and enforce those solutions; and

WHEREAS, the preservation and protection of our natural waterbodies are paramount to maintaining ecological balance, ensuring public safety, enhancing the beauty of our community; and

WHEREAS, the activities adjacent to waterbodies, such as construction, grading, clearing, filling, or contouring, have a

significant impact on water quality, natural habitats, and the overall health of these aquatic ecosystems; and

WHEREAS, there has been a recognition of the necessity for increased regulation and oversight to prevent adverse effects on waterbodies resulting from unregulated or improperly managed land-use activities close to these critical areas; and

NOW, THEREFORE, BE IT RESOLVED, that the Waterbody Setback Advisory Board hereby makes the following recommendations to the Assembly:

1. Path to Compliance for Homeowners: It is recommended that the Assembly provides a path to compliance for existing homes built within the 75-foot setback area of **lakes** in violation of MSB 17.55. This compliance pathway should require design and construction of mitigation measures to be developed and overseen by a qualified professional registered in the State of Alaska.

2. Land Use Permit Requirement: To enhance the protection of our lakes and rivers, MSB 17.02 should be modified to require a land use permit for any grading, clearing, filling, contouring, or construction activities within 75 feet of a **lakes and other waterbodies**. This measure aims to ensure that all such activities are appropriately reviewed and managed to mitigate adverse impacts on the **waterbody** ecosystems.

3. Shoreline standards: Adopt standards for clearing and

grading within 75-feet of **lakes** and **rivers** to include retention of runoff associated with the development, and retention/establishment of a vegetative buffer along the shoreline.

4. Protection from animal waste: Require a 150-foot setback for outdoor kennels, stables, animal yards, and animal waste facilities from the ordinary high water mark of **lakes** that have more than one property owner.

5. Protection from liquid petroleum fuel contamination: Adopt measures to mitigate the potential for liquid fuel contamination, such as secondary containment systems or pump-fed top-outlet fuel tanks for all fuel tanks within 75 feet of a **lakes and rivers**, whether they are existing or new installation.

6. Enhanced Enforcement: Recognizing the need for effective enforcement of setback regulations, it is recommended that additional staff be hired to patrol **lakes and other waterbodies** during the summer months. Their presence will deter violations, ensure adherence to established laws, and offer an immediate response to any observed infractions.

7. New Variance Process: Acknowledging that certain circumstances may require deviation from the standard setback requirements, it is recommended that MSB 17.65 - Variances be amended to eliminate the provisions granting owners of certain

lakefront lots to rights commonly enjoyed by others in the surrounding area.

8. New habitat protection tax incentive: It is recommended that the Assembly explore the development of a habitat protection tax incentive similar to the Kenia Peninsula borough and lobby the state to modify their statute to include all water bodies, not just rivers.

BE IT FURTHER RESOLVED, the Waterbody Setback Advisory Board has attached a draft ordinance reflecting its recommendations for the Assembly to consider.

ADOPTED by the Matanuska-Susitna Borough Waterbody Setback Advisory Board this ____ day of _____, ____.

Bill Kendig, Board Chair

ATTEST:

Lacie Olivieri, Board Clerk

CODE ORDINANCE

Sponsored by:
Introduced:
Public Hearing:
Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 24-XX**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.55 TO ALLOW STRUCTURES TO BE CONSTRUCTED WITHIN 75 FEET OF A WATERBODY, SO LONG AS CERTAIN ENGINEERING STANDARDS TO PROTECT WATER QUALITY ARE APPLIED.

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 17.55.004(A) is hereby amended by adding the following definition:

• "Lake" means a standing body of open water that occurs in a natural depression fed by one or more streams from which a stream may flow, that occurs due to the widening or natural blockage or cutoff of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream. The term also includes artificial lakes or ponds created by excavation, as well as artificial blocking or restriction of the flow of a river, stream, or tidal area.

• "Qualified professional" means a professional civil engineer or other professional registered with the state

of Alaska under Alaska Statute 08.48 qualified to practice the type of work required by this chapter.

Section 3. Amendment of Section. MSB 17.55.020 is hereby amended to read as follows:

17.55.020 SETBACKS [FOR SHORELANDS] FROM WATER

BODIES

(A) Except as provided in subsections (B) and (F) 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,] [T]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] commercial building, [OR] habitable building,

or garage.

(1) open air structures such as gazebos or pavilions are not considered structures under this section.

(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) Structures are allowed to be located within 75 feet of the ordinary high water mark of a lake, but no less than 45 feet, if runoff pollution mitigation measures are designed and installed under the supervision of a qualified professional.

(1) Runoff pollution mitigation measures include any combination of bio-swales, rain gardens, riparian buffers, flow barriers, filter strips, or other features adequate to treat and retain all stormwater or snowmelt runoff associated with a development. Natural riparian buffers are preferred over man-made measures such as bioswales or rain gardens.

(a) Mitigation measures shall include measures to mitigate the potential for petroleum contamination, such as installation of secondary

containment systems equal to 110 percent of the storage volume or pump-fed top-outlet fuel tanks.

(2) Engineered plans and specifications shall be submitted for an engineering review as part of a mandatory land use permit, in accordance with MSB 17.02.

(3) The development shall be designed and constructed in accordance with local, state, and federal laws.

(4) The landowners are responsible for maintenance of approved runoff pollution mitigation measures specified in their permit as long as the structure permitted under this subsection remains within 75 feet of a lake.

Section 4. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2024.

EDNA DeVRIES, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

Waterbody Setback Framework questions

1. Should the Borough allow a process for new habitable structures to be allowed to go within 75 feet of a waterbody?

Brent: No
Zamzow: No
Haller: No
Alley: Yes
Perdue: No
Koan: No
Lacroix: Yes
Klebesadel: Yes

2. Should the Borough allow a process for existing (1987-present) habitable structures to be allowed to go within 75 feet of a lake?

Brent: Yes
Zamzow: No
Haller: Yes
Alley: Yes
Perdue: No
Koan: Yes
Lacroix: Yes
Klebesadel: Yes

3. Should the 75 foot waterbody setback apply to more than habitable structures?

Brent: Yes
Zamzow: Yes
Haller: Yes
Alley: Yes
Perdue: Yes
Koan: Yes
Lacroix: Yes
Klebesadel: Yes

4. There should be a permit process for grading, fill, clearing (need to define) or construction of structures within 75 feet.

Unanimous

4A. Plan needs to be submitted if disturbing more than X/o of setback area. The plan needs to consider percent impervious surface, percent or distance of existing and new vegetation, stormwater control, runoff pollution mitigation

5. Should the Borough advise the assembly to adopt a habitat protection tax incentive similar to Kenai Peninsula Borough and lobby the state to modify to include waterbodies, not just rivers

Brent: yes
Kendig: yes
Haller: yes
Alley: yes
Koan: yes
Lacroix: yes
Klebesadel: yes

6. Should the borough require retention of a 25 foot buffer of native vegetation along 50% of the water's edge for new development within 75 feet associated with the land use permit?

Brent: yes
Kendig: yes
Haller: yes
Alley: yes
Koan: yes
Lacroix: yes
Klebesadel: yes

7. Should kennels, stables, animal yards, and animal waste facilities be prohibited closer than 150 feet from the ordinary high-water mark of lakes that have more than one property owner?

Brent: Yes
Kendig: Yes
Haller: Yes
Alley: Yes
Koan: Yes
Lacroix: Yes
Klebesadel: Yes

8. Should the ordinance include measures to mitigate the potential for petroleum contamination, such as secondary containment systems or pump-fed top-outlet fuel tanks for homes/businesses that are currently out of compliance?

Brent: Yes
Kendig: Yes
Haller: Yes
Alley: Yes
Koan: Yes
Lacroix: Yes
Klebesadel: Yes

9. Should the borough require top fed liquid fuel tanks or secondary containment system for all fuel tanks within 75 feet of a waterbody whether they are existing or not?

Brent: yes
Haller: yes
Alley: yes
Koan: yes
Lacroix: yes
Kendig: yes
Klebs: yes

10. Should Strahler's third-order and higher streams be subject to a 150-foot setback from the ordinary high-water mark?

Brent: no
Kendig: no
Haller: no
Alley: no
Koan: no
Lacroix: yes
Klebesadel: no

10. Purpose and needs statement: