

MATANUSKA-SUSITNA BOROUGH Fish & Wildlife Commission

350 E Dahlia Ave., Palmer, Alaska 99645

CHAIRPERSON

Peter Probasco

VICE CHAIR

Andy Couch

MSB STAFF

Maggie Brown



BOARD MEMBERS

Tim Hale

Michael Bowles

Marty Van Diest

Gabe Kitter

Bill Gamble

Kendra Zamzow

Ex officio: Jim Sykes

Regular Meeting

April 10, 2025

Meeting Packet - Table of Contents

Pg. = Item:

- 1 = Agenda
- 3 = Draft March 13 Meeting Minutes
- 6 = Waterbody Setback Presentation
- 22 = Waterbody Setback Proposed Legislation
- 50 = Game Special Meeting Questions - Draft
- 52 = CAPSIS Letter - Draft
- 54 = Senate Bill No. 108 Letter - Draft
- 55 = House Bill No. 108 Letter - Draft

Physical Location of Meeting: MSB Assembly Chambers, DSJ Bldg, 350 E. Dahlia Ave., Palmer

Remote Participation: See attached agenda on p. 1

Planning and Land Use Department - Planning Division

<http://www.matsugov.us> • planning@matsugov.us

MATANUSKA-SUSITNA BOROUGH
MSB Fish and Wildlife Commission
AGENDA

Edna Devries, Mayor

Peter Probasco – Chair
Andy Couch – Vice Chair
Gabriel Kitter
Tim Hale
Bill Gamble
Kendra Zamzow
Michael Bowles
Marty Van Diest
Jim Sykes – Ex officio member

Maggie Brown – Staff



Michael Brown, Borough Manager

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

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

April 10, 2025
REGULAR MEETING
4:00 p.m.

Ways to participate in MSB Fish and Wildlife Commission meetings:

IN-PERSON: Assembly Chambers, DSJ Building

REMOTE PARTICIPATION VIA MICROSOFT TEAMS:

Join on your computer:

[Join the meeting now](#)

Meeting ID: 213 715 044 561

Passcode: mJ26N5BL

Or call in (audio only):

1-907-290-7880

Phone Conference ID: 123 236 754#

I. CALL TO ORDER

II. ROLL CALL – DETERMINATION OF QUORUM

III. LAND ACKNOWLEDGEMENT

"We acknowledge that we are meeting on traditional lands of the Dena'ina and Ahtna Dene people, and we are grateful for their continued stewardship of the land, fish, and wildlife throughout time immemorial."

IV. PLEDGE OF ALLEGIANCE

V. APPROVAL OF AGENDA

- VI. APPROVAL OF MINUTES
 - A. March 13, 2025
- VII. AUDIENCE PARTICIPATION (*three minutes per person*)
- VIII. STAFF/AGENCY REPORTS & PRESENTATIONS (10 min)
 - A. Staff Report
 - B. Chair's Report
- IX. UNFINISHED BUSINESS
 - A. Borough Waterbody Setback Update (10 minutes)
 - B. FWC Game Special Meeting – Draft Questions (20 minutes)
 - C. Kenai & Mat-Su Joint Fish Habitat Partnership Symposium (10 minutes)
 - D. Juneau Trip Summary (10 minutes)
 - E. CAPSIS letter (15 minutes)
 - F. SB 108 - finfish farms and finfish farm products discussion (10 minutes)
 - G. HB 93 - changing the residency requirements for hunting, trapping, and sport fishing privileges discussion (5 minutes)
- X. NEW BUSINESS
 - A. North Pacific Fisheries Management Council action (10 minutes)
- XI. MEMBER COMMENTS
- XII. NEXT MEETING DATE: May, 2025, 4:00-6:00 PM
- XIII. ADJOURNMENT

People needing reasonable accommodation in order to participate at a MSB Fish and Wildlife Commission Meeting should contact the borough ADA Coordinator at 861-8404 at least one week in advance of the meeting.

MATANUSKA-SUSITNA BOROUGH
MSB Fish and Wildlife Commission
Regular Meeting: March 13, 2025
DSJ Building, Assembly Chambers
Minutes

I. CALL TO ORDER

II. ROLL CALL – DETERMINATION OF QUORUM

PRESENT:

Peter Probasco
Andy Couch
Bill Gamble
Kendra Zamzow
Michael Bowles
Marty Van Diest

EXCUSED:

Gabriel Kitter
Jim Sykes

ABSENT:

Tim Hale

III. LAND ACKNOWLEDGEMENT

"We acknowledge that we are meeting on traditional lands of the Dena'ina and Ahtna Dene people, and we are grateful for their continued stewardship of the land, fish, and wildlife throughout time immemorial."

IV. PLEDGE OF ALLEGIANCE

V. APPROVAL OF AGENDA

AC moved to approve the agednda; seconded by MB

AC proposed an amendment to add discussion for CAPSIS before member comments.

No objection, motion passed as amended unanimously.

VI. APPROVAL OF MINUTES

A. February 13, 2025

AC moved to approve the February 13 minutes; seconded by MB

No objection, motion passed unanimously.

VII. AUDIENCE PARTICIPATION (*three minutes per person*)

Peter Imhof
Jessica Speed
Chennery Fife
Erin Larson
Stephen Braund
Sue Mauger
Neil DeWitt

VIII. STAFF/AGENCY REPORTS & PRESENTATIONS (10 min)

- A. Staff Report/ New Appointees to MSB FWC
- B. Chair's Report

IX. UNFINISHED BUSINESS

- A. Deshka Cold Water/Land Designation Updated Resolution (15 min)

AC moved to submit FWC Resolution to the Assembly; seconded by KZ

No objection, motion passed unanimously.

- B. Borough Waterbody Setback Report (25 min)
- C. FWC Game Special Meeting (10 min)

Tentatively scheduled for May 15, 4-8 PM

X. NEW BUSINESS

- A. Connecting Across Tikahtnu: Kenai & Mat-Su Joint Fish Habitat Partnership
Symposium on April 21-22, 2025 (10 min)

AC will present at Symposium April 21

- B. SB 108 - An Act relating to finfish farms and finfish farm products discussion (20 min)
- C. HB 93 - An Act changing the residency requirements for hunting, trapping, and sport
fishing privileges discussion (10 min)

XI. MEMBER COMMENTS

XII. NEXT MEETING DATE: April 10, 2025, 4:00-6:00 PM

XIII. ADJOURNMENT

KZ moved to adjourn; seconded by

No objection, motion passed unanimously.

Meeting adjourned at 5:55 PM.

Peter Probasco, FWC Chair

Date

Maggie Brown, Planning Division Staff

Date

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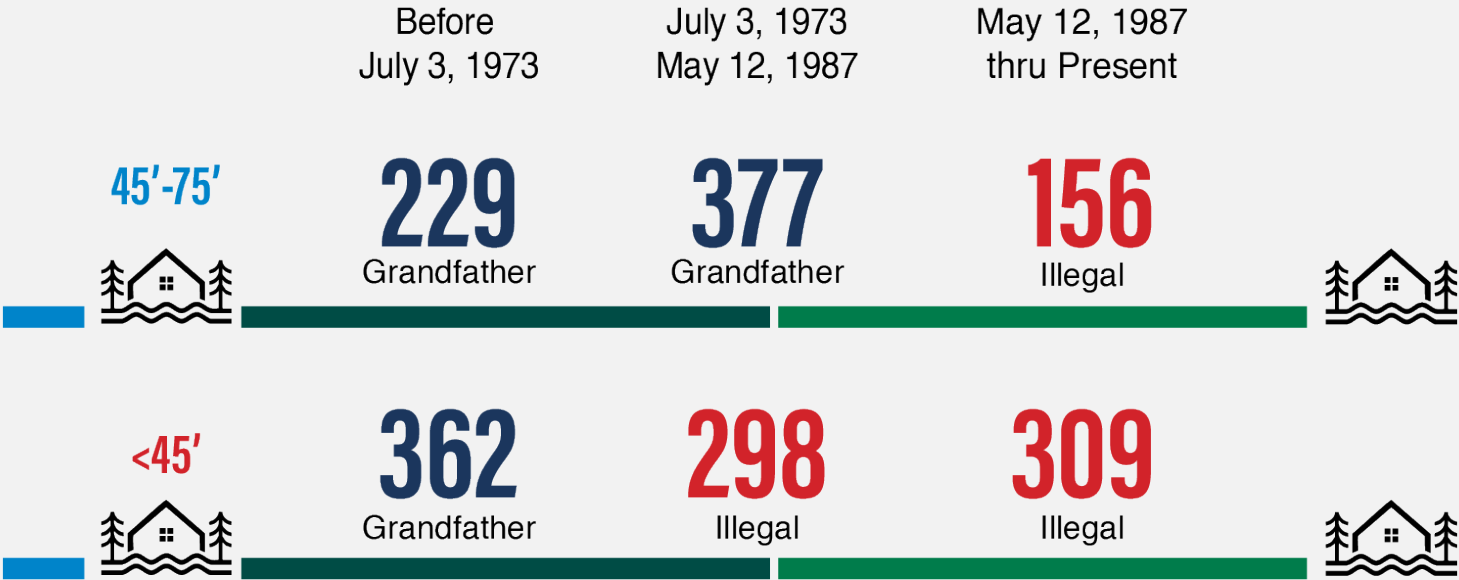
WATERBODY SETBACKS





CURRENT STATE

Setback Violations on Lakes





STRUCTURES BUILT WITHIN 75'

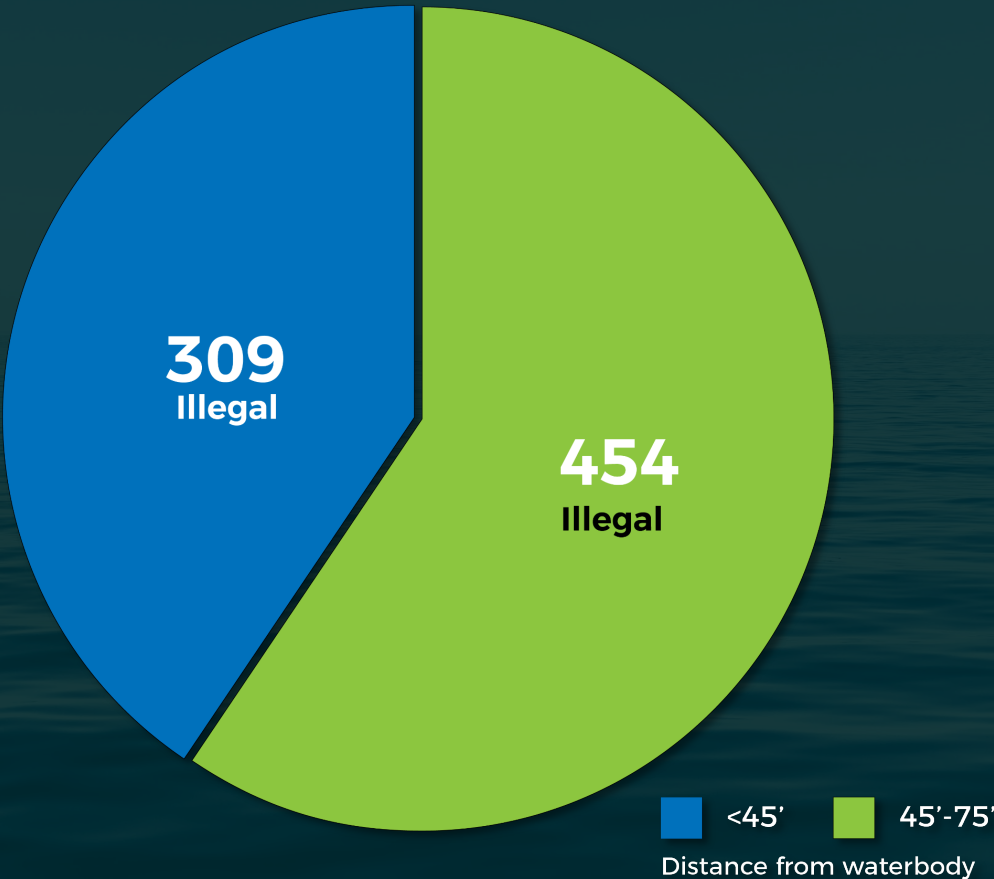
1987- Present

Lakes Only

763

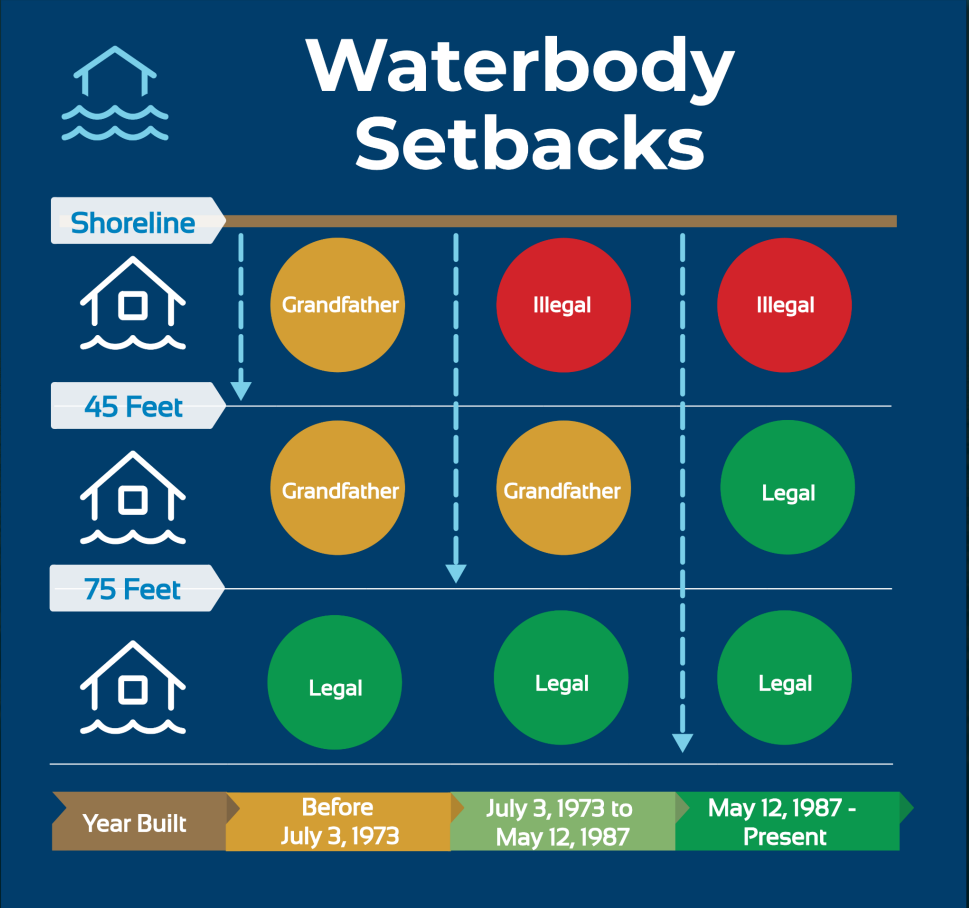
22%

On Big Lake



MSB HISTORY

Setback Regulations





01 **MARCH 2023**

Planning Commission recommends failure of ordinance eliminating waterbody setback

02 **MAY 2023**

Assembly directs staff to work with Planning Commission on amendments to waterbody setback

03 **JUNE 2023**

Planning Commission opposes the ordinance allowing structures to go within 75 feet so long as certain engineering standards to protect water quality are applied.

04 **JULY 2023**

Assembly unanimously defeats ordinance allowing structures to go within 75 feet so long as certain engineering standards to protect water quality are applied.

05 **AUGUST 2023**

Waterbody Setback Advisory Board is established (OR 23-079)

06 **SEPTEMBER 2024**

Waterbody Setback Advisory Board extended to March 18, 2025

ADVISORY BOARD



Board Membership:

- Design, Constructing Stormwater Abatement (2)
- Home Builder, Lending, Real Estate
- Mat-Su Salmon Habitat Partnership
- MSB Fish & Wildlife Commission
- MSB Planning Commission
- At-Large (3)



ADVISORY BOARD

Topics of Discussion:

- 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



TIMES MET

22

48

TOTAL
HOURS



Clarification & Cleanup

- Deleted unnecessary/outdated language
- Clarifies intent
- Clarifies which homes qualify for pre-existing legal nonconforming status



New general standards near a waterbody

- Kennels, stables, and animal yards no closer than 100 feet
- Stormwater controls for commercial or industrial parking areas within 75 feet
- Storage of liquid hazardous substances within 75 feet requires secondary containment
 - Existing facilities have 5 years to remove or retrofit
- Prohibited within 25 feet
 - Removal of riparian buffer (50%)*
 - Storage of solid waste including debris and animal yard waste
 - Stockpiling of snow
 - Application of fertilizer or herbicides
 - Paved parking areas



Land Use Permit

- Required for all “ground-disturbing activities” within 75 feet of water
- Ensures compliance with general standards
- Impervious surface cap of 20%*

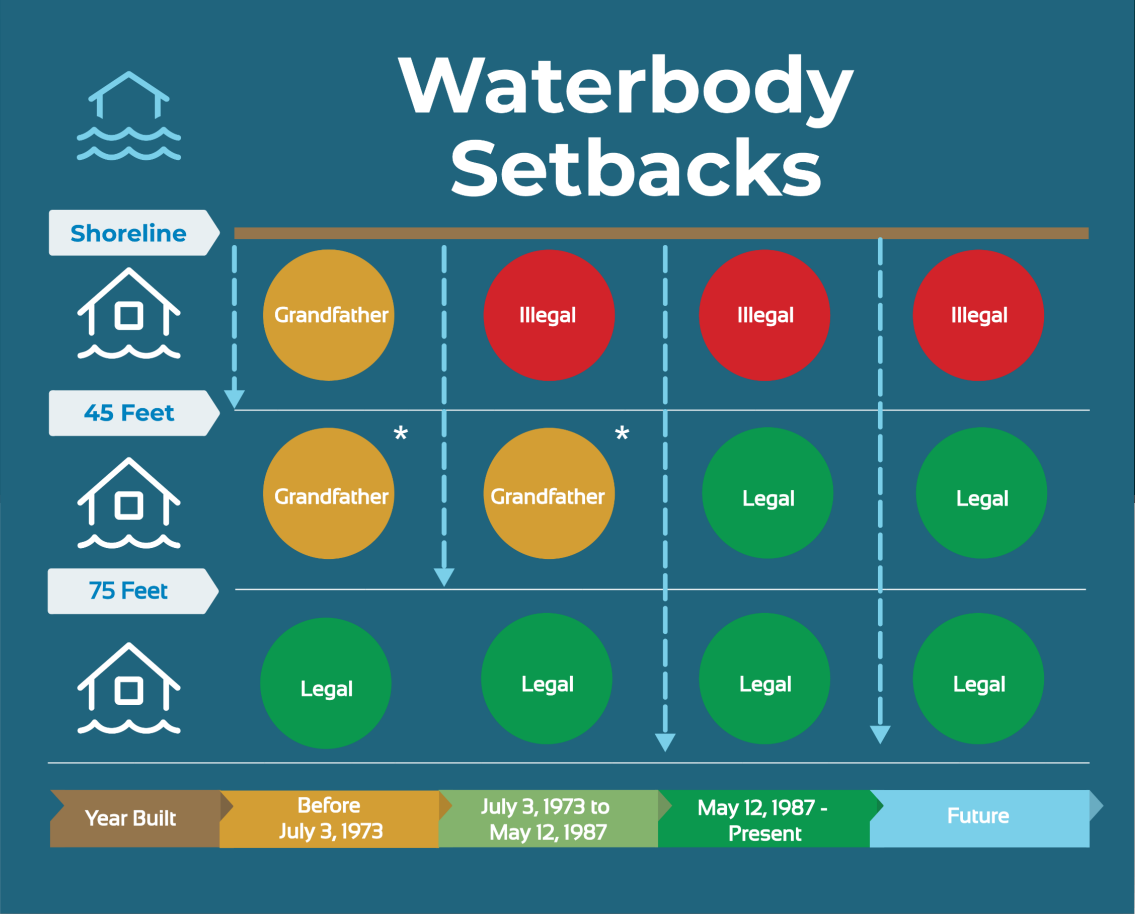


Homes allowed between 45' - 75' of standing water with the following restrictions

- Land Use Permit prepared by “qualified professional”
- Identification of current and proposed drainage patterns
- Runoff pollution mitigation measures
- Maintain the pre-development function of wetlands
- Landowner responsible for maintenance of mitigation measures



WSAB RECOMMENDATIONS



* Option to become legal



Variance

- No longer allowed within 45 feet of a water body
- Results in de facto prohibition of variances near lakes



Enhanced Enforcement

- Additional staff to patrol waterbodies
- Early detection of water body development



Habitat Protection Tax Incentive

- Recommend exploration of tax incentive for development near water bodies
- Encourages activities that protect and restore shoreline habitat
- This type of tax credit is allowed by State law and is being used within the Kenai Peninsula Borough

THANK YOU



Alex Strawn

Planning Dept Director



alex.strawn@matsugov.us



(907) 861-7850



Action: Approved

**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 17.02 - MANDATORY LAND USE PERMIT, MSB 17.80 NONCONFORMING STRUCTURES, 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 water bodies are recognized as essential for the sustainability of ecological balance, ensuring public safety, enhancing the beauty of our community, the conservation of viewsheds, enriching the quality of life, safeguarding community characteristics, and

upholding property values. These water bodies serve as critical habitats for diverse flora and fauna, including salmon and other fish, contribute to local biodiversity, support recreational activities, and play a crucial role in the broader ecosystem services that benefit both residents and wildlife alike; and

WHEREAS, the activities conducted adjacent to waterbodies, such as construction, grading, clearing, filling, or contouring, are known to have a profound impact on water quality, the preservation of natural habitats, and the overall health and sustainability of aquatic ecosystems. These activities can lead to sedimentation, alteration of hydrological patterns, habitat fragmentation, and the introduction of pollutants, all of which threaten the quality of life and community for residents, the ecological balance, and biodiversity crucial to the well-being of these environments; 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.

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: The Assembly is advised

to establish a path to compliance for homes built within the 75-foot setback area of lakes in violation of MSB 17.55. This compliance pathway should require the design and construction of mitigation measures to be developed and overseen by a qualified professional registered in the State of Alaska, and should maintain a minimum setback of 45 feet.

2. Setback Maintenance and Expansion: The Waterbody Setback Advisory Board recommends retaining the current 75-foot setback requirement for buildings adjacent to flowing water.

3. Commercial and industrial development: Recommend waterbody setback be applied to include commercial and industrial projects.

4. Land Use Permit Requirement: It is recommended that MSB 17.02 be amended to mandate a land use permit for any grading, clearing, filling, contouring, or construction activities within 75 feet of waterbodies. This measure seeks to ensure thorough review and management of all such activities to minimize adverse impacts on waterbody ecosystems.

5. Shoreline standards: Adopt standards for clearing and grading within 75 feet of waterbodies to include provisions for managing runoff associated with the development, and maintaining a vegetative buffer along the shoreline.

6. Animal Waste Management: Adopt a setback requirement of 100 feet from the ordinary high-water mark of waterbodies for

outdoor kennels, stables, animal yards, and animal waste facilities to enhance environmental protection.

7. Prevention of Liquid Petroleum Fuel Contamination: Adopt measures to mitigate the risk of liquid fuel contamination near waterbodies by requiring secondary containment or drip collection for all fuel installations within 75 feet of waterbodies, including both existing and new installations.

8. Enhanced Enforcement: Recognizing the importance of enforcing setback regulations effectively, it is recommended that additional staff be hired to patrol water bodies. Their presence will deter violations, ensure adherence to established laws, and offer an immediate response to any observed infractions.

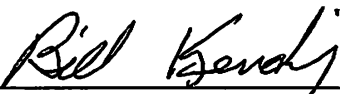
9. Structures within 45 feet: It is recommended that a minimum 45-foot water body setback be maintained with no path to compliance for structures illegally built within 45 feet of a water body.

10. Limitation of Variances: It is recommended that MSB 17.65 be amended to eliminate the ability to obtain a variance within 45 feet of a waterbody.

11. New habitat protection tax incentive: The Assembly is encouraged to consider the establishment of a habitat protection tax incentive, similar to the program in the Kenai Peninsula Borough, and advocate for state legislation that extends coverage to all types of waterbodies, not limited to 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 5th day of March, 2025.



Bill Kendig, Board Chair

ATTEST:



Lacie Olivieri, Board Clerk

CODE ORDINANCE

Sponsored by:
Introduced:
Public Hearing:
Action:

MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. Choose an item. ____

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.02 MANDATORY LAND USE PERMIT, MSB 17.55 - SETBACK AND SCREENING EASEMENTS, MSB 17.65 VARIANCES, MSB 17.80 NONCONFORMING STRUCTURES AND MSB 17.125 DEFINITIONS.

BE IT ENACTED:

WHEREAS, the intent and rationale of this ordinance are found in the accompanying Information Memorandum No. 25-XX.

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 chapter. The title and table of contents within MSB 17.55 is hereby amended to read as follows:

CHAPTER 17.55: SETBACKS [AND SCREENING EASEMENTS]

Section

17.55.004	DEFINITIONS
17.55.005	[GENERAL] <u>PURPOSE AND INTENT</u>
17.55.010	SETBACKS <u>FROM RIGHTS-OF-WAY AND LOT LINES</u>
17.55.015	SHORELANDS; DEFINITION [REPEALED]
<u>17.55.016</u>	<u>WATER BODY SETBACKS FOR POLLUTION SOURCES</u>
17.55.020	<u>WATER BODY</u> SETBACKS FOR [SHORELANDS] <u>STRUCTURES</u>
17.55.040	VIOLATIONS, ENFORCEMENT, AND PENALTIES

Section 3. Amendment of Subsection. MSB 17.55.004(A) is hereby amended as follows:

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.

- "Animal waste facility" means any area or structure used to store, compost, or dispose of animal manure, animal byproducts, an animal carcass, or fish waste. The term does not include a dumpster or other closed container provided by a waste service provider.

- "Hazardous substance" means (A) an element or compound that, when it enters into or on the surface or subsurface land or water of the state, presents a danger to the public health or welfare, or to fish, animals, vegetation, or any part of the natural habitat in which fish, animals, or wildlife may be found; or (B) a substance defined as a hazardous substance under 42 U.S.C. §§ 9601 – 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980).

- "Ordinary high water mark" means the mark made by the action of water under natural conditions on the shore or bank of a water body [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.

- "Private pond" means a natural or constructed

water body less than five acres in size that lacks a surface connection to other waterbodies and is located entirely on property with the same ownership.

- "Pump activated fuel delivery systems" means those fuel tanks, such as for home heating oil or aviation fuel, where the tank outlet is located above the fluid level of a full tank.

- "Secondary containment" means an impermeable diked area or portable impermeable container capable of providing storage capacity for materials which may leak due to the failure, overfilling or improper draining of the primary storage container. Double-walled tanks qualify as secondary containment only where the flow piping includes leak detection coupled to an automatic shutoff valve at the tank outlet.

- "Water-dependent accessory structure" means a structure necessary to support access to or use of the water (e.g., a shed used to store boating accessories) or waterfront (e.g., a gazebo).

Section 4. Amendment of Section. MSB 17.55.005 is hereby amended as follows:

17.55.005 [GENERAL] PURPOSE AND INTENT.

(A) [THIS] The purpose of this chapter is to establish[ES] minimum structural setbacks from lot

lines, [WATER COURSES AND] water bodies, and 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.

(1) Setbacks provide for light and air, fire protection, traffic safety, preservation of privacy, stormwater management, space for utility lines, and uphold neighborhood aesthetics; and

(2) Setbacks along flowing waters minimize risks to structures from lateral channel migration and flooding.

(B) The primary purpose of 17.55.016 to 17.55.020 is to protect human health, aquatic and riparian habitat, the ecologic function of water bodies, the local economy and property values, recreation, viewshed, and quality of life.

(1) These sections establish requirements related to the development and management of lands adjoining waterbodies.

(2) Standards will reduce and minimize the discharge of pollutants to waterbodies via surface runoff and subsurface leaching.

Section 5. Amendment of Section. MSB 17.55.010 is hereby

amended as follows:

17.55.010 SETBACKS **FROM RIGHTS-OF-WAY AND LOT LINES.**

(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 **Houston,** 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] **adjoining** 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.

Section 6. Adoption of Section. MSB 17.55.016 is hereby adopted as follows:

17.55.016 WATER BODY SETBACKS FOR POLLUTION SOURCES

(A) No part of a subsurface sewage disposal system shall be closer than 100 feet from the ordinary high water mark of any water body.

(B) Kennels, stables, animal yards and animal waste facilities shall not be located closer than 100 feet from the ordinary high water mark of any water body. Drainage from kennels, stables, animal yards and animal waste facilities shall not be concentrated and directed (e.g., such as by a ditch) towards a water body. This requirement does not apply to private ponds.

(C) Paved vehicle parking areas shall not be located closer than 25 feet from the ordinary high water mark of any water body.

(1) for commercial or industrial facilities, paved vehicle parking areas within 75 feet of a water body shall demonstrate that the development standards identified in MSB 17.02.035(B) regarding stormwater runoff are met.

(D) Except as provided in subparagraph (1), all liquid hazardous substances, including petroleum fuels, oils, and lubricants, located or stored closer than 75

feet from the ordinary high water mark of any water body shall include secondary containment of at least 110 percent of the storage volume to minimize the risk of spills. All piping and valves carrying liquid hazardous substances shall have secondary containment.

(1) Pump-activated fuel-delivery systems with leak detection and auto shutoff may have a drip collection system instead of secondary containment.

(2) Refined oil fuels such as gasoline, diesel fuel, small engine fuels, etc., with an aggregate total volume of 10 gallons or less do not require secondary containment.

(3) The owners of pre-existing fixed storage facilities for petroleum fuels and other liquid hazardous substances (e.g., home heating oil tanks) shall be allowed five years from the effective date of this section to fully comply with the secondary containment requirement.

(E) The following activities are prohibited within 25 feet of the ordinary high water mark of any water body:

(1) Removing riparian buffer from more than 50 percent of the surface area except as provided in MSB 17.02.035(A) (1) (a) .

(a) Dead, diseased, or fallen trees may be removed from the riparian buffer area, and pruning for vegetation health is allowed.

(2) Ground disturbing activities of more than 50 percent of the surface area.

(3) Storing or discharging solid waste, including debris, and animal and yard wastes.

(4) Stockpiling snow imported from an offsite location.

(5) The application of fertilizers or herbicides.

Section 7. Amendment of Section. MSB 17.55.020 is hereby amended as follows:

17.55.020 WATER BODY SETBACKS FOR [SHORELANDS]
STRUCTURES.

(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 water body [BODY OF WATER]. [EXCEPT AS PROVIDED OTHERWISE, E] Eaves may project three feet into the required setback area.

(1) Compliance with setbacks for structures adjoining waterbodies shall be based upon the location of the structure in relation to the ordinary high water

mark at the time it was constructed. Subsequent movement of the ordinary high water mark that reduces the setback distance does not create a violation under this chapter.

(B) Docks, piers, marinas, aircraft hangars, boathouses and water-dependent accessory structures may be located closer than 75 feet of a water body and over the water body, 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] meet all borough regulatory standards and receive a land use permit prior to construction in accordance with MSB 17.02.

(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] adjoining a water_body 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 water_body;

(c) not have more than incidental

accessory access to a street or driveway; and

(d) not be usable as a garage or habitable structure without significant alteration.

[(C) IN THE CITY OF WASILLA, THIS SECTION DOES NOT APPLY TO STRUCTURES WHERE CONSTRUCTION WAS COMPLETED PRIOR TO NOVEMBER 16, 1982. ELSEWHERE IN THE BOROUGH, THIS SECTION DOES NOT APPLY TO STRUCTURES WHERE CONSTRUCTION WAS COMPLETED PRIOR TO JANUARY 1, 1987, IF THE PRESENT OWNER OR OWNERS OF THE PROPERTY HAD NO PERSONAL KNOWLEDGE OF ANY VIOLATION OF THE REQUIREMENTS OF THIS SECTION PRIOR TO SUBSTANTIAL COMPLETION OF THE STRUCTURES. THE DIRECTOR OF THE PLANNING DEPARTMENT SHALL, UPON APPLICATION BY A PROPERTY OWNER, DETERMINE WHETHER A PROPERTY QUALIFIES FOR AN EXCEPTION UNDER THIS SUBSECTION.

(1) AN APPLICATION FOR A SHORELINE SETBACK EXCEPTION SHALL INCLUDE A FILING FEE AS ESTABLISHED BY RESOLUTION OF THE ASSEMBLY.

(D) IN THIS SECTION, A "STRUCTURE" IS ANY DWELLING OR HABITABLE BUILDING OR GARAGE.

(E) NO PART OF A SUBSURFACE SEWAGE DISPOSAL SYSTEM SHALL BE CLOSER THAN 100 FEET FROM THE ORDINARY HIGH WATER MARK OF ANY BODY OF WATER. THE PLANNING COMMISSION SHALL REQUIRE THIS DISTANCE BE INCREASED WHERE NECESSARY

TO PROTECT WATERS WITHIN THE BOROUGH.]

(F) A permit in accordance with MSB 17.02 is required prior to construction or placement of any structure, or any ground-disturbing activity within 75 feet of the ordinary high water mark of any water body.

(1) New structures may be located between 45 and 75 feet from the ordinary high water mark of a lake, pond, or wetland provided a land use permit in accordance with MSB 17.02 is obtained prior to commencement of construction.

(2) Existing habitable buildings and garages built between May 12, 1987, and the effective date of this paragraph that are between 45 and 75 feet of the ordinary high water mark of a lake, pond, or wetland may obtain a land use permit in accordance with MSB 17.02 to comply with this chapter.

Section 8. Amendment of Subsection. MSB 17.02.010(A) is hereby amended as follows:

(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 for activities within 75 feet of a water body and directly providing regulatory information to persons proposing

[DEVELOPMENT] certain activities within the borough outside of the cities of Houston, Palmer, and Wasilla.

Section 9. Amendment of Section. MSB 17.02.020 is hereby amended as follows:

17.02.020 LAND USE PERMIT FOR ACTIVITIES WITHIN 75 FEET OF A WATER BODY.

(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:

(6) construction or placement of any [BUILDING] structure within 75 feet of the ordinary high water mark of any [WATERCOURSE OR] water body; or

(7) ground disturbing activities within 75 feet of the ordinary high water mark of any 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.

Section 10. Amendment of Subsection. MSB 17.02.030(B)(2)(a) is hereby amended as follows:

(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] **adjoining** roadways;
- (v) location of rights-of-way and public easements within and [ADJACENT TO] **adjoining** the parcel;
- (vi) location and name of [ADJACENT] **adjoining** water bodies;
- (vii) location of subsurface sewage disposal systems; [AND]
- (viii) intended use of proposed structures;[.]
- (ix) existing cleared areas, structures, and impervious surfaces; and**
- (x) any areas of proposed ground disturbing activities.**

Section 11. Adoption of Section. MSB 17.02.035 REQUIRED STANDARDS is adopted as follows:

17.02.035 REQUIRED STANDARDS

(A) The director may issue a land use permit pursuant to MSB 17.02.020 only upon finding that the development meets the following standards:

(1) the site plan demonstrates compliance with

the provisions of MSB 17.55.016;

(a) notwithstanding the requirements of 17.55.016(E) (1), a land use permit may be issued where no riparian buffer exists if the requirements of MSB 17.02.050 are met.

(2) any proposed buildings or structures shall comply with MSB 17.55.020(B), as applicable; and

(3) the total area of impervious surfaces within 75 feet of a water body shall not exceed 20% of the area within 75 feet of the water body.

Section 12. Adoption of Section. MSB 17.02.050 ADDITIONAL REQUIRED STANDARDS FOR SPECIFIC CIRCUMSTANCES is adopted as follows:

17.02.050 ADDITIONAL REQUIRED STANDARDS FOR SPECIFIC CIRCUMSTANCES

(A) In addition to the site plan requirements identified in MSB 17.02.030, structures built between 45 and 75 feet as required by MSB 17.55.020(F) (1) - (2), or a land use permit application in accordance with MSB 17.02.035(A) (1) (a) or 17.02.035(A) (3), must submit the following additional information to obtain a land use permit:

(1) existing and proposed drainage patterns to and from the parcel, known drainage problems such as

flooding or erosion, and potential pollutant sources from current or proposed land use that may add pollutants to stormwater runoff;

(2) current runoff pollution mitigation measures or plans and specifications for proposed runoff pollution mitigation measures, including necessary maintenance, with sufficient detail to support an engineering review;

(3) current infiltrative methods or plans and specifications for infiltrative methods shall identify soil type and depth to the seasonal high water table providing:

(a) a minimum of 2 feet from the bottom of any basin or swale to the seasonal high water table;
or

(b) maintenance of existing undisturbed vegetated surface as the bottom of the basin or swale and no standing water during high-water periods of the year from April 1 - September 30; and

(4) site-specific analyses conducted by a qualified professional identifying the current or proposed runoff pollution mitigation measures.

(B) A land use permit may only be issued upon a finding that the applicant's runoff mitigation measures

are sufficient as evidenced by:

(1) review and certification of existing runoff pollution mitigation measures by a qualified professional; or

(2) design and installation of proposed runoff pollution mitigation under the oversight of a qualified professional.

(C) Runoff mitigation measures shall meet the following criteria:

(1) Treat the initial 0.25 inch of post-development runoff for each storm event;

(2) Provide a minimum of 12 hours of detention for the post-development runoff in excess of pre-development runoff volumes for the 1-year, 24-hour storm;

(3) Maintain the post-development runoff peak flow from the 10-year, 24-hour storm to less than 1.10 times the pre-development runoff peak flow at all project discharge points;

(4) Storm water conveyance and drainage ditches shall be sized to pass the 10-year, 24-hour storm event. Control flows in conveyance channels so that transport of particles will not occur for the post-development 10-year, 24-hour storm; and

(5) In areas where wetlands are disturbed, drainage must be designed to preserve the pre-development function of the remaining wetlands.

(D) Upon completion of the project, an as-built survey shall be submitted showing the location of all pertinent structures and features associated with the development.

(E) A revised stormwater runoff analysis is required if future development could reasonably result in increased stormwater runoff.

(F) Landowners are responsible for maintenance of approved runoff pollution mitigation measures specified in their land use permit under this chapter.

Section 13. Adoption of Subsection. MSB 17.65.020(B) is hereby adopted as follows:

(B) A variance from the water body setback requirement in MSB 17.55.020(A) may not be granted if the location of the proposed structure is:

(1) closer than 45 feet from the ordinary high water mark of a water body.

(2) in an area of known erosion hazard adjacent to a river, stream, or other flowing waters.

Section 14. Amendment of Section. MSB 17.80.020 is hereby amended as follows:

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;

(a) all structures within 75 feet of a water body that were constructed prior to adoption of the setback requirement on July 3, 1973, and have not subsequently been enlarged or altered.

(b) Non-habitable structures within 75 feet of a water body that were constructed between September 16, 1988 and the effective date of this subparagraph.

(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;

(a) habitable buildings and garages that were completed between July 3, 1973, and May 12, 1987, and have not subsequently been enlarged or altered, that are located between 45 and 75 feet from the ordinary

high water mark of a water body.

(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.

Section 15. Amendment of Section. MSB 17.125.010 is hereby amended as follows:

- **"Cleared area" means an area where existing vegetative cover and surficial soil layers, including organic matter or duff, is removed or altered by ground-**

disturbing activities.

- "Ground disturbing activity" means an activity that includes the use of heavy equipment, such as a backhoe or bulldozer, that disturbs the soil layers, uproots woody vegetation, or alters preexisting land contours. Examples of such activities include mechanized land clearing, grading, contouring, or placing of fill. "Ground disturbing activity" does not include the cutting or removal of vegetation above the ground (i.e. use of hydro-axe, mowing, rotary cutting, and chain sawing) without disturbing the soil or root systems.

- "Kennel, stable, and animal yards" means any premises used for breeding, buying, selling, keeping, or boarding five or more dogs over the age of six months, whether for profit or not; any facility housing or holding more than three pigs, goats, or animals of similar size; and all facilities housing or holding large animals (e.g., horses, cattle, llamas).

- "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 waterbodies created by excavation, as well as artificial blocking or restriction of the flow of a river, stream, or tidal area (e.g. by a dam).

- "Qualified professional" means a professional [HYDROLOGIST, GEOLOGIST, OR REGISTERED ENGINEER THAT HAS SPECIFIC EDUCATION AND EXPERIENCE WITH GROUNDWATER HYDROLOGY] 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 title.

- "Riparian buffer" means native vegetation adjoining a water body that helps to protect the water body from the impact of activities conducted on adjoining land.

- "Runoff pollution mitigation measure" means any combination features designed and intended to treat and retain stormwater runoff associated with a development, such as bioswales, rain gardens, riparian buffers, or filter strips.

- "Stormwater runoff" means any surface flow consisting entirely of water from precipitation including from the melting of ice and snow. Runoff occurs

when the water volume or surface gradient overcome the infiltrative capacity of the surface.

• "Treat and retain" means to manage stormwater on the parcel through any combination of detention, retention, infiltration, evapotranspiration, or other treatment methods to mitigate a discharge of stormwater runoff to a water body or adjoining parcel.

Section 16. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2025.

EDNA DeVRIES, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

Game Special Meeting

1. What is the current status of Units 13, 14, and 16 moose populations? Please provide yearly survey data.
2. What are the current moose population objectives for Units 13, 14, and 16 as compared to the population objectives for prior years, e.g. (1980 to 1990) and (1990 to 2000).
3. Unit 13 Nelchina Caribou - population update, current trends, population objective.
4. Unit 13 same day airborne (SDA) harvest of wolves for 2024 and 2025.
5. Units 13 and 14 sheep population status
6. Are there current plans to improve moose habitat in Unit 14?
7. If the only new infrastructure to be constructed in the West Susitna area is the 12-mile-long extension of the Korbelt-mine (Portage Creek) road from the existing airstrip, how is this anticipated to affect sheep hunting in the area (unit 16B)?
8. The overwintering small bird population in the Mat-Su this winter appears to be low based on resident observations, sale of bird seed in Palmer, and the Mat-Su Birders club. According to the Mat-Su Christmas Bird count Common Redpolls and Pine Grosbeaks populations were down over 90% and chickadee species over 40% relative to average counts from 2018-2024. Ruffed Grouse were down 31%. In our 2024 meeting with ADFG, they noted that grouse populations for 2021-2023 were low. Please share the data from grouse and ptarmigan surveys. How does ADFG track grouse and ptarmigan populations?
9. Has avian flu been found in grouse or ptarmigan in Units 13, 14, or 16? Is this disease expected to impact population levels?

10. Are any moose-habitat enhancement projects being planned?
11. How did this winter's MSB moose road and train kill compare to those in the past? In what years and in what areas were targeted hunts conducted to remove moose from road areas in the past 10 years?
12. Does ADF&G have plans to implement any new processes or procedures in the near future with the passage of Proposal 75 (Add Department removal of wolves, brown bears, and black bears to Unit 16 Intensive Management Plan) at the latest Central and Southwest Regional BOG Meeting?
13. Is ADF&G researching new ways to execute moose surveys in Southcentral if issues related to lack of snow in the early fall persist? An article published in the ADN (see attached) regarding a study led by UAF examined alternative methods used in other states as well as in Canada. Is ADF&G considering the implementation of these alternative methods?
14. To fully understand the decline of the moose population in GMU 16 since 2019, would the department benefit from additional research and information regarding moose populations, calf mortality, browse availability, and estimates of wolf and bear populations? What resources does the department lack in order to effectively execute the necessary research and data collection to provide a comprehensive data set on these topics?
15. GMU 16 is the second-largest GMU, with two-thirds of the state's population residing in close proximity. Does this increase the priority level for managing Moose as a food source compared to other GMUs?



**Matanuska-Susitna Borough
Planning and Land Use Department
Planning Division**

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822

www.matsugov.us

Dear Samantha Oslund and Colton Lipka,

Through the Alaska State legislative process in 2024, the Matanuska Fish and Wildlife Commission (FWC) asked for and received XXX thousand dollars in appropriations identified to enable the Alaska Department of Fish and Game to conduct several Upper Cook Inlet salmon research projects for a period of 5 years. We know that salmon counting weirs were installed and run throughout the 2024 season at Jim Creek (duration of the coho salmon return) and Fish Creek (duration of the sockeye and coho salmon return). We earlier learned from ADF&G that, because final legislative appropriations occurred too late in 2024 and there were also issues with missing / damaged weir parts, so the Chelatna Lake salmon counting weir was not in operation during 2024. Similarly we also learned there was a delay in starting the coho salmon genetic study of fish harvested in the Upper Cook Inlet commercial fisheries. Finally, we learned because of staffing or funding shortfall that the Judd Lake Weir was not operated during the 2024 season.

The last report we heard from the department raised some concerns and questions the FWC and some Mat-Su Valley legislators would appreciate being answered regarding the salmon research projects recently funded by the legislature, and other salmon escapement monitoring efforts conducted by ADF&G in Northern Cook Inlet drainages:

Does the ADF&G plan to operate each of the 3 sockeye salmon weirs within the Susitna River drainage (Judd, Chelatna, and Larson) during 2025? Is there currently sufficient funding to continue each of these projects 5 years into the future?

For the sport fish division, does ADF&G plan to operate Jim Creek and Fish Creek weirs through the duration of the coho salmon return in 2025? Is there currently still sufficient funding to continue operating these projects annually through 2028?

Does the sport fish division still intend to operate salmon counting weirs at Deshka River for (duration of the Chinook and coho salmon returns) and Little Susitna River (for the duration of the Chinook and coho salmon returns) during the 2025 season?

Finally, with the severe statewide down turn in king salmon that has lasted over a decade, and now with start of a similar downturn in Northern Cook Inlet coho salmon returns over the past three season (2022, 2023, 2024) many Alaskans are increasingly concerned about declining North Cook Inlet salmon numbers. How does the Department intend to manage commercial and sport fisheries that harvest Northern Cook Inlet bound coho salmon stocks to better achieve spawning escapement goals and to also better maintain fishing opportunities throughout the entire 2025 fishing season?

Your responses are greatly appreciated.

Sincerely,

Peter Probasco, Jr.

Matanuska-Susitna Borough Fish and Wildlife Commission Chair

April 01, 2025

Senate Rules Committee
Alaska State Senate
Juneau, Alaska 99811

Re: SB 108 – Letter of Opposition

Dear Committee Members,

The Mat-Su Borough Fish and Wildlife Commission (“commission”) is in opposition to SB 108, An Act relating to finfish farms and finfish farm products; and providing for an effective date. This emerging industrial practice is incompatible with the sustainable commercial fishing practices embraced by our state for generations and disregards environmentally sound management of our Alaskan waters.

The presence of finfish aquaculture (farming) in marine ecosystems poses significant challenges to domestic wild capture fisheries. The ocean currently provides a healthy and reliable food source and good jobs for many otherwise underserved coastal communities throughout Alaska. Alaskans depend on a healthy marine ecosystem to supply quality, abundant wild fish stocks. Marine finfish aquaculture pollutes the natural ecosystem, degrades and threatens wild fish stocks, and challenges the economic viability of commercial fishing in Alaska.

Finfish farming will harm the accessibility and quality of the wild fish stocks. Industrial fish farming unavoidably results in farmed fish escapes that adversely impact wild fish stocks. Escaped aquaculture fish compete with wild fish and other species for food, habitat, and spawning areas. The culture of non-native fish brings consequent risks of introduction and invasion, while interbreeding of escaped aquaculture fish with wild stocks, a substantiated risk even with limiting cultivated species to “virtually” sterile or all-female native stocks, can lead to the modification and dilution of wild stocks’ genetic integrity. Escapees can also spread a number of lethal diseases and parasites, such as sea lice and piscine reovirus.

The commission serves to advise and make recommendations to the Mat-Su borough assembly, borough manager, and/or any state or federal agencies, departments, commissions, or boards possessing jurisdiction in the area of fish, wildlife, and habitat on the interests of the borough in the conservation and allocation of fish, wildlife, and habitat. The commission may also advise the assembly and the borough manager on any other matter as to actions or issues for the borough to address on any other areas concerning fish, wildlife, habitat, administration, application, enforcement, or appointment to include political efforts, additional lobbying efforts, or any other position or action the borough should take on fish, wildlife, or habitat issues. In doing so, the commission asks that this body seriously study the detrimental effects that finish farming will inevitably bring to Alaskan waters when considering this bill.

Sincerely,

Peter Probasco
Chairman, Mat-Su Borough Fish and Wildlife Commission

April 01, 2025

House Rules Committee
Alaska State House of Representatives
Juneau, Alaska 99811

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Sincerely,

Peter Probasco
Chairman, Mat-Su Borough Fish and Wildlife Commission