

MATANUSKA-SUSITNA BOROUGH
Waterbody Setback Advisory Board

350 E Dahlia Ave., Palmer, Alaska 99645

CHAIRPERSON

Bill Kendig

VICE CHAIR

C.J. Koan

MSB STAFF

Alex Strawn

Clerk

Lacie Olivieri



BOARD MEMBERS

Carl Brent

Jeanette Perdue

Tim Alley

Bill Klebesadel

Bill Haller

Matthew LaCroix

Kendra Zamzow

Regular Meeting

February 5, 2025

Meeting Packet - Table of Contents

Pg. = Item:

- 1 = Agenda
- 3 = October 29, 2024 Minutes
- 7 = Public Comments
- 145 = Draft Ordinance
- 171 = Draft Resolution

Physical Location of Meeting: Lower Level Conference Room, DSJ Bldg, 350 E. Dahlia Ave., Palmer

Remote Participation: See attached agenda on p. 1

Planning and Land Use Department

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



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 Klebesadel, 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
Jason Ortiz, Planning and Land Use Deputy Director
Vacant, Development Services Manager
Fred Wagner, Platting Officer

Location:
*The Lower-Level Conference Room of the
DSJ Building
350 E. Dahlia Ave., Palmer*

Support Staff: Alex Strawn, Planning & Land Use Director

REGULAR MEETING

5:00 P.M.

February 5, 2025

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.

REMOTE PARTICIPATION VIA MICROSOFT TEAMS:

Meeting ID: 224 386 622 063
Passcode: sX2v2k98
Or
Dial in by phone: 907-290-7880
Phone conference ID: 927 367 335#

- I. CALL TO ORDER, ROLL CALL, AND DETERMINATION OF QUORUM
- II. APPROVAL OF AGENDA
- III. PLEDGE OF ALLEGIANCE

- IV. APPROVAL OF MINUTES: Regular Meeting: October 29, 2024
- V. AUDIENCE PARTICIPATION (*three minutes per person for items not scheduled for public hearing*)
- VI. ITEMS OF BUSINESS
- A. Public Comments
 - B. Draft Ordinance - 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.
 - C. Draft Resolution - 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.
 - D. Meeting Schedule
- VII. BOARD MEMBER COMMENTS
- VIII. ADJOURNMENT



MATANUSKA-SUSITNA BOROUGH WATERBODY SETBACK ADVISORY BOARD MINUTES

REGULAR MEETING

5:00 P.M.

October 29, 2024

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

The Regular meeting for the Waterbody Setback Advisory Board was held on Tuesday, October 29, 2024, at 350 E. Dahlia Avenue, Palmer, Alaska. Vice Chair CJ Koan called the meeting to order at 5:01 p.m.

Members present; # - Matthew LaCroix, Bill Haller, Carl Brent, CJ Koan, Kendra Zamzow, Bill Klebesadel @ 5:02, Tim Alley @ 5:10

Members absent/excused; # - Bill Kendig, Jeanette Perdue
Quorum established.

II. APPROVAL OF AGENDA

The agenda was approved without objection.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES: Regular Meeting: October 14, 2024

Bill Haller moved to approve the minutes. The motion was seconded by Kendra Zamzow.

The minutes from the regular meeting held on October 14, 2024 were approved without any objections.

V. AUDIENCE PARTICIPATION

Rod Hanson, North Lakes Community Council – Curious about public outreach and presentations to the assembly to prepare them before presenting the ordinance.

Chennery Fife, Trout Unlimited – Thanked everyone for their thoughtful work on this ordinance. Grateful for the inclusion of vegetative buffers as they are very important to keep pollutants out of our waterbodies.

Jessica Speed, Matsu Basin Salmon Habitat Partnership – Thanked members of the advisory board for all their hard work. And also grateful for them including vegetative buffers in the ordinance.

Audience participation closed without objection.

VI. ITEMS OF BUSINESS

A. Draft Ordinance – **A DRAFT ORDINANCE TO BE PRESENTED TO THE 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**

Tim Alley moved to “change pump-activated delivery systems where potential spill volume is limited” to “Pump-activated delivery systems with leak detection.” The motion was seconded by Bill Haller. Motion passed without objection.

Kendra Zamzow moved to relocate 17.02 section 5 and 6 to underneath section 1. The motion was seconded by Matt LaCroix. Motion passed without objection.

Bill Haller moved to relocate 17.55.020 Section A1 to the spot that Alex moved it to. The motion was seconded by Matt LaCroix. The motion passed without objection.

Kendra Zamzow moved to send the suggested changes to legal before sending them to the public. The motion was seconded by Bill Klebesadel. The motion passed without objection.

Bill Haller moved to approve the draft Ordinance. The motion was seconded by Kendra Zamzow. The motion passed without objection.

B. Draft Resolution - **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, AND MSB 17.65 - VARIANCES.**

Matt LaCroix moved to remove the words “were establishing” from number 4 in the resolution on page 33 of the packet. The motion was seconded by Carl Brent. The motion passed without objection.

Bill Haller moved to adopt the Draft resolution subject to legal’s opinion. The motion was seconded by Bill Klebesadel.

Tim Alley moved an amendment to add “with leak detection” to number 6 of the Resolution. The motion was seconded by Bill Haller. Tim Alley withdraws his amendment.

Matthew LaCroix moved an amendment to add “or drip collection” to number 6 of the Resolution. The motion was seconded by Kendra Zamzow. The amendment passed without objection.

The main motion passed without objection.

C. Meeting Date – November 8th 3pm online only.

VII. BOARD MEMBER COMMENTS

Bill Klebesadel – *cheers* Happy with the whole process. It has been very informative.

Tim Alley – Excited to get this out for review.

Matt Lacroix – Woohoo! Feels good. Thank you everybody for all of your effort

Bill Haller – Thank you. We are done.

Carl Brent – No comment

CJ Koan – Thank you Alex, Matt, Kendra, and Tim for all of your hard work. This has been a great group. I have learned a lot. Thank you Lacie.

Kendra Zamzow – It has been a very informative process. Liked learning how to put together

an ordinance. It was great learning about the process.

Alex Strawn – Great to see how far this group has come. The whole process has been very impressive it was great seeing you guys learn and work through this.

VIII. ADJOURNMENT

Chair CJ Koan called the meeting Adjourned at 6:21pm

Bill Kendig, Chair

ATTEST:

Lacie Olivieri, Clerk

Date Approved: _____



Outlook

FW: Waterbody Setback

From Stewart Smith <stewart@stusell.com>

Date Thu 11/21/2024 11:24 AM

To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

[**EXTERNAL EMAIL** - CAUTION: Do not open unexpected attachments or links.]

After looking at the revised October 29, 2024, Mat/Su Set back advisory board resolution. I just want to make my comments absolutely crystal clear.

1. Path to compliance for homeowners that appears to be a reasonable way for people to get their property legal before the all-encompassing borough decided that it was illegal to build anywhere close to the water. However, mitigate measures to be developed by and overseen by qualified professional registered in the State of Alaska should maintain a 45-foot setback what you're talking about is just giving a bunch of engineers way more to generate more Services to oversee that that should be just grandfathered in without any question.
2. Setback requirement should be dropped down to 25 feet not 75. Water is there for the enjoyment of all the people and building in there 75 feet back is ridiculous dropping to 25 feet will not impact the water body.
3. Land use permit requirement is just another way to say I'm (Mat/Su) is needing some more money from you guys to fix this and come get a permit and then I'll be able to charge you for what I feel is necessary totally not needed or wanted .
4. Shoreline standards for clearing and grading within 75 feet of water bodies totally not needed. Sure if there's a river a dirt running in the lake, so no reason to start getting in and adopting some standards for that ,who's going send in some environmentalist or somebody that actually has to develop the property, nobody wants water dirty lake or creek water there is reasonable common sense people out there that can judge not MA/SU
5. Animal waste management that's reasonable hundred feet we don't want kennel ,stables water waste going into a water body that everybody else is using number
6. Prevention of liquid petroleum fuel contamination. Everybody recognizes that you don't want fuel in the water.
- 7 This is a **HARD NO enhanced enforcement**. are you kidding me that gives another three or four jobs for people to walk around and not do anything but make sure that your

dock is in compliance not needed wanted or necessary.

8. Another **HARD NO limitation** on variances absolutely no! To take away one of the best tools that a developer /landowner could use to allow him to be able to make variances on property. That's already there that has been there before the MAT/SU was even there that is needed if you eliminate a variance, you eliminate any chance of any common sense person fixing a problem.

9. Here we go again **Hard NO tax protection tax** was this written by somebody that was on the way to the loony farm **MORE TAX** why in the world would we have to add one more tax to the borough for them to make sure that we're taking care of our own property just another way to get up revenue \$\$\$ **NO,NO not now not ever** .

SSS Commercial Real Estate iPhone



MSB Waterbody Setback

From Bill Shary <wrshary@gmail.com>
Date Sat 11/23/2024 5:15 PM
To Planning <MSB.Planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Matsu Borough Planning Dept.,

I'm writing to ask that your modifications to the waterbody setback include mention of preserving and enforcing the "high water" property markers that were the intended setback location to be measured from. The ordinance mentions "lot lines", but many owners are not using the "High Water" markers, they are using the side lot lines extended as far as they can.

I live on Nancy Lake, and very much disagree with lowering the setback from 75' to allow violators a variance to 45'. It's a disservice to those of us who respected the rules.

- An issue we see on this lake is the property owner fills in the swampy lower areas to enhance the properties lake edge and make it more usable.
- I've seen where "Homeowner Built" Septic's fail, and drain into the water table with little vegetation to absorb the runoff. Many homes are built with bedroom sizing septic's, and then weekend parties arrive, and the septic can't keep up.
- Our generation is building homes with cash, so no-one is measuring anymore, they see older grandfathered properties, and build where they want due to lack of enforcement. The next owner has cash, and doesn't care either.
 - Please use the ordinance to enforce compliance BEFORE title can be transferred.

I appreciate your willingness to allow public comment.

Thank you,

Bill Shary
wrshary@gmail.com
(907) 240-4340



FW: setback issues

From Alex Strawn <Alex.Strawn@matsugov.us>
Date Mon 11/25/2024 9:55 AM
To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

From: John Stallone <jstallone@neeserinc.com>
Sent: Monday, November 25, 2024 9:34 AM
To: Alex Strawn <Alex.Strawn@matsugov.us>
Cc: Planning <MSB.Planning@matsugov.us>
Subject: setback issues

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Mr. Strawn,

I viewed your power point on lake setbacks, my compliments, however, you missed an important point. If the Mat-Su Borough wants to enforce these rules be prepared to buy the setback footage and/or take that footage off the tax rolls. The Supreme Court of the United States ruled on this issue about 40 or 50 years ago with the same issues in South Carolina. The decision states that a State, County, or City who wants to enforce a setback on private property will have to purchase the land or take that portion of the property off the tax rolls. You might want a real estate attorney to look into this. Personally, I oppose the idea of taking the use of someone's property without compensation. If the property owner is not introducing contaminants into the body of water the property owner should be able to use their property as they wish. I had Frank Nosek, a prominent real estate attorney, research this matter years ago and that was his determination of the law. Is the Borough ready to have the resources to purchase or loose the revenue from all this land?

John Stallone
Corporate Safety Officer

Neeser Construction, Inc.
2501 Blueberry Road
Anchorage, Alaska 99503
O. (907) 276-1058
C. (907) 351-8534
F. (907) 276-8533



 Outlook

(No subject)

From Samuel Dickinson <samueldickinson73@gmail.com>

Date Wed 11/27/2024 9:51 AM

To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

My family and I own a big lake cabin that more than likely is in violation.

Please do not harass me or my family, with your government overreach.

Are you attempting to be the new MSB Core of Environmentalists?

Why don't you guys get a real job, one that actually does good, or become a real contributing member of society.

The golden rule says , Do unto others as you would you would like them to do unto you.

Please be advised, that if you harass me and my family , you and yours may be fair game.



Outlook

Waterbody setback changes

From Carolyn Haggard <dchaggard83@gmail.com>

Date Thu 12/5/2024 3:36 PM

To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

Cc Bill Gamble <Bill.Gamble@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Good afternoon. I would like to voice my concerns regarding the proposed changes to the waterbody setback ordinance.

I live on a lake, and agree that preserving water quality and wildlife habitat is vital.

Regarding fuel storage containment, I think the 5 year window to achieve compliance is reasonable. But bringing pre-existing tanks into compliance will be difficult and expensive, so perhaps the borough can establish a fund and award grant money to help homeowners finance the improvements. Otherwise it's basically an unfunded mandate.

I disagree with continuing the 75' setback. This requirement is a prime example of the law of unintended consequences, and is detrimental to both water quality and habitat protection. People like to see the lake when they have lakefront property. From what I've seen, they build their home or cabin the required 75' from the water, and then clear out the trees so that they can see the lake. They plant and fertilize a lawn to replace the trees, none of which is good for the lake or bird and animal life. The 25' riparian buffer and ban on fertilizer and herbicide use will help in future development, but I think that buffer would also be an adequate setback from the water, and would likely preserve more of the native vegetation and animal habitat, especially in properties without road access.

I would also like to see more information on the website as to how these changes will be enforced, what the penalties will be, and how we will pay for it. Hiring people for shoreline patrols, and more borough personnel to process applications and permits is going to cost money.

I appreciate the time and effort put into it, but I think this proposal needs more work, and I can't support it as written.

Thank you,

Carolyn Haggard

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION

Comments from Al Bolea, P.O. Box 520960, Big Lake, AK 99652

I have three concerns with the draft resolution:

- A new provision is proposed that a structure loses its grandfathered status as a legal nonconforming structure if the property owner subsequently enlarged or altered the structure after the effective dates of either July 3, 1973, or January 1, 1987. This provision is unreasonable in that it is being applied retroactively to structures that were enlarged or altered before the new provision has been adopted. It is particularly egregious if the enlargement is not within the 75-foot-high water level. This provision violates the general standard of law which prohibits the application of law to events that took place before the law was introduced. Had the provision been in effect, the property owner would have sought a variance before enlarging or altering the property. Also, “altered” needs to be clarified. For example, is painting a door considered an alteration?
- A new provision is being proposed that a variance can never be granted for a property that is closer than 45 feet from the water body. This provision is extremely detrimental to owners of island properties that have a depth less than 45 feet from the shoreline. Property owners on the mainland may have remedies for combining properties to enable development. This is seldom the case for island properties. Adopting the provision is, in effect, an unfair “taking” by the MSB. It also violates the general provision of law which prohibits the application of law to events that took place before the law was introduced. Had the 45-foot stipulation been in effect, the island property owner likely would have never purchased the property.
- Creating a pathway to compliance for homeowners is an admirable proposal. However, the stipulation that a qualified professional, registered in Alaska, must oversee the design and construction of remedial measures surely will be cost prohibitive and defeat the objective of getting properties into compliance. The approval authority within the MSB should have flexibility to work with homeowners, and design and implement measures without incurring unnecessary engineering costs. Common sense surely must prevail.

There are two areas that I seek clarification:

- 17.55.016(E)(1) stipulates that removal of 50 percent of the riparian buffer within 25 feet of the ordinary high-water mark is prohibited. Is this interpreted as 12.5 feet of the entire water-facing frontage, or 50 percent of the total area within 25 feet? Also, clarification of buffer requirements is needed for the “pathway to compliance” for properties where the riparian buffer has already been removed. For example, what types of vegetation will be allowed?

- 17.55.016(E)(5) states that the application of fertilizers or herbicides is prohibited within 25 feet of the ordinary high-water mark. Does this prohibition include organic and otherwise eco-friendly fertilizers?

In order to address the three aforementioned concerns, I submit the following revisions to the proposed resolution.

LEGAL NONCONFORMING STRUCTURES

17.80.020 (A)(1)(a) all structures within 75 feet of a water body that were constructed prior to adoption of the setback requirement on July 3, 1973, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION** are legal nonconforming structures.

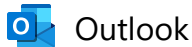
17.80.020 (A)(2)(a) habitable buildings and garages that were completed between July 3, 1973, and January 1, 1987, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION**, that are located between 45 and 75 feet from the ordinary high water mark of a water body are legal nonconforming structures.

STANDARDS FOR DEVELOPMENT WITHIN 75 FEET OF A WATERBODY

Section 7. Adoption of Subsection. MSB 17.65.020(B)(3)(a) closer than 45 feet from the ordinary high-water mark of a water body, **EXCEPT THAT A VARIANCE CAN BE AUTHORIZED FOR ISLAND PROPERTIES THAT HAVE A DEPTH FROM THE WATER BODY THAT IS LESS THAT 45 FEET.**

RESOLUTION: PATH TO COMPLIANCE FOR HOMEOWNERS

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 existing 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. **THE REQUIREMENT FOR OVERSIGHT BY A QUALIFIED PROFESSIONAL SHOULD BE RELAXED WHEN THE HOMEOWNER HAS SUBMITTED A PLAN THAT MEETS THE PATHWAY REQUIREMENTS.**



FW: Matsu Borough Waterbody Setback Advisory Board

From Alex Strawn <Alex.Strawn@matsugov.us>
Date Thu 12/5/2024 8:38 AM
To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

From: Joseph Metzger <Joseph.Metzger@matsugov.us>
Sent: Wednesday, December 4, 2024 5:10 PM
To: Alex Strawn <Alex.Strawn@matsugov.us>
Subject: FW: Matsu Borough Waterbody Setback Advisory Board

FYI

From: Roy Davis <rfneonate@gmail.com>
Sent: Wednesday, December 4, 2024 4:59 PM
To: na.DeVries@matsugov.us; Mike Brown <Mike.Brown@matsugov.us>; Nicholas Spiropoulos <Nicholas.Spiropoulos@matsugov.us>; lmckechaie@matsugov.us; Joseph Metzger <Joseph.Metzger@matsugov.us>; kevin@kevinjmccabe.com
Subject: Matsu Borough Waterbody Setback Advisory Board

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Board members and civic leaders.

Have read and reviewed your waterbody setback resolution and have the following comments and concerns.

-
-
- A new provision is proposed that a structure loses its
- grandfathered status as a legal nonconforming structure if the property owner subsequently enlarged or altered the structure after the effective dates of either July 3, 1973, or January 1, 1987. This provision is unreasonable in that it is being applied retroactively
- to structures that were enlarged or altered before the new provision has been adopted. It is particularly egregious if the enlargement is not within the 45 foot-high water level as proposed. We purchased this property in 1995 and submitted a remodel plan in
- 2007 to the borough which was approved except for the added dining room which would have increased the cubic footage of the remodel over the existing building which was not allowed. This new provision
- violates the general standard of law which prohibits the application of law to events that took place before the law was introduced. Also, "altered" needs to be clarified. Altered in 2007 was defined as not increasing cubic footage!
-

-
-
-
- A new provision is being proposed that a variance can
- never be granted for a property that is closer than 45 feet from the water body. This provision is extremely detrimental to owners of properties that have a depth less than 45 feet from the shoreline. This would apply to us as we are 30' from the shore line
- and is totally unacceptable. The property was originally built in 1978. This would also affect a lot of island properties that do not have space for a 45' setback. Adopting the provision is, in effect, an unfair "taking" by the MSB. It also violates the general
- provision of law which prohibits the application of law to events that took place before the law was introduced. Had the 45-foot stipulation been in effect, we would not have bought the property.
-
-
-
- Creating a pathway to compliance for homeowners sounds
- really comforting but rings of dollars! The stipulation that a qualified professional, registered in Alaska, must oversee the design and construction of remedial measures sounds like a prohibitive expense to start with, not even addressing the direct cost
- of conformity! Would conformity for a house 25' from the lake mean moving it back to at least 45', cost prohibitive and impossible in many cases!
-
-

I actually agree with the proposals overall as the lake needs protecting but common sense says that these changes cannot be applied retroactively to existing structures without prohibitive cost from lawsuits, some may be able to conform in some way but not without major expense and others will have to abandon their property resulting in lost taxes to the borough as no one will buy these non conforming properties. Think it through, apply this to all future builds and do not allow additions to existing buildings unless they conform.

Thankyou for your attention
Roy F Davis PhD MD MHA
4138 S Harbor Road
Big Lake
Alaska 99652



Outlook

Resolution 24-1

From J Wood <jeff.wood.ak@gmail.com>

Date Fri 12/6/2024 8:28 PM

To Planning <MSB.Planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Greetings - Submitting these comments in response to Resolution 24-1. Please review, consider and forward to those on the Water Body Advisory Committee and other in governing bodies who need to hear comments on this matter before making a decisions on the matter. I am an island property owner on Big Lake in Big Lake Alaska and will be directly impacted by the retroactive effect of the current wording in the resolution and find the way to compliance proposed ineffective.

I have three concerns with the draft resolution:

- A new provision is proposed that a structure loses its grandfathered status as a legal nonconforming structure if the property owner subsequently enlarged are altered the structure after the effective dates of either July 3, 1973, or January 1, 1987. This provision is unreasonable in that it is being applied retroactively to structures that were enlarged or altered before the new provision has been adopted. It is particularly egregious if the enlargement is not within the 75-foot-high water level. This provision violates the general standard of law which prohibits the application of law to events that took place before the law was introduced. Had the provision been in effect, the property owner would have sought a variance before enlarging or altering the property. Also, "altered" needs to be clarified. For example, is painting a door considered an alteration?
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implement measures without incurring unnecessary engineering costs. Common sense surely must prevail.

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In order to address the three aforementioned concerns, I submit the following revisions to the proposed resolution.

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17.80.020 (A)(2)(a) habitable buildings and garages that were completed between July 3, 1973, and January 1, 1987, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION**, that are located between 45 and 75 feet from the ordinary high water mark of a water body are legal nonconforming structures.

STANDARDS FOR DEVELOPMENT WITHIN 75 FEET OF A WATERBODY

Section 7. Adoption of Subsection. MSB 17.65.020(B)(3)(a) closer than 45 feet from the ordinary high-water mark of a water body, **EXCEPT THAT A VARIANCE CAN BE AUTHORIZED FOR ISLAND PROPERTIES THAT HAVE A DEPTH FROM THE WATER BODY THAT IS LESS THAN 45 FEET.**

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Jeff Wood

Long Island on Big Lake

907-350-9639

Jeff.wood.ak@gmail.com



David McKay

(907) 306-6283 dave@rocketmail.com NHN Shepherds Island, Big Lake, Alaska

December 8, 2024

Dear Members of the Matanuska-Susitna Borough Waterbody Setback Advisory Board,

I am writing in response to the draft resolution and ordinance proposing updates to waterbody setback regulations. As a property owner on an island with a small lot size, I understand the importance of preserving our natural water resources for the benefit of current and future generations. While I support certain aspects of your recommendations, I believe the proposal falls significantly short in addressing the most critical threats to our waterbodies.

The provisions for land use permits, animal waste setbacks, and fuel contamination prevention demonstrate promise and are steps in the right direction. These measures tackle tangible risks to water quality and ecosystem health. However, the overwhelming focus on setbacks and minor land use changes appears disproportionate when considering the far greater environmental impacts caused by watercraft activity, particularly wake-boats.

The erosion of shorelines caused by watercraft traffic—especially the large wakes generated by wake-boats—has a dramatic and devastating effect on the health of our lakes. Property owners across the borough have been forced to drop substantial amounts of rock along their shorelines to combat erosion, which in some cases has resulted in the loss of several feet of land each year. This erosion not only impacts private property but also harms the aquatic ecosystems, increases sedimentation, and degrades water quality. Surveys for tax purposes even show that original property lines now extend into the lakes, as erosion has claimed up to 50 feet of shoreline in some areas.

Setback regulations, as currently proposed, may provide marginal environmental benefits, but they pale in comparison to the pressing need to address watercraft-induced erosion. Creating new bureaucratic layers to enforce setback compliance diverts resources and attention from the far more significant issue of shoreline degradation caused by wake-boat traffic. This imbalance risks undermining the overall goal of protecting our waterbodies.

I urge the Advisory Board to broaden its focus and include measures to regulate watercraft activity, particularly wake-boats, on our lakes. I further request that the Advisory Board abandon the minor setback enforcements and other provisions until they have crafted and implemented the meaningful solutions outlined above. Addressing this issue head-on will yield far greater environmental benefits than the current proposal's emphasis on setbacks.

Our community deserves a comprehensive plan that prioritizes impactful solutions over bureaucratic expansion. I encourage you to revisit the proposal with this perspective in mind and craft regulations that will meaningfully preserve the health and integrity of our waterbodies for generations to come.

Thank you for considering my perspective.

Sincerely,

David McKay



Outlook

Waterbody Setback Advisory resolution

From Michael Dale <mr.msdaile@gmail.com>

Date Wed 12/11/2024 3:15 PM

To Planning <MSB.Planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

After reading through the WSAB Resolution 24-01 the only conclusion I can come to is that the ONLY thing recommended that should be put in place is having a mandatory secondary containment for anyone who has fuel oil for a source of heat. The rest of the resolution as written should be trashed.

Start a new WSAB and use people who are not projecting their business or personal beliefs into the resolution. Common sense works well and should be applied to a proper waterbody setback. All current property should be grandfathered in to the present date so no one is punished. You didn't enforce previous resolutions to the detriment of the public so start clean and have a way to enforce changes going forward only.

Mark me as a NO for the current proposed resolution.

Michael Dale

mr.msdaile@gmail.com

December 24, 2024

Scott A. Sterling
PO Box 521827
Big Lake, AK. 99652

Mr. Alex Strawn
Planning Department Director
Matanuska-Susitna Borough
350 East Dahlia Ave.
Palmer, AK. 99645

Re: Comment On Waterbody Setback Issue/Proposed
Changes In MSB Ordinances/Policies

Dear Mr. Strawn:

I write to comment on the proposed changes in MSB law/policy concerning waterbody setbacks. I appreciate the time and effort invested by the volunteer members of the Waterbody Setback Advisory Board (WSAB) as well as that of the relevant MSB staff. I have read the WSAB Recommendations and supporting materials.

In my opinion our local laws should strike a balance between waterbody and waterbody-habitat protection with the property rights of waterfront property owners. Legal regulations against waterbody and waterbody-habitat degradation should definitely be enforceable and enforced. Setback regulations for example play an important role in protecting both habitat and private property rights. Waterbody habitat including shoreline habitat, especially along lakes, once degraded or destroyed, can rarely if ever be restored. Yet setback regulations should not make reasonable use of waterfront private property untenable.

The many waterbodies in the Mat-Su Borough are a wonderful and precious natural resource. However imperfect the WSAB Recommendations may be, depending on one's point of view, in my opinion they represent a reasonable attempt to strike a reasonable balance between habitat protection and private property rights. For that reason I support enactment into law of the WSAB Recommendations.



Scott A. Sterling



Outlook

Waterbody Setback Public Comment

From Doug Moore <doug@mooreshardware.com>

Date Wed 1/1/2025 11:55 PM

To Planning <msb.planning@matsugov.us>

[**EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.**]

I have several concerns with the proposed Waterbody Setback ordinance. Here are my comments.

Section 17.55.016 (A) should not include all parts of a septic system. This is in excess of the State of Alaska DEC guidelines that limit septic tanks, holding tanks, lift stations and soil absorption systems from the 100' from a water body. They do not include the piping to these systems and the MSB ordinance should be the same. A septic line running to a tank should be allowed in any area a permanent structure is allowed. IE: a 24x24 small home built at the 75' water body setback could not avoid having a septic pipe outside the 100' setback. This section needs to be re-written to meet SOA DEC guidelines.

Section 17.55.016 (E)(5) Should be removed or redefined. Fertilizer and Herbicide are too loosely defined. There are many fertilizers and herbicides that are US EPA certified safe next to water bodies. It also leaves zero room for positive applications of herbicides to remove invasive plants.

Section 17.55.040 VIOLATIONS, ENFORCEMENT, AND PENALTIES (7) Should be struck or amended. There is zero reason to limit ground disturbing activities to 75' from the water when you have the restrictions on the 25' riparian buffer. This section puts everyone wanting a lawn, garden, simple landscaping, or simply clearing land to construct outside the 75' water body setback into a position of having to get a conditional use permit. It will add immensely to the borough staff workload and place thousands of borough residents in a position of violation. This section is overreaching and unneeded.

In reality, I find most of the ordinance to be poorly written, poorly defined, and ambiguous in many places. It feels like a knee jerk reaction to proposals in past MatSu Borough Assemblies to reduce the setback. I honestly think 75 feet is too far, and 25 feet would be more realistic. For a borough with limited resources for enforcement and permitting this is just going to put more burden on government and increase property taxes further. At a very minimum, if you are going to restrict my use on my property beyond what existed prior to my purchasing it, my taxes should be reduced by the area of land that I am no longer allowed to use freely.

Thank you for your consideration,

Doug Moore
HC 89 Box 8574
Talkeetna, Alaska 99676
cell 907-841-3200

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION

Comments from Dick Armstrong, 907-229-0331, darmstrong@rsa-ak.com

I have seven concerns with the draft resolution:

1. Definitions, “Secondary Containment” Double walled tanks do not qualify as secondary containment. Please see US EPA Memorandum OSWER 9360.8-38, dated August 9, 2002 to Oil National Policy Managers, Regions 1-10. . . . “we also believe that shop-fabricated double-wall AST, regardless of size, may generally satisfy not only the secondary containment requirements of section 112.7(C), but also the bulk storage secondary containment requirements found in section 112.8(c)(2)”.
For many years, engineers have relied on the fact that double-walled fuel tanks are acceptable for secondary containment, so the disqualification of their use in this proposed regulation is contrary to all local design practices and assumptions of acceptable equipment. The proposed definition of “Secondary containment” means an impermeable diked area. Diked areas in Alaska fill with snow and water and would be impossible to be kept clear and empty in order to maintain their capacity. I recommend deletion of this definition and accept double-walled tanks.
2. Reference: 17.55.010 setbacks **from rights-of-way and lot lines:** What is the path to conformance to this if a structure erected before July 3, 1973 is less than ten feet from any side or rear lot line?
3. Reference: 17.02.035 (B): The requirements for existing buildings seeking nonconforming compliance status appear to be very extensive and expensive, requiring hiring a professional to prepare plans and specifications. Does the MSB have any standard drawings that can be modified, if required, to suit the site in order to meet these requirements? In all cases, for persons seeking resolution of issues, if the MSB can provide some specific guidance on how to comply in terms of technical standard drawings, it would be significantly less expensive and easier to seek and attain compliance.
4. Reference: 17.80.020 (A)(1)(a) all structures within 75 feet of a water body that were constructed prior to adoption of the setback requirement on July 3, 1973, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION** are legal nonconforming structures.
5. Reference: 17.80.020 (A)(2)(a) habitable buildings and garages that were completed between July 3, 1973 and January 1, 1987, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION**, that are located between 45 and 75 feet from the ordinary high water mark of a water body are legal nonconforming structures.
6. Section 7. Adoption of Subsection: Item B (3) leaves no path for resolution for compliance.
7. Reference – last page: If the major source of stormwater runoff is from the MSB roads dumping onto the private land owners’ lot, what will the MSB do about stormwater retention if they are causing the majority of the problem?



Waterbody setback public comment

From Katie Dietrich <Katie.Dietrich@hotmail.com>

Date Thu 1/2/2025 8:33 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

As a lifelong Alaskan and resident of Talkeetna, I am absolutely AGAINST this ordinance. What an unbelievable waste of time and money.

Alaskans don't want more rules and regulations.

The fact that this effort, on the part of the Mat-su Borough, is even being considered, shows your total lack of understanding of the true concerns and issues of the people. What an utter waste of time and resources.

Katherine Terstegge
Talkeetna, AK
907-841-3307



Waterbody Setback Proposal

From Robert DeKay <rdekay@hotmail.com>

Date Thu 1/2/2025 3:58 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Good afternoon! I have a few comments on the waterbody setback proposal under review. While I understand that these regulations may be needed in the core Wasilla and palmer areas, those areas are exempt from these regulations. Small cabin owners in far flung parts of the Mat-Su are the ones that are going to have a hard time complying with these regulations. Gone are the lake front cabins. Gone are the days where the front yard can be opened up and cleared to see the lake or the river. These regulations are for city areas and crowded lake side retreats like Nancy Lake or Big Lake. Please do not approve the regulations.

Robert DeKay

Sent from [Mail](#) for Windows



Outlook

Opposition Comment Re Waterbody Setback Resolutions

From Lori Boltz <lorimboltz@gmail.com>

Date Thu 1/2/2025 2:43 PM

To Edna DeVries <Edna.DeVries@matsugov.us>; Alex Strawn <Alex.Strawn@matsugov.us>; Lacie Olivieri <Lacie.olivieri@matsugov.us>

Cc carlbrent@gmail.com <carlbrent@gmail.com>; billydoc56@hotmail.com <billydoc56@hotmail.com>; jetperdue@gmail.com <jetperdue@gmail.com>; talley@tbcak.com <talley@tbcak.com>; billkleeb@hotmail.com <billkleeb@hotmail.com>; fishlessbill@yahoo.com <fishlessbill@yahoo.com>; lacroix.matthew@epa.gov <lacroix.matthew@epa.gov>; cj.koanPCD3@gmail.com <cj.koanPCD3@gmail.com>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION
Comments from Jim and Lori Boltz, 15379 W. Anderson Point Way, Big Lake, AK 99652

The draft Advisory Board Resolution reminds us of the quote by President Ronald Regan: "The nine most terrifying words in the English language are "I'm from the government and I'm here to help."

The Advisory Board has overstepped the original intent of waterbody setback relief and made the resolution far more onerous. This draft resolution retroactively expands setback requirements making compliance far more complicated, expensive, and in many cases impossible to achieve. While having little to nothing to do with the stated purpose of preserving water quality and everything to do with government overreach.

The thought of these proposed resolutions making it impossible for properties that have been here for decades to become compliant as they are is unacceptable. The unlawful act of retroactively placing properties in violation of misdirected regulations and/or the effective "taking" of property through unlawful means cannot be allowed.

Some of the onerous resolution provisions, that will permanently alter the enjoyment of our property, violate the general standard of law and impair property values include:

- the retroactive elimination of grandfather rights inside of a 75' setback
- retroactively establishing a 45' no compliance setback and unfair "taking" by the MSB
- retroactive expansion of a riparian buffer again an unfair "taking" by the MSB
- a complicated and cost prohibitive process of unknown mitigation measures dictated by self-appointed "professionals"

There are many additional issues similar to these requiring this draft be abandoned in its entirety.

Let us get back to the original request of waterbody setback compliance relief and do away with ineffective overreaching resolutions. There is no evidence merely placing a structure within 75 feet o

50 feet or even 25 feet of a waterbody has any impact on water quality. We are all in favor of preserving water quality but let us do it in an effective manner.



Outlook

Water Setback Comments

From E H <aehuddleston@outlook.com>

Date Sun 1/5/2025 5:02 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Dear Planning Department:

I have quoted some of the new proposed regulations for the water setback ordinance; which I feel needs to be omitted from the ordinance. Thank you for your prompt and courteous attention.

Sincerely yours,
Esther Huddleston
aehuddleston@outlook.com
907-631-8984

Water Setback

-Pg. 6 & 7 ““water-dependent accessory structure” means a structure necessarily to support access to or to use of the water (e.g. a shed used to store boating accessories) or waterfront (e.g. a gazebo).” This statement should be omitted due to the Mat Su Borough doesn’t have the resources to enforce temporary structures. People should be allowed to have a gazebo to be able to sit out of the hot sun and to enjoy the lake.

-Pg. 11 “(2) The owners of pre-existing storage facilities for petroleum fuels and other liquid hazardous substance (e.g. home heating oil tanks) shall be allowed five years from the effective date of this section to fully comply with secondary containment requirement.” This statement should be omitted because not everyone has access to other alternatives for heating homes. I haven’t heard of an instance of heating oil to be a problem near lakes or other waterbodies. Many people live in remote locations and they don’t have access to natural gas, they have generators to run electricity which makes it difficult to heat a home strictly on electric. It’s unethical to cut of heating oil to people who live off grid or don’t have access to natural gas.

-Pg. 23 ““Ground disturbing activity” means an activity that includes the use of heavy equipment, such as backhoe or bulldozer, that disturbs the soil layers, uproots woody vegetation, or alters preexisting land contours. Examples of such uses include mechanized land clearing, grading, contouring, or placing 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.” This should be omitted so people may put a lawn in by the lakeside.



Outlook

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION 24- 01

From Celeste Bolea <celestebola@gmail.com>
Date Mon 1/6/2025 12:03 PM
To Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Comments from Al Bolea, P.O. Box 520960, Big Lake, AK 99652

I have three concerns with the draft resolution:

□ A new provision is proposed that a structure loses its grandfathered status as a legal nonconforming structure if the property owner subsequently enlarged or altered the structure after the effective dates of either July 3, 1973, or January 1, 1987. This provision is unreasonable in that it is being applied retroactively to structures that were enlarged or altered before the new provision had been adopted. It is particularly egregious if the enlargement is not within the 75-foot-high water level. This provision violates the general standard of law which prohibits the application of law to events that took place before the law was introduced. Had the provision been in effect, the property owner would have sought a variance before enlarging or altering the property. Also, "altered" needs to be clarified. For example, is painting a door considered an alteration?

□ A new provision is being proposed that a variance can never be granted for a property that is closer than 45 feet from the water body. This provision is extremely detrimental to owners of island properties that have a depth less than 45 feet from the shoreline. Property owners on the mainland may have remedies for combining properties to enable development. This is seldom the case for island properties. Adopting the provision is, in effect, an unfair "taking" by the MSB. It also violates the general provision of law which prohibits the application of law to events that took place before the law was introduced. Had the 45-foot stipulation been in effect, the island property owner likely would have never purchased the property.

□ Creating a pathway to compliance for homeowners is an admirable proposal. However, the stipulation that a qualified professional, registered in Alaska, must oversee the design and construction of remedial measures surely will be cost prohibitive and defeat the objective of getting properties into compliance. The approval authority within the MSB should have flexibility to work with

homeowners, and design and implement measures without incurring unnecessary engineering costs. Common sense surely must prevail.

There are two areas that I seek clarification:

□ 17.55.016(E)(1) stipulates that removal of 50 percent of the riparian buffer within 25 feet of the ordinary high-water mark is prohibited. Is this interpreted as 12.5 feet of the entire water-facing frontage, or 50 percent of the total area within 25 feet? My preference is the latter interpretation, particularly for island properties where lake access is the only means of ingress/egress. Also, clarification of buffer requirements is needed for the "pathway to compliance" for properties where the riparian buffer has already been removed. For example, what types of vegetation will be allowed?

□ 17.55.016(E)(5) states that the application of fertilizers or herbicides is prohibited within 25 feet of the ordinary high-water mark. Does this prohibition include organic and otherwise eco-friendly fertilizers?

In order to address the three aforementioned concerns, I submit the following revisions

to the proposed resolution.

LEGAL NONCONFORMING STRUCTURES

17.80.020 (A)(1)(a) all structures within 75 feet of a water body that were constructed prior to adoption of the setback requirement on July 3, 1973, INCLUDING THOSE THAT have subsequently been enlarged or altered PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION are legal nonconforming structures.

17.80.020 (A)(2)(a) habitable buildings and garages that were completed between July

3, 1973, and January 1, 1987, INCLUDING THOSE THAT have subsequently been enlarged or altered PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION, that are located between 45 and 75 feet from the ordinary high water mark of a water

body are legal nonconforming structures.

STANDARDS FOR DEVELOPMENT WITHIN 75 FEET OF A WATERBODY

Section 7. Adoption of Subsection. MSB 17.65.020(B)(3)(a) closer than 45 feet from the

ordinary high-water mark of a water body, EXCEPT THAT A VARIANCE CAN BE AUTHORIZED FOR ISLAND PROPERTIES THAT HAVE A DEPTH FROM THE WATER BODY THAT IS LESS THAN 45 FEET.

RESOLUTION: PATH TO COMPLIANCE FOR HOMEOWNERS

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 existing

homes built within the 75-foot setback area of lakes in violation of MSB 17.35. 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. THE REQUIREMENT FOR OVERSIGHT BY A QUALIFIED PROFESSIONAL SHOULD BE RELAXED WHEN THE HOMEOWNER HAS SUBMITTED A PLAN THAT MEETS THE PATHWAY REQUIREMENTS.

January 7th, 2025

Dear Borough Assembly

I am writing to support the proposed ordinance concerning waterbody setbacks. I am a resident of the Mat-Su Borough and am concerned with the health of local fish populations.

I thank the authors of the ordinance for proposing guidelines that balance the health of the environment and the wellbeing of Mat-Su Borough residents. The proposed ordinance does three things well: 1. It allows for low-impact development. 2. It improves protections for fish and wildlife. 3. It provides a path towards compliance for existing homeowners living along lakes and rivers.

There has been great work in the Mat-Su Borough on culvert replacements for fish passage, and this ordinance supports that work. To have healthy returning salmon, you need accessible *and* clean spawning grounds. Here in the Mat-Su Borough, the Fish Creek personal use fishery provides Alaska residents with a way to fill their freezers without driving to the Kenai Peninsula or Copper River. Fish caught in that fishery spawn in Big Lake, which is also a popular winter ice fishing destination.

As a point of contrast, more urbanized lakes, like Lake Washington in Seattle, have seen declines in salmon populations and fish consumption advisories issued for some species. The proposed ordinance will protect abundant, healthy-to-eat fish for all Alaskans.

Thank you for your work,

Benjamin Americus

These comments do not reflect the positions of the Department of Defense or the Alaska State Board of Education; they are our own thoughts and opinions.

Dear Mr Gamble,

My wife and I own property on Flat Lake Island. We purchased our property in 2018 and, from Borough records, it was constructed in 1977. We recently became aware of the Waterbody Setback Advisory Board's Resolution 24-01 dated October 29, 2024. As we read through the resolution, the proposed code language, and the accompanying PowerPoint, we were shocked to learn that our property likely falls into the "illegal" category (Slide 3 on the presentation provided to the Big Lake Community Council) as it sits within 45 feet of the lakefront. During the purchasing process we had an updated as built conducted that clearly shows the closest corner of our cabin is ~20 feet from the lake and is essentially on the record meander line. When my wife and I purchased the property, we used a conventional mortgage that included title insurance but nothing was disclosed by the seller or the title company that the property did not meet borough code. We agree with the intent behind giving non-compliant homeowners a pathway to compliance.

First, however, we disagree with the stipulation that a qualified engineer must oversee the design and construction of remedial measures. A reasonable alternative would be to have the approval authority work with homeowners to design and implement compliance measures. For example, an owner wanting to simply relocate a cabin 75 feet back from the waterline should be able to engage a contractor to perform that work without being subject to a "qualified engineers"

supervision. Hiring an engineer should be at the owner's discretion. To resolve code disputes an updated as built could be prepared or an inspection conducted by Borough inspectors for a nominal fee. This would help keep expenses down for the property owner and Borough.

Second, eliminating the ability to seek a variance for a property within 45 feet constitutes an unfair "taking" of property by the MSB. Generally, when laws are enacted, they are not applied "retroactively" and this is especially troublesome for island properties as the setback requirements for the waterbody, lot lines, septic, utility easements, and wells would likely make many, if not all, of the properties on Flat Lake Island non-conforming retroactively. This section appears to be in direct conflict with the proposed 17.55.005 (B) "The primary purpose of 17.55.016 to 17.55.020 is to protect...the local economy and property values..." Our structure would have to be moved or removed in order to come into compliance. There would be a very limited area where we could place the existing or new structure, and doing so would be a major financial burden. Had this code been in place in 2018 we would NOT have purchased this property. And with the additional proposed restrictions we have significant doubts we would be able to sell it.

Third, "secondary containment" seems to be counter to the overall intent of eliminating additional hardscapes near waterbodies. The five years to come into compliance produces one outcome for our property; we move our 300-gallon tank more than halfway up the extremely steep hill that starts at the back of our structure and terminates at our rear property line. The likelihood of the tank dislodging, during an earthquake, and rolling into the lake goes up exponentially. Additionally, in an area with multiple freeze/thaw cycles annually and a good bit

of precipitation the likelihood of the “diked area or portable impermeable container” filling with water, freezing, breaking, and not serving it’s intended purpose is high.

Fourth, there is no information on enforcement, fines, and how the personnel to enforce these codes will be paid.

Fifth, we believe the 75’ setback has produced more negative effects to the waterbodies they were intended to protect; property owners are forced to cut down trees and do significant earthwork to see the “view” they paid for and be 75 feet away from the water. A quick review of most of the new development on Big Lake confirms this. We think the 25-foot riparian buffer is a good structure setback that would help eliminate people cutting down trees and planting a lawn.

Finally, we’d like to quote my neighbor “It appears as though they’re trying to lock the door after the horse has run away.” If we were in your position, we would grandfather all non-conforming structures as of the effective date and move forward with limited portions of the waterbody setbacks for pollution sources and a 25-foot setback/riparian buffer. Thank you for your service to our community and we look forward to seeing you in person on the 21st of January.

James & Katherine Fowley



Outlook

Mat Su Water setback

From Craig King <craig@jrheritage.com>

Date Fri 1/10/2025 9:40 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

As a owner of 2 properties on Big Lake on long Island I believe that these changes will greatly impact all of us.

A new provision is being proposed that a variance can never be granted for a property that is closer than 45 feet from the water body. This provision is extremely detrimental to owners of island properties that have a depth less than 45 feet from the shoreline. Property owners on the mainland may have remedies for combining properties to enable development. This is seldom the case for island properties. Adopting the provision is, in effect, an unfair "taking" by the MSB. It also violates the general provision of law which prohibits the application of law to events that took place before the law was introduced. Had the 45-foot stipulation been in effect, the island property owner likely would have never purchased the property. Please take a look at this to consider all owners.

Thank you,

Craig King

J.R. Heritage Construction Inc.

128 East 51 St.

Anchorage, Alaska 99503

Shop (907) 349-4427

Fax (907) 522-1296

Cell: 907-240-1601



Outlook

Waterbody Setback Draft Ordinance

From David Lee <twininnovations@gmail.com>

Date Fri 1/10/2025 2:48 PM

To Planning <Planning@matsugov.us>

Cc Lee Winona <kenwin1kw@gmail.com>

[**EXTERNAL EMAIL** - CAUTION: Do not open unexpected attachments or links.]

Hello,

Concerning the MatSu **Waterbody Setback Draft Ordinance:**

I am 100% opposed to this ordinance.

My elderly parents own a gold mine in the Yentana mining district (Petersville), (also part of the matsu borough). They have owned the claims since the 90's and this ordinance will drastically affect their ability to work the claims. This area has been mined since the early 1900's, long before the Matsu Borough existed. *The Matanuska-Susitna Borough, encompassing 25,259 square miles, incorporated in 1964.*

This ordinance amounts to a land grab by the Matsu Borough. It also completely violates their rights as land owners. Nothing good will come from this ordinance and I hope the borough will reconsider pursuing this ordinance.

Thank you for considering my response in opposition of the ordinance.

Sincerely:

David A. Lee



Outlook

setback issue

From rickecook@gmail.com <rickecook@gmail.com>

Date Sun 1/12/2025 7:21 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

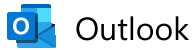
Hi:

I have been reviewing all the notes regarding the Setback Resolution.

1. All the issues regarding properties on lakes seems to me they all cannot be challenged equally. Primarily island properties, as many, many of them do NOT have the depth in their lots to work with the setback provisions being discussed. Many islands do have many homes on them, but their property lines stop at the back door of their homes due to lot sizes. To have enforcement people out on these lakes pushing for changes where there isn't property to work with will be a problem.
2. Fuel tanks: another example of property available to try to accommodate what is now being discussed. Many fuel tanks have no where to move to comply with the new rules.
3. Forcing homeowners, that have had homes on our lakes for 30 plus years, are now going to be "required" to apply for a land use permit and hire engineers, geologists, or hydrologists for mitigation measures??? Wow, I think this "group" is asking for lots of legal battles.

Thank you,

Rick Cook, resident
Long Island, Big Lake



Water body setback proposed ordinance

From John Ledger <FullMetalMiningAk@outlook.com>

Date Sun 1/12/2025 9:06 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Any setback that interferes with legal state or federal mining operations regarding this proposed water setback violates existing state laws and the rights of Alaskans to provide for their families.

You should be ashamed of yourselves for attempting to disrupt legal permitted economic operations and future opportunities of the people of Alaska.

John Ledger
Full Metal Mining
Fullmetalminingak@outlook.com



Opposition to the MatSu Borough Waterbody Setback Resolution

From Lori Boltz <lorimboltz@gmail.com>

Date Sun 1/12/2025 12:30 PM

To Edna DeVries <Edna.DeVries@matsugov.us>; Alex Strawn <Alex.Strawn@matsugov.us>; Lacie Olivieri <Lacie.olivieri@matsugov.us>

Cc Bill Gamble <Bill.Gamble@matsugov.us>; TimHaleDistrict1@gmail.com <TimHaleDistrict1@gmail.com>; stephanienowersdistrict2@gmail.com <stephanienowersdistrict2@gmail.com>; Dee McKee <dee.mckee@matsugov.us>; Ron Bernier <ron.bernier@matsugov.us>; Fonov <Fonov@matsugov.us>; maxwell@sumnercohomes.com <maxwell@sumnercohomes.com>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION

Comments from Jim and Lori Boltz, 15379 W. Anderson Point Way, Big Lake, AK 99652

After submitting our initial comments on the proposed Waterbody Setback Provisions, we have come across additional concerns. Our concerns are primarily associated with the self-serving aspect of some of the Waterbody Setback Advisory Board Members. A majority of the board members have no listed lake front property ownership. Placing them in a position of proposing ridiculously onerous regulations on others with no exposure to themselves.

Secondly, and as concerning, is the apparent jobs program initiated to benefit several of the board members. The proposed resolution requiring the exclusive use of a "Qualified Professional registered with the State of Alaska" to oversee the design and construction of mitigation measures is clearly a conflict of interest initiated for their benefit. This does nothing more than complicate and greatly increase the cost of whatever this process is intended to do.

The Riparian Buffer, nor the 45' no compliance zone, have nothing to do with the misdirected self-stated goals of the Advisory Board. Had the board actually directed its efforts toward the original objective of assisting property owners in achieving compliance, then there may have been something beneficial to come out of the exercise. Misguided erroneous assumptions lead to the development of this board resolution. Waterbody setbacks of 75 feet, 45 feet, or even 25 feet have no actual impact other than to infringe on personal property rights. As owners of lake shoreline, we are the true stewards of this property and have witnessed the lack of impact from structure location.

This resolution will interfere with the personal enjoyment of our private property, unlawfully reduce the size of our property by an unfair "taking", reduce the value of our property, incur huge costs to property owners, place property owners in violation by its unreasonable retroactive application violating the general standard of law, and all without doing anything to protect our lakes or our Alaska homes. This self-serving flawed document is grossly in error and must be disregarded in its entirety.

Thanks for the opportunity to further comment on the uselessness of this resolution. We would like to know what the advisory board is attempting to do other than cause an extreme hardship on some of the largest personal property tax payers in the Mat-Su Borough.



Outlook

Land Owner comments on Resolution 42-01

From James VanHoomissen <jdvanhoom@gmail.com>

Date Sun 1/12/2025 7:27 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Dear Mr. Gamble,

My wife and I own a cabin on Flat Lake. We built the cabin in 2002 and did our best to follow MSB setback requirements. The proposed Waterbody Setback Advisory Boards Resolution 42-01 dated Oct 29,2024 puts an undo/retroactive burden on our property and many properties on area lakes.

Our front deck and associated cover would have to be removed from the cabin at great expense and structural difficulty.

Had this code been in place in 2002, we would have relocated the entire cabin further from the lake.....into a much wetter/swampier area. The 75 foot requirement causes major problems on MATSU [lakes.....to](#) comply I've seen many people destroy their property to get 75 feet off the water.

The proposed effort to "fix the problem" after 50 years of little to no guidance or enforcement with rules that offer no reasonable ability to comply is unacceptable.

We are all for shoreline protection, clean water and reasonable setback requirements. Rules that can be enforced without unreasonable cost or restriction.

We propose you grandfather nonconforming structures as of the effective date and establish a 25-foot riparian buffer for structure setback eliminating the requirement for people to cut down trees, bulldoze hills and plant lawns. Thank you for your time and concern protecting our lakes in the MSB.

Respectfully,

James and Diane Van Hoomissen



Outlook

FW: Comments on the report from the Waterbody Setback Advisory Board

From Alex Strawn <alex.strawn@matsugov.us>

Date Mon 1/13/2025 9:57 AM

To Lacie Olivieri <Lacie.Olivieri@matsugov.us>

From: Patricia Fisher <psfisherak49@gmail.com>

Sent: Monday, January 13, 2025 9:35 AM

To: Alex Strawn <alex.strawn@matsugov.us>

Subject: Comments on the report from the Waterbody Setback Advisory Board

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I strongly support the report that the board put together. It is very obvious that they worked hard to study the issue and come up with reasonable amendments to the existing code.

I do recommend one change: under 17.55.004 Definitions, the statement

“Hazardous substance does not include uncontaminated crude oil or uncontaminated refined oil in an amount of 10 gallons or less” **is unclear.** It reads that 10 gallon uncontaminated crude oil is not a hazardous substance. It certainly can be a hazardous substance in my opinion. I understand this statement relates to secondary containment. If that is the case, please adjust the wording in that section to reflect that.

Patti Fisher

Borough



Outlook

Waterbody Setback Comments

From Wendy Palin <wendyapalin@gmail.com>

Date Mon 1/13/2025 6:08 PM

To Planning <msb.planning@matsugov.us>

Cc LaCroix.Matthew@epa.gov <LaCroix.Matthew@epa.gov>; Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

January 13, 2025

To the Advisory Board,

My name is Wendy Palin, and I have been a proud resident of Alaska for 25 years. My family and I live on Fingerlake, where we've been fortunate to enjoy the pristine beauty and ecological richness that our waterbodies provide. However, I am deeply concerned about the proposed changes to the water setback regulations and the potential consequences these changes could have on our environment, community, and future.

The 75-foot waterbody setback is not just a rule—it's a safeguard that protects the health of our lakes, the wildlife that depends on them, and the families, like mine, who treasure these natural resources. I want to highlight why maintaining this setback is so critical:

Professional Argument for Maintaining the 75-Foot Waterbody Setback Law

The 75-foot waterbody setback law is a critical environmental regulation that protects ecosystems, water quality, and public health. While specific code change recommendations aim to provide flexibility, relaxing these standards could lead to significant long-term consequences. Below are professional considerations for maintaining the current setback:

1. Water Quality Protection

- **Buffer Efficacy:** A 75-foot setback provides a sufficient riparian buffer to filter pollutants such as sediments, nutrients (e.g., phosphorus and nitrogen), and contaminants before they reach waterbodies. Reducing this distance to 45 feet compromises the effectiveness of these natural filtration processes.
- **Runoff and Impervious Surfaces:** Even with caps on impervious surfaces, a reduced setback increases the likelihood of stormwater runoff carrying pollutants directly into the waterbody, undermining water quality.

2. Habitat Preservation

- **Wildlife Protection:** Riparian zones serve as essential habitats for diverse species. A reduced setback would fragment these habitats, disrupt ecosystems, and potentially endanger species reliant on these areas for shelter and food.

- **Aquatic Health:** Maintaining a larger buffer zone reduces sedimentation and thermal pollution, which can harm aquatic ecosystems and disrupt fish spawning grounds.

3. Flood Mitigation and Climate Resilience

- **Natural Flood Control:** Larger setbacks provide space for vegetation and soil to absorb excess water, reducing the risk of flooding. A smaller buffer compromises this capacity, especially as climate change intensifies weather patterns.
- **Shoreline Stability:** Development closer to waterbodies increases erosion risks, destabilizing shorelines and requiring costly remediation efforts.

4. Legal and Policy Precedent

- **Consistency with Environmental Policies:** The 75-foot setback aligns with best practices and standards established by numerous environmental and water resource management agencies. Deviating from this precedent could weaken overall regulatory frameworks and set a precedent for further erosion of environmental protections.
- **Enforcement Challenges:** Introducing exceptions for specific buildings or timeframes complicates enforcement, increasing administrative burdens and potential loopholes.

5. Public and Economic Considerations

- **Drinking Water Protection:** Many communities rely on lakes and waterbodies for drinking water. Reduced setbacks increase contamination risks, posing threats to public health and increasing water treatment costs.
- **Property Value Stability:** Preserving water quality and natural aesthetics through larger setbacks enhances the long-term value of properties near waterbodies, benefiting homeowners and local economies.

Addressing Specific Code Change Recommendations

- **Existing Violations (45-foot exception):** Legalizing structures built in violation of the 75-foot setback, even with mitigation measures, creates a precedent for non-compliance and incentivizes future violations. While riparian buffers and runoff capture are beneficial, they cannot fully replicate the protections offered by the original setback.
- **Mechanized Land Clearing:** Although requiring permits and mitigation for clearing within the setback is a positive step, it does not justify reducing the setback itself. Encroachments during clearing activities can have irreversible impacts on vegetation and soil structure.
- **New Standards for Specific Activities:** While the proposed standards (e.g., limits on fertilizer use, petroleum storage) are valuable, they should supplement—not replace—the 75-foot setback to ensure comprehensive protection.

Conclusion

Maintaining the 75-foot waterbody setback is essential for safeguarding environmental integrity, public health, and economic stability. While the proposed code changes aim to balance development and conservation, they risk undermining the foundational protections provided by the current setback law. The 75-foot buffer is a proven standard that should remain intact to protect waterbodies for current and future generations.

Thank you for being so diligent to this matter,

Wendy Palin

January 14th 2025

To Whom it may concern:

I am writing to express my concern with the Matanuska – Susitna Borough Waterbody setback resolution serial No. 24-01.

First and foremost, I believe these proposed changes violate my rights as a private property owner within the Matsu Borough. People in this community live here for their freedom and not to be over governed like California. I feel that the use of my property is my decision, and not that of my neighbors or the local government. The current regulations are stricter than I think we need, but with that said I am willing to accept the current regulations on setbacks, but we don't need more.

Some of the following items are of grave concern within the new draft.

- (17.55.00) secondary containment - Why aren't double wall tanks acceptable? Should follow Alaska DEC regulations for secondary containment
- (17.55.016) & (17.02.035) The stormwater section is way too onerous for landowners and there are agencies that cover stormwater already. The borough does not need to be involved in this.
- (17.55.016) & (17.02.035) The 25' lake set back is also very concerning. This is the property owners land, and they should be able to use it as such. There is no guarantee that a permit will allow them to conduct their activities. I bring up the point of someone who has a garden close to the water. Tilling the garden is a ground disturbing activity. Telling someone they cannot have a garden where they want on their property is just wrong.
- (17.02.035) All the percentages in the draft of 50% this and 20% that for what can be done is not acceptable. Not sure what business it is of the borough to restrict impervious surfaces on private property

The reality is we (Alaska) have many governing agencies that deal with most of these proposed changes already. Fish and habitat, Corp of Engineers, D.E.C. are just a few. So, what is left for the homeowner – now the borough wants to control their freedoms as a landowner.

The term **Private Property** means something. These proposed regulations go totally against that meaning.

The borough already accepts lake management plans for specific lakes. The borough is huge with many remote lakes, is it prudent to apply these standards to the whole borough when it is probably just a few lakes in populated areas.

The Borough cannot enforce this, much of the borough is not accessible by the road system. What's the plan to enforce the areas not accessible by roads?

Is the borough going to hire a "Qualified Professional" (hydrologist, geologist, or registered engineer that has specific education and experience with groundwater hydrology) to review all permit

applications? I would be very surprised if the director, planning board or assembly has these qualifications.

A Junk and trash ordinance was passed over 20 years ago, and the borough looks the same. When the borough enforces the current ordinances and the residents who pay taxes see the results then maybe then they should take on more responsibilities, but not until then.

DO NOT ACCEPT THIS RESOLUTION!

James Mulhaney – Matsu resident and property owner



Outlook

Matanuska-Susitna Borough Proposed Waterbody Setback Ordinance

From Joe Moran <MoranJ2016@outlook.com>

Date Tue 1/14/2025 3:01 PM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Lacie my name is Joe Moran. I am a resident of the MSB and a landowner whose property will be subject to the proposed Waterbody ordinance if adopted. The following are my comments on the draft ordinance.

First, I agree with and adopt the comments previously filed by Al Bolea. To the extend the proposed ordinance fails to grandfather lawfully installed improvements existing prior to it's effective date, it is likely unenforceable. Further it likely will result in an impermissible taking of private property.

Second, I agree with and adopt the comments previously filed by Dick Armstong. A double walled tank acceptable under federal law or regulation should suffice for the Borough's purposes.

With regard to resolution 24-01 section 1. It should be expanded to include references to structures and non structural improvements such as landscaping and by substituting the planning department for a qualified registered professional. I would also request section 8 of the resolution be deleted as well. Each variance application should be decided on it's merits.

Turning to the proposed regulatory revisions, 17.55.004 defining exceptions to the definition of structure should be expanded to include on lot boat launches where there is no accessible public boat launch in the nearby area and by adding water dependent structures and landscaping to the exception.

New section 17.55.016(E)(1 &2) should be amended to allow for grandfathering of lawful activities occurring before the effective date of the ordinance.

Section 17.55.020(B) should be revised to limit it's application to listed improvements made after the effective date of the ordinance.

Section 17.55.040 should be modified to provide that properly established grandfather rights existing as of the effective date of the ordinance are excluded from the scope of the provision.

Section 17.02.035 should be clarified that it only applies to improvements made after the effective date of the ordinance.

Section 17.65.020(B (3) should removed and the remaining sections renumbered. Each variance request should be judged on it's individual circumstances and merits.

Section 17.80.020(A) should be modified to make it applicable to structural and non structural improvements. It should also be modified generally to make it applicable to both structures and other non structural improvements such as landscaping that were lawful when made as well as those otherwise made in the two windows of time in 1973 and 1988.

Section 17.125.010. The definition of "qualified professional" should be revised to remove the requirement that the person be registered under 08.48 to allow for input by any relevant expert.

Thank you for considering my comments.

Joe Moran 1/14/25



Outlook

Concerns about lake 45' setback law

From Justin Lloyd <907rider@gmail.com>
Date Tue 1/14/2025 12:21 PM
To Lacie Olivieri <lacie.olivieri@matsugov.us>
Cc Bill Gamble <bill.gamble@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hello. My concern about the proposed 45' setback law for lakes is that our family property on Long Island, Big Lake is about 100' at it's widest part. That would make our cabin illegal and make the property basically unusable. My parents (Bruce and Melissa Lloyd) have owned the property since 1999 but I'm not sure when the cabin was built. To have a law put in that would basically rob us of our cabin is extremely unfair. I also believe that this would affect many people with property on the islands in Big Lake. Anything already built before the law is instituted should be grandfathered in. A retroactive law is unreasonable and robs people of their property. I hope this law does not go into effect at all.

Thank you for your time, Justin Lloyd



Outlook

Shoreline Setback

From Scott Seely <scottseely1951@gmail.com>

Date Tue 1/14/2025 12:31 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

My name is Scott Seely.

I have a small island on the NW end of flatlake that i purchased in 1993.The parcel is 6/10th of an acre in size and is approximately 80 feet wide at the widest point. There are 2 small cabins on the island that were built prior to 1973. The footprint of the cabins has not been altered or enlarged. My dilemma is that I see no way to comply with the proposed shoreline setbacks because of the width of my island.

I have been paying property taxes and have spent considerable amounts of time and money improving my piece of paradise for 32 years. As it is proposed I see no path toward compliance and it is looking as if my only option is to walk away from my home and investment.

Your comments and solutions would be greatly appreciated.

Sincerely Scott Seely



Outlook

Protection of our Waterbodies

From VALERIE KOIVUNEN <valeriek@mtaonline.net>

Date Tue 1/14/2025 10:32 AM

To board@nlakes.cc <board@nlakes.cc>; Planning <msb.planning@matsugov.us>; LaCroix.Matthew@epa.gov <LaCroix.Matthew@epa.gov>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To all concerned:

Thank you for taking on this Herculean task to protect our lakes and creeks. I wish you great success going forward. Some broad concerns are:

- (1) Have the owners of these properties on our waterbodies been contacted regarding the specific code change recommendations that apply to them personally?
- (2) How secure and long-term is the budget for enhanced enforcement and patrol safety?

Valerie Koivunen
NLCC member
5525 East Hemlock Drive
Wasilla, Alaska 99654
907 841-0827



Big Lake set back

From westfarl <westfal98@yahoo.com>

Date Tue 1/14/2025 8:26 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Do not pass that proposal! This is Alaska we do not need any Democrat outside ideas up HERE!



Outlook

Setback Ordinance Big Lake

From DAN HEARN <salonwax@gmail.com>

Date Wed 1/15/2025 4:02 PM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

Cc Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I am just receiving information about proposed changes in the Big Lake area: I will be the owner of Hearn Island this year, which has been in our family since 1975 and was homesteaded by my father's business partner in the 50's.

All of the items below negatively affect me and my family and we are opposed and feel these ideas are very un Alaskan anti progress, anti future concepts. I hope I have been mis informed and none of these ideas are really being considered.

If these are accurate:

- There will be no path to compliance for buildings within 45' of the water that were built after 1973.
- Buildings built within 45' before 1973 are legal except in the case that they were enlarged or altered after that date.
- Buildings built within 45' and 75' of the water between [7/3/1973](#) and [1/1/1987](#) and legal except in the case that they were enlarged are altered after those dates.
- Buildings built between [1/1/1987](#) and the effective date of the ordinance must obtain a land use permit, and work with a licensed civil engineer, geologist or hydrologist for mitigation measures to become compliant.
- Land use permits would be required for any construction or dirt work within the 75' setback.
- A variance can't ever be issued for a future development with 45'.
- A 25' riparian buffer will be required along the shoreline, where 50% of its surface area cannot be disturbed, other than removing dead wood.
- Fuel tanks within 75' of the water that use gravity to allow fuel flow must have secondary containment that can contain 110% of the volume of the tank. Double walled tanks would not satisfy this requirement. Tanks that use a pump would only need drip containment. It would allow property owners 5 years from the adoption of the ordinance to come into compliance.

Sincerely,

Dan Hearn

C 907-301-6617



Outlook

Water Setback Advisory Board, Comments on the proposed regulations draft

From doug@pmcmalaska.com <doug@pmcmalaska.com>

Date Wed 1/15/2025 9:07 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Planning <msb.planning@matsugov.us>; Bill Gamble <bill.gamble@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Amending fuel storage regulations.

Propane is considered Liquid Petroleum Fuel. Propane tanks need to be exempted from set back and secondary containment regulations, at a minimum, where there is no year-round land road access (i.e. islands primarily and other locations not accessible from the road system). These tanks typically are located close to the water's edge to facilitate fuel delivery. The process for delivery frequently involves picking up the tank with a boom truck and shuttling it to an on-land delivery truck to be filled and returned to the property.

Many properties have no fire protection access available and consideration must be given to arbitrary clearing requirements. "Cannot be disturbed" should be stricken from any regulation in the interest of fire safety, and percentages of buffer clearance allowances seem arbitrary.

Why are Palmer and Wasilla properties exempted from these regulations if they are adjacent to water?

Doug Barce

Flat Lake Island land Owner

907-301-3008



Outlook

Waterbody setback resolution

From Pa18drvvr <pa18drvvr@gmail.com>

Date Wed 1/15/2025 7:20 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To whom it may concern,

I'm writing to express my opposition to the current resolution (24-01). I will make a few points below, but I can expand on these and add quite a few more if needed. I'll try to keep this short and to the point. The bottom line is I, like most other residents here, work and take care of my family full time and then some, and more government intrusion in my life is certainly not welcome.

- Having recently completed permitting for a wetlands project, I can attest that there are way too many government bodies (and their overbearing regulations) for the average property owner to succeed. Federal, state, and local. We certainly don't need another. PRIVATE PROPERTY should mean something - to us all.

- What government body is going to permit and police this? No doubt, a new agency is formed and staffed whose financial burden is passed on to the citizens.

- A large part of the borough is not road accessible and used for recreational cabins. Has anyone thought what a burden it will be to bring all of those into compliance?

- I can hardly believe the individual restrictions in the resolution are serious. I won't address them each specifically- just state that I oppose each one wholeheartedly. How can anyone think it is OK to tell someone else what to do with their PRIVATE PROPERTY to this level? Most valley residents live here because we are free to raise our families with minimal government interference. This has slowly been changing and I urge everyone who reads this to recognize this "creep" and realize why the majority of us live/work here. I personally left the municipality of Anchorage with my family and business because of the level of government overreach.

- **Lastly, and possibly most important**- I hope you folks realize that the community councils do NOT speak for the citizens! The citizens are busy raising their families, working overtime, managing their businesses, etc. The meadow lakes community council's meeting where they recently voted to support this resolution was attended by roughly 15-20 people. 21 people attended remotely. That is a grand total of 35-40 individuals. In a short period of time I can find 3 times that many signatures vehemently opposing this. Much more realistically. When the community council tried to ram through the SPUD (10? years ago) the citizens showed up to the meeting and we filled up the middle school. Estimated 300 people.

Kevin Asher



Supporting Salmon, Wildlife, and Community

January 15, 2025

Dear Members of the Waterbody Setback Advisory Board,

I write on behalf of the Susitna River Coalition, a watershed organization based in the Susitna Valley. The Susitna River Coalition (SRC) comments on behalf of our more than 14,000 individuals, groups, and businesses who support our work. We support the communities and ecosystems that are sustained by the resources of the Susitna River Watershed from the headwaters to the mouth.

The Susitna River Coalition would like to express our strong support for the proposed updates to the Waterbody Setback Ordinance. These revisions represent a well-reasoned and critical advancement in safeguarding the natural resources, community resilience, and ecological health of the Mat-Su Borough.

In late 2022, public discussions surrounding the potential repeal of the 75-foot riparian buffer ordinance sparked important conversations about land use, habitat preservation, and community values. Recognizing the complexity of this issue, the Mat-Su Borough Assembly wisely established the Waterbody Setback Advisory Board to evaluate the ordinance and recommend improvements. Over the past year, your thorough and thoughtful process has demonstrated a deep commitment to balancing environmental protection with the practical needs of landowners and the community.

The updated ordinance offers several key benefits that will have a lasting impact on our borough:

1. **Enhanced Water Quality Protections:** By implementing clearer pollution controls, expanded setbacks for septic systems, and vegetated buffers, the ordinance addresses contamination risks and ensures healthier waterbodies for fish, wildlife, and community recreation.
2. **Mitigation of Shoreline Erosion:** In areas where motorsport wakes have contributed to erosion, maintaining vegetation along shorelines will reduce sedimentation and help protect water quality.
3. **Preservation of Habitat:** Expanded setbacks provide critical habitat for fish and wildlife, ensuring that our natural spaces continue to support biodiversity while enhancing the value and appeal of properties in the borough.
4. **Economic and Recreational Benefits:** Healthy waterbodies are vital for tourism, fishing, and outdoor recreation, which contribute significantly to our local economy. The proactive approach to pollution control and erosion prevention will also reduce the borough's costs associated with water contamination and infrastructure repair.
5. **Consistency and Flexibility:** The updated standards align with those in other Alaskan communities, promoting resilience and offering flexibility for landowners while ensuring environmental safeguards.

While the ordinance itself is a significant step forward, we believe additional measures are necessary to ensure its success. Specifically, we urge the Advisory Board to recommend that the Mat-Su Borough Assembly consider:

1. **Educational Materials and Outreach:** Education is critical for the successful implementation of the updated ordinance. We propose creating educational materials, such as brochures or pamphlets, that can be distributed to landowners whenever land changes hands. Providing this information at the time of property transactions will help ensure that new landowners understand the setback requirements and their importance. Additionally, we encourage targeted outreach and training for realtors and construction companies to ensure they can effectively communicate these requirements to prospective clients. The Susitna River Coalition would be happy to collaborate with the Borough on creating effective educational outreach materials.
2. **Enforcement Resources:** Effective enforcement is essential to the ordinance's success. Allocating funds to ensure proper enforcement will not only uphold the integrity of the ordinance but also demonstrate the borough's commitment to protecting waterbodies and the surrounding environment. Enforcement resources might include staff training, and tools necessary for monitoring compliance and addressing violations.
3. **Tax Incentives:** The Susitna River Coalition also supports the inclusion of tax incentives for landowners who comply with or exceed setback requirements. Providing financial incentives for conservation efforts, such as maintaining vegetated buffers or implementing pollution control measures, can encourage broader participation and enhance overall compliance. These incentives demonstrate the borough's recognition of landowners' contributions to protecting shared natural resources.

We commend the Advisory Board for its diligent work in creating these comprehensive and effective revisions. These updates strike an excellent balance between protecting the natural resources that define our community and addressing the needs of a growing borough. We hope the recommendations outlined above will further enhance the ordinance's impact and ensure its long-term success.

Thank you for your dedication and hard work in advancing these critical protections for our waterways. Please do not hesitate to reach out if we can assist in further outreach or provide additional support.

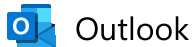
Margaret Stern

Margaret Stern

Program and Communications Director

Susitna River Coalition

margaret@susitnarivercoalition.org



I Support the Draft Waterbody Setback Proposal

From Wendy Taylor <wendyt@mtaonline.net>

Date Wed 1/15/2025 9:05 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Don't follow Rob Yundt down another rabbit hole of lies and deception. He proved that he can't be trusted.

I support the proposed changes to the existing regulations for waterbody setback that the Waterbody Setback Advisory Board has drafted. It is important to maintain water quality in the Mat-Su and these changes seem to strike a balance between over-regulation and protecting our waters. I urge you to send the draft plan on to the Assembly for approval. Thanks to the WSAB for their diligence and time on this issue.

Wendy Taylor
Sent from my iPhone

January 15, 2025

TO: Mat-Su Waterbody Setback Advisory Board

RE: **Waterbody Setback Ordinance Recommendations**

Thank you for your time and effort to address waterbody setbacks in the Mat-Su. This issue has been a concern for many years and has been the subject of previous citizen advisory committees, the last one from 2006-2008. The earlier committee was unable to get any legislation passed, but did summarize their recommendations which were incorporated in the “Voluntary Best Management Practices for Development around Waterbodies (BMP)”. This document has been used by the MSB Permit Center to educate landowners about the best practices around water bodies for many years. I’ve attached a drawing from the previous committee’s work and suggest that you make a graphic document to explain your proposals. Most people will not read the legislation.

The recommendations that you have made are an improvement on the BMP’s by regulating activities that could pollute water bodies, requiring vegetated buffers for future development and requiring a land use permit for setback variances. Specifying that industrial and commercial buildings meet the setback requirements is an excellent addition. The recommendation that you have made to require land use permits for development within 75’ is a very important step to alleviate noncompliance issues.

Here are a few specific questions and comments.

17.55.004 Definitions

I am unable to find a definition of “water bodies” in the proposed ordinance document. Is it already in code somewhere else? Ponds are defined but not water bodies. This matters because many landowners have small streams on their properties that may or may not qualify as water bodies. In some cases, classifying small streams (less than two feet in width) as water bodies may make properties undevelopable. Often properties adjacent to lakes have many inlet and outlet streams and springs. Are 75’ setbacks required from all these water sources? What about properties that are in compliance with lake setbacks but not streams?

17.55.016 Waterbody Setbacks for Pollution Sources

(C) Paved parking areas ... I suggest that these not be located any closer than 45 feet. Pavement is especially damaging to soils and creates increased runoff. I would suggest prohibiting pavement within the 75 foot setback but allowing graveled areas.

17.02.035: Standards for Development within 75 feet of a Waterbody

MSB will need to have the expertise to review site plans which include stormwater drainage designs, soil analyses and runoff pollution mitigation measures to implement the land use permit process. The proposed ordinance states “runoff pollution measures shall be designed and installed under the oversight of a qualified professional”. How will the professional qualifications be determined?

The Mat-Su Borough (MSB), as a result of the population increasing over 100,000, is required by Alaska Department of Environmental Conservation (DEC) to have a *Stormwater Management Plan*. A preliminary plan was developed in 2013 by the Planning Department in anticipation of this requirement. MSB should have qualified staff to implement and update this plan. The proposed changes to the waterbody setback recommendations, if adopted, should be included in the *Stormwater Management Plan* that is submitted to DEC. This will add another layer of oversight to ensure that the waterbody setbacks are maintained at 75’ with the new requirements that you have proposed.

It should be noted somewhere that properties that have been developed prior to the enactment of these new ordinances can use the land use permit process to bring their properties in compliance no matter when they were built.

I am in favor of reinstating the Land Use Permit process for all building in MSB however I know that it’s not a popular idea. The specific and limited land use permits that you have proposed for “water-dependent structures” and for development within the 75’ setback are reasonable and needed.

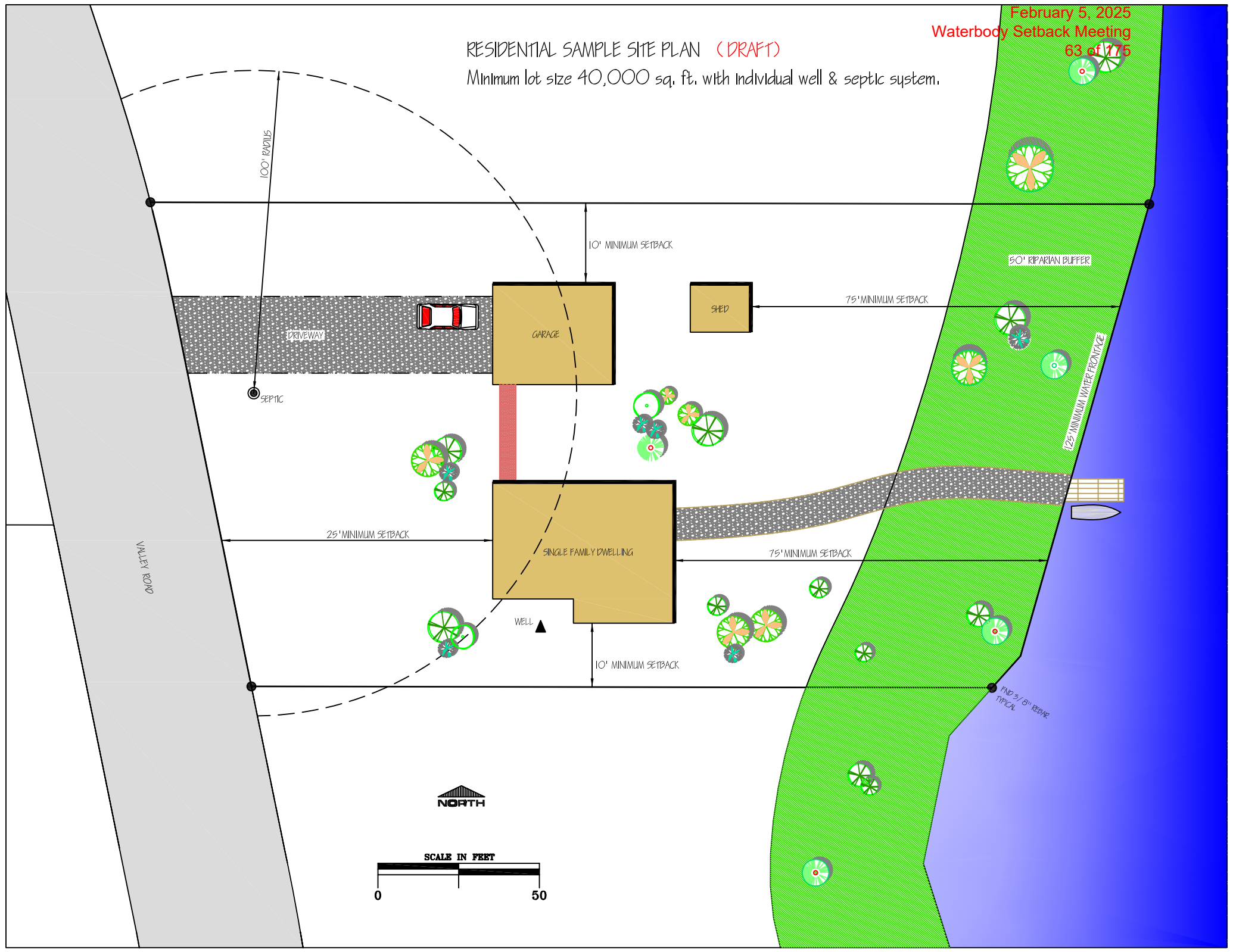
I sincerely hope that you will be successful in passing this legislation. However, I know this will be a heavy lift. It will be important for the Advisory Board to do an education process to meet with Assembly members and the public to explain the proposed changes. Have any of the Assembly members seen this draft? Line up other advocates, especially from the business community, to speak and write in support. This is a complicated piece of legislation. It will take some considerable convincing to pass.

Thanks for all your good work.

Frankie Barker
fbarker@mtaonline.net

RESIDENTIAL SAMPLE SITE PLAN (DRAFT)

Minimum lot size 40,000 sq. ft. with individual well & septic system.





Outlook

Comments for Support for Waterbody Setback Advisory Board Recommendations

From Bee Long <woodyfiber17@gmail.com>

Date Thu 1/16/2025 9:03 PM

To Planning <msb.planning@matsugov.us>

[**EXTERNAL EMAIL** - CAUTION: Do not open unexpected attachments or links.]

COMMENT OF SUPPORT FOR THE DRAFT WATERBODY SETBACK ADVISORY BOARD REVISIONS

Sent via msb.planning@matsugov.us

I commend the work of the waterbody setback board. Their public service in this regard is much appreciated by Mat Su Borough residents who value the waterbodies, the fish and wildlife habitat, and our quality of life here. I am a long- time borough property owner and resident on land located on a creek. I spend quite a bit of time on lakes and fly into lakes as transport to the bush. I fish and hunt the watersheds.

I strongly support the board recommendations. A diversity of people and professions on the board have created well thought out policies. I believe the proposals do balance conservation protections and preservations with the needs of landowners and the community.

The recommendations provide solutions for those landowners who have been out of compliance. This is sorely needed.

Healthy waters and riparian habitats are an economic engine of our borough.

I further urge policy recommendations for education and outreach to the public. People need to know the “whys” of these setback policies. I also urged a policy for enforcement resources and training to monitor compliance. An interesting idea is proactive tax incentives for compliance so that landowners are motivated and invested in good waterbody practices. This could be a way for the landowner to be a part of the solution.

Thank you for taking comments. The process has been good.

Becky Long

1/16/25



Outlook

Public Comment on Draft of WSAB Resolution 24-01

From aklalonde@aol.com <aklalonde@aol.com>

Date Thu 1/16/2025 3:39 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Re: Public Comment on Draft of WSAB Resolution 24-01

Dear Matanuska-Susitna Borough Assembly,

I have reviewed the proposed recommendations of Matanuska-Susitna Borough Waterbody Setback Advisory Board Resolution Serial No. 24-01. I understand and support the Borough's desire to protect the waterbodies within the borough.

My wife and I own a small cabin on a very small piece of property at Big Lake. The property is generally wedge shaped with the widest part of the property is along the shoreline. The cabin is covered by a Shoreline Setback Exception Status Determination as it is within 45 feet of the shoreline. My understanding is that it will still be protected by this "grandfathered" status even if this ordinance were to pass as it is currently written.

My specific concern is Recommendation #8 of the covering resolution of the proposed ordinance. This specific recommendation states, "8. 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." Since our property is small and wedged shaped, there is no other place on the property to build without an approved variance outside of the 45-foot setback. There is also a utility and a public use easement, further reducing the size of our property.

If something were to happen to our cabin or if we chose to make certain improvements to the cabin, implementing recommendation #8 would potentially make our property nearly useless and the value of the property would also be significantly reduced.

I strongly urge the Assembly not to implement this recommendation.

I also would urge the Assembly not to take any other action that would limit our ability to use our property due to it's size and shape, as we have no other options to develop our property if we desire to in the future.

Sincerely,

Bruce LaLonde



Draft Waterbody Setback Ordinance: SRC Official Comments

From Margaret Stern <margaret@susitnarivercoalition.org>

Date Thu 1/16/2025 5:40 PM

To Planning <msb.planning@matsugov.us>

 1 attachment (137 KB)

Official SRC Waterbody Setback Letter.docx.pdf;

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Dear Members of the Waterbody Setback Advisory Board,

On behalf of the Susitna River Coalition, I would like to thank you for the immense amount of time, thoughtful consideration and effort that has gone into revising the Mat Su Borough Waterbody Setback Ordinance. Your work is critical to ensuring the health and sustainability of the local waterways in our growing region.

We are writing to express our strong support for the proposed revisions. These updates represent a significant step forward in protecting the natural resources that define our region and sustain both ecological balance and community well-being.

Attached are the Susitna River Coalition's official comments.

Thank you for your dedication to this important work and for providing an opportunity for public input. Please do not hesitate to reach out if there is anything we can do to support your continued efforts.

Please confirm that you have received our comments.

--

Margaret Stern
Program & Communications Director, [Susitna River Coalition](https://www.susitnarivercoalition.org)
margaret@susitnarivercoalition.org

[PICK.CLICK.GIVE.](#) to SRC! Your donation and support directly benefit the free-flowing Susitna River and Susitna River Watershed. You can also donate directly [HERE!](#)

RE: WATERBODY SETBACK ADVISORY BOARD Resolution 24-01

The purpose of the committee was to review a request to reduce the lake setback from seventy-five to twenty-five feet and this review could have explored a path to compliance for existing structures within twenty-five feet of water bodies. Instead, the committee makes sweeping recommendations that do not consider differences in lot size, depth, shape, topography, and accessibility to emergency services, furthermore; the recommendations seem punitive to specific existing owners. The committee does not find a tenable path forward please vote against this resolution.

Many of these properties have existing structures that were built without road access or with problematic access to heavy equipment. Clearing and grading may have been done to create a buffer from wildfire from surrounding fire loads. The resolution does not consider the difficulty and expense of remote development, both previous and future, and is antidevelopment.

It would be beneficial to waterfront property owners and members of the community, for existing waterfront property owners to have a path to compliance to build, rebuild or modify to safer and more efficient building codes and to build, rebuild or modify a home that is more than a seasonal use structure. This path forward should be flexible, ALLOWING FOR VARIANCES WITHIN TWENTY-FIVE FEET and consider lot size, depth, shape, topography, and access to emergency services. A path forward like this would increase the tax base and year-round participation in the community.

Thank you,
Rebecca Roth
Big Lake property owner
P.O. Box 221649
Anchorage, AK 99522



Outlook

MatSu Borough Waterbody Setback Advisory Board

From Carrie Keil <ckeil2934@gmail.com>

Date Fri 1/17/2025 7:14 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

Cc Bill Gamble <Bill.Gamble@matsugov.us>; TimHaleDistrict1@gmail.com <TimHaleDistrict1@gmail.com>; stephanienowersdistrict2@gmail.com <stephanienowersdistrict2@gmail.com>; Dee McKee <dee.mckee@matsugov.us>; Ron Bernier <ron.bernier@matsugov.us>; Fonov <fonov@matsugov.us>; maxwell@sumnercohomes.com <maxwell@sumnercohomes.com>; Edna DeVries <Edna.Devries@matsugov.us>; Alex Strawn <Alex.Strawn@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Good Morning,

Once again as a property owner in Big Lake Alaska I have to participate in pushing back on a bad idea.

There seems to be an misguided effort to fix something that is not broken

We have had setback regulations for years and property owners whether new or old have been aware of them. Certain properties have had grand fathered rights to comply with the current 75” setbacks.

It seems to me the 75” set back has effectively worked so why change it?

For the sake of “helping” this seems to be an over reach and infringement on personal property rights.

One of the reason the Matsu Valley has seen an increase in population is because people who once lived in Anchorage are fleeing due to poor leadership, bad regulations based on over reach and burdening regulations by those in political power.

In reading the Resolution Serial NO 24-01 done by the Advisory Board there are numerous onerous regulations that will negatively impact existing property owners and infringe on their rights.

From a taxpayers perspective I think government is too big and creating new positions in the State of Alaska to manage this is not the answer.

Bigger not Better.

Let’s let this die on the vine. Leave the setback provision as is. 75’.

Thank you for the opportunity to comment on another bad resolution.

If it’s not broken it does not need fixing.

Carrie Keil and Kirk Currey
18670 West Belarde Blvd.
Big Lake, AK



Waterbody Setback Advisory Board Proposed amendments to MSB code; Public Comment

From gfarkas@gci.net <gfarkas@gci.net>
Date Fri 1/17/2025 4:34 PM
To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Below are my comments for the Waterbody Setback Advisory Boards Proposed amendments to MSB code section 17.

Please include with the public comments package for the MSB Assy hearing.

Thank You,

Gerard Farkas

S17N04W26B006 (3991 S Immanuel St., Big Lake AK)

=====
=====

Waterbody Setback Advisory Board and Proposed Amendment of MSB 17.02,.55,.65,.80 and .125

I have owned lakefront property since 1997. As a property owner, and taxpayer, this is an absolute Train Wreck of proposed amendments, and utter failure of the Advisory Board. !

The proposal is an unfair taking of land, excessively costly, burdensome, and could never be applied or enforced equally within the MSB. It is an unbelievable burden to existing owners and their structures, heating oil tanks and any future development / use / peaceful enjoyment of their private property.

Throw out the proposal and disband the board immediately.

=====

- Current code is sufficient without change.
MSB hasn't had the resources to administer or enforce the current code since 1973. They certainly won't be able to administer or enforce this preposterous ordinance.
- No changes proposed by the advisory board should be accepted.
- Advisory board should be disbanded.
- State and Federal regulatory agencies ALREADY have Jurisdiction to protect waterbodies. EPA, Corp of Engineers, Alaska DEC, Alaska Department of Fish & Game, State Department of Health. These regulatory

bodies burdensome process and costly and time consuming bureaucracy already protect water bodies. We *Don't Need* another administrative bureaucratic overlay.

- The proposed Development costs, Engineering design and retroactive permitting is untenable and burdensome to individual property owners.
- MSB can't even handle its current permitting and inspection burden. MSB's administration is cumbersome, untimely, whimsical and ineffective. MSB lacks any meaningful enforcement of current code. Let them catch up and follow current ordinances before adding to their administrative load.
- Additional taxes to fund "an Enforcement" officer to harass land owners !
- The ordinance's language is so vague that any "NIMBY" can restrict any neighbor from the peaceful enjoyment of their property.

- This Ordinance is an Unlawful taking of property and individual property rights.

The burden MUST BE ON MSB, AND ON THIER PROPERTY, at their expense.

- If MSB wants to protect the waterways , they can construct whatever they want on their or State property (stream bed / lake bottom).
- If MSB wants to impose additional setbacks, then they can make an "eminent domain" type arrangement to lease the setback from the property owner at a rate of 2-1/2 times the assessed valuation per square foot of setback per year, for a maximum of 10 years.
- MSB can provide "Best Practices" information and designs for property owners voluntary adoption, at minimal cost to actually help citizens and obtain MSB goals.

Sincerely

Gerard Farkas



Outlook

Waterbody Setback Comments - RESOLUTION SERIAL NO. 24-01

From Laura Wright <lauraw@mtaonline.net>

Date Fri 1/17/2025 9:07 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

RESOLUTION SERIAL NO. 24-01

Thank you to the Advisory Board for their diligent work on this very important resolution.

There are two points I think need clarification:

1. When referencing retaining "vegetation", I think that word needs to be defined. Vegetation could mean grass and not trees. That is not a riparian buffer.

I would like to see the words, NATIVE PLANTS. For example: sweet gale, rusty menziesia, birch, spruce, willow, labrador tea, Alaska native grasses, reeds, forbs, etc.

2. In instances where two different property owners land lie with the 75 feet setback. All property owners must adhere to the setback.

For example, my property starts 60 feet away from a lake. Therefore I would have to go an additional 15 feet to build. The other property owner would not be able to build within their 75 feet.

I'm using a real example here! So, some type of wording needs to be added the the 75 foot setback is required regardless of the number of separate properties are within the 75 feet.

Thank you,

Laura Wright
Question Lake
Talkeetna, AK

HC 89 Box 8129
Talkeetna, AK 99676



Re: Waterbody Setback Advisory Board Proposed amendments to MSB code; Public Comment

From Samuel Dickinson <samueldickinson73@gmail.com>

Date Fri 1/17/2025 5:18 PM

To gfarkas@gci.net <gfarkas@gci.net>

Cc Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Great email!

On Fri, Jan 17, 2025, 3:34 PM <gfarkas@gci.net> wrote:

Below are my comments for the Waterbody Setback Advisory Boards Proposed amendments to MSB code section 17.

Please include with the public comments package for the MSB Assy hearing.

Thank You,

Gerard Farkas

S17N04W26B006 (3991 S Immanuel St., Big Lake AK)

=====
=====

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MSB hasn't had the resources to administer or enforce the current code since 1973. They certainly won't be able to administer or enforce this preposterous ordinance.

- No changes proposed by the advisory board should be accepted.

- Advisory board should be disbanded.

- State and Federal regulatory agencies ALREADY have Jurisdiction to protect waterbodies. EPA, Corp of Engineers, Alaska DEC, Alaska Department of Fish & Game, State Department of Health. These regulatory bodies burdensome process and costly and time consuming bureaucracy already protect waterbodies. We *Don't Need* another administrative bureaucratic overlay.

- The proposed Development costs, Engineering design and retroactive permitting is untenable and burdensome to individual property owners.

- MSB can't even handle its current permitting and inspection burden. MSB's administration is cumbersome, untimely, whimsical and ineffective. MSB lacks any meaningful enforcement of current code. Let them catch up and follow current ordinances before adding to their administrative load.

- Additional taxes to fund "an Enforcement" officer to harass land owners !

- The ordinance's language is so vague that any "NIMBY" can restrict any neighbor from the peaceful enjoyment of their property.

- This Ordinance is an Unlawful taking of property and individual property rights.

The burden MUST BE ON MSB, AND ON THIER PROPERTY, at their expense.

- If MSB wants to protect the waterways , they can construct whatever they want on their or State property (stream bed / lake bottom).
- If MSB wants to impose additional setbacks, then they can make an "eminent domain" type arrangement to lease the setback from the property owner at a rate of 2-1/2 times the assessed valuation per square foot of setback per year, for a maximum of 10 years.
- MSB can provide "Best Practices" information and designs for property owners voluntary adoption, at minimal cost to actually help citizens and obtain MSB goals.

Sincerely

Gerard Farkas



Outlook

I support the Waterbody Setback Proposal

From Dave Musgrave <fbksdave@gmail.com>

Date Sat 1/18/2025 9:07 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I fully support the proposed changes to the waterbody setback regulations drafted by the Waterbody Setback Advisory Board. Preserving water quality in the Mat-Su is essential, and these revisions strike a thoughtful balance between preventing over-regulation and safeguarding our waterways.

As an avid fisher in the Mat-Su I think it is imperative that we protect our salmon and other species in our waterbodies.

I encourage you to forward the draft plan to the Assembly for approval.

Many thanks to the Waterbody Setback Advisory Board for their dedication and hard work on this important matter.

Thanks,

Dave Musgrave



Waterfront Setback

From Mary Fairbanks <fairbanks@gci.net>
Date Sat 1/18/2025 10:50 AM
To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

All existing properties should be grandfathered in and exempt from this new ordinance.
Mary Fairbanks
Owner, Flat Lake
Sent from my iPhone



Outlook

I Support the Draft Waterbody Setback Proposal

From Peg Redding <psredding@gmail.com>

Date Sat 1/18/2025 10:13 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I support the proposed changes to the existing regulations for waterbody setback that the Waterbody Setback Advisory Board has drafted. It is important to maintain water quality in the Mat-Su and these changes seem to strike a balance between over-regulation and protecting our waters. I urge you to send the draft plan on to the Assembly for approval. Thanks to the WSAB for their diligence and time on this issue.

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD RESOLUTION 24-01

Robert and Michael Nibert P.O. Box 520713, Big Lake Alaska 99652

Copied with permission from

Al Bolea, P.O. Box 520960, Big Lake, AK 99652

We are in total agreement with Mr. Bolea regarding these three concerns listed below.

I have three concerns with the draft resolution:

- A new provision is proposed that a structure loses its grandfathered status as a legal nonconforming structure if the property owner subsequently enlarged or altered the structure after the effective dates of either July 3, 1973, or January 1, 1987. This provision is unreasonable in that it is being applied retroactively to structures that were enlarged or altered before the new provision had been adopted. It is particularly egregious if the enlargement is not within the 75-foot-high water level. This provision violates the general standard of law which prohibits the application of law to events that took place before the law was introduced. Had the provision been in effect, the property owner would have sought a variance before enlarging or altering the property. Also, "altered" needs to be clarified. For example, is painting a door considered an alteration?
- A new provision is being proposed that a variance can never be granted for a property that is closer than 45 feet from the water body. This provision is extremely detrimental to owners of island properties that have a depth less than 45 feet from the shoreline. Property owners on the mainland may have remedies for combining properties to enable development. This is seldom the case for island properties. Adopting the provision is, in effect, an unfair "taking" by the MSB. It also violates the general provision of law which prohibits the application of law to events that took place before the law was introduced. Had the 45-foot stipulation been in effect, the island property owner likely would have never purchased the property.
- Creating a pathway to compliance for homeowners is an admirable proposal. However, the stipulation that a qualified professional, registered in Alaska, must oversee the design and construction of remedial measures surely will be cost prohibitive and defeat the objective of getting properties into compliance. The approval authority within the MSB should have flexibility to work with homeowners, and design and implement measures without incurring unnecessary engineering costs. Common sense surely must prevail.

There are two areas that I seek clarification:

- 17.55.016(E)(1) stipulates that removal of 50 percent of the riparian buffer within 25 feet of the ordinary high-water mark is prohibited. Is this interpreted as 12.5 feet of

the entire water-facing frontage, or 50 percent of the total area within 25 feet? My preference is the latter interpretation, particularly for island properties where lake access is the only means of ingress/egress. Also, clarification of buffer requirements is needed for the “pathway to compliance” for properties where the riparian buffer has already been removed. For example, what types of vegetation will be allowed?

- 17.55.016(E)(5) states that the application of fertilizers or herbicides is prohibited within 25 feet of the ordinary high-water mark. Does this prohibition include organic and otherwise eco-friendly fertilizers?

In order to address the three aforementioned concerns, I submit the following revisions to the proposed resolution.

LEGAL NONCONFORMING STRUCTURES

17.80.020 (A)(1)(a) all structures within 75 feet of a water body that were constructed prior to adoption of the setback requirement on July 3, 1973, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION** are legal nonconforming structures.

17.80.020 (A)(2)(a) habitable buildings and garages that were completed between July 3, 1973, and January 1, 1987, **INCLUDING THOSE THAT** have subsequently been enlarged or altered **PRIOR TO THE EFFECTIVE DATE OF THIS REVISED SECTION**, that are located between 45 and 75 feet from the ordinary high water mark of a water body are legal nonconforming structures.

STANDARDS FOR DEVELOPMENT WITHIN 75 FEET OF A WATERBODY

Section 7. Adoption of Subsection. MSB 17.65.020(B)(3)(a) closer than 45 feet from the ordinary high-water mark of a water body, **EXCEPT THAT A VARIANCE CAN BE AUTHORIZED FOR ISLAND PROPERTIES THAT HAVE A DEPTH FROM THE WATER BODY THAT IS LESS THAT 45 FEET.**

RESOLUTION: PATH TO COMPLIANCE FOR HOMEOWNERS

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 existing 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. **THE REQUIREMENT FOR OVERSIGHT BY A QUALIFIED PROFESSIONAL SHOULD BE RELAXED WHEN THE HOMEOWNER HAS SUBMITTED A PLAN THAT MEETS THE PATHWAY REQUIREMENTS.**



Outlook

Waterbody Setback Advisory Board Reso. No 24-01

From pato@mtaonline.net <pato@mtaonline.net>

Date Sun 1/19/2025 9:06 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

MSB Planning

I appreciate that the MSB is taking on the task of regulating waterbody setbacks, especially for activities that endanger the water quality of anadromous waterbodies. We are all witness to the growth of the valley and see firsthand how close roads, parking lots, driveways, homes and commercial buildings are to the lakes and rivers here. What many of us don't see is the loss of native vegetation, fertilized lawns right down to the water and floatplanes and boats being fueled right on the water without any safeguards.

So, this ordinance will be very beneficial in the long term.

I find the ordinance a little confusing, i.e., different setbacks for different dates, grandfathering some but not all structures according to dates, and development standards and mitigation measures. But I understand it is a complicated issue.

There is no information on what waterbodies this ordinance applies to. Is there a definition I am missing? There are assorted sizes of lakes, ponds, springs, creeks, and rivers. Does it apply to any body of water, including the ocean?

The path to compliance should include the same setbacks for lakes and streams. In addition, it seems to imply these setbacks only apply to homeowners. Are there separate standards for commercial uses?

At one point in time (early 2000's) the MSB did require landowners to get a land use permit - a simple checklist the landowner was asked to sign to say they understood the regulations for development on their property. This requirement was short lived. If it had been in place since the founding of the MSB then some of the current problems could have been abated. That is why I believe from this point forward, the MSB should grandfather in most, if not all development that has occurred that is not in compliance. This is the only way to go forward because the MSB did not have in place a permit or checklist or building code that educated landowners on what regulations existed on their property at the time.

In addition, it would be very beneficial to establish new platting regulations for new residential subdivisions with lots adjacent to waterbodies have larger lot sizes so the future landowners can easily comply to the setbacks.

Thank you for the opportunity to comment.

Pat Owens



Outlook

Set back proposal

From Terry Kordewick <tkordewick@gmail.com>

Date Sun 1/19/2025 11:26 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Planning <msb.planning@matsugov.us>; Bill Gamble <bill.gamble@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I have owned a home on Flat Lake for 26 years. Originally we used the property as a weekend getaway, both summer and winter. I have recently retired and our lake home is now our primary residence.

For the past 26 years I have maintained and enhanced our property. I have paid taxes, and spent hundreds of thousands of dollars supporting the local economy (purchasing boats, docks, fuel, groceries, electricity and telephone services, etc)

For a recently formed committee to propose changing all the rules, and declaring that my property is now deemed "noncompliant" is ridiculous. If they want to make up a bunch of new rules, they should be applied going forward to new construction, not retroactively.

I am adamantly opposed to the committee's recommendations.

Terrence Kordewick
Flat Lake resident



Outlook

Review of Proposed Waterbody Setback Ordinance Draft: 11/5/2024

From Ron Ringel Victoria Paulson <ringel.paulson@gmail.com>

Date Sun 1/19/2025 9:34 PM

To Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Please consider addressing the following clerical errors before introducing the WSAB ordinance to the public:

Page 3 of 26:

Format "period" missing in front of definition of hazardous substance.

Page 11 of 26:

17.55.016(D)(1) Word order confusion:

"leak detection may a have..." should be "leak detection may have a..."

Page 17 of 27:

17.02.035(A)(3) Missing word:

"The total area of impervious surfaces within 75 feet of a waterbody will not exceed 20% of the area within 75 of the waterbody."

Much appreciation for the process and overall work effort here. Sincere thanks for everyone's time.

Victoria Paulson
925 N Lucas Rd
Wasilla, AK 99654
907/982-2326



Draft Setback Resolution Comment

From Ashley Maxwell <ashleyinalaska@gmail.com>

Date Mon 1/20/2025 10:23 PM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Bill Gamble <bill.gamble@matsugov.us>; Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hello,

I would like to start out saying I believe in the importance of protecting our waterways and I understand the new efforts in trying to preserve these areas. That being said, I find it hard to wrap my head around the idea of moving every structure before a certain time to accommodate these new rules and I do not think it should be the owners financial responsibility. I can see moving forward with new builds, maintaining the 45'-75' rule. But it seems absurd to have to replace / remove a structure already in place.

Thank you,

Ashley Maxwell

907-538-7122

From: Dale & Melani Kruger and Jeremy & Erica Dufrane
Date: January 18, 2025
To: laceie.olivieri@matsugov.us
Subject: Matanuska-Susitna Borough Proposed Waterbody Setback Ordinance

Lacie, our names are Dale & Melani Kruger and Jeremy & Erica Dufrane. We are residents of the MSB and are landowners whose property will be subject to the proposed Waterbody ordinance if adopted. The following are our joint comments on the draft ordinance.

First, we agree with and adopt all the comments previously filed by Al Bolea, Jim Boltz and Joe Moran. To this extent the proposed ordinance fails to grandfather lawfully installed improvements existing prior to its effective date, it is likely unenforceable. Further it likely will result in an impermissible taking of private property. Moving these proposals will, no doubt, result in undue litigation that will further burden taxpayers.

Our specific concerns are primarily associated with the fact that many parts of this proposal are just government overreach and have not stated the science behind what problems are being solved with each proposal and measurements of how big each problem is in the first place. The majority of the board members have no listed lake front property ownership and have now proposed onerous regulations on others with no exposure to themselves. Several of the parts benefit members such as the proposed resolution requiring the exclusive use of a "Qualified Professional registered with the State of Alaska" to oversee the design and construction of mitigation measures is clearly a conflict of interest. This does nothing more than complicate and greatly increase the total cost of ownership.

The proposed new Riparian Buffer and the 45' no compliance zone have nothing to do with the original public request. Had the board actually directed its efforts toward the original objective of assisting property owners in achieving compliance, then there may have been something beneficial to come out of the exercise. There are many engineering solutions to problems if they are stated and measured; however, all of these proposals are silent as to the rationale and what objective is being solved. If there were well thought, rational and specifically stated requirements for design, then would there even be requirements for setbacks? As owners of lake shoreline, we are the true stewards of this property and have witnessed the lack of impact from structure location. Houses all over the USA and Europe are built right along shorelines with minimal impact, given specific design parameters. The original setback rationale is unclear and is most likely based on historical use of outhouses, of which impacts have been mitigated with current septic designs. The role of government is to define how to build next to shorelines so that impacts are mitigated!

One particularly disturbing part of this proposal is the 50% restriction on waterfront development and the 25 foot riparian buffer requirements. Again, what is the problem we are solving by this requirement? By taking a 25 foot area across 50% of our properties, our lakefront lawn and play area will be severely reduced. Obviously, most lake owners have

installed lawns across 100% of their shoreline and have had this for years, with no impact. The ability for owners to cut any tree or bush on their property is imperative to maintaining beautiful lake views, which is the only reason lakefront property is purchased in the first place!! With the current proposal owners who pull a weed within the 25 foot buffer would be criminals. I have personally constructed a 10 foot riparian buffer along my entire waterfront; however, I am continuously cutting brush and quick growing bushes along this dense buffer to keep them from growing to the point of destroying my lake view. Many are invasive species and all can easily be cut down leaving roots that do not impact the riparian buffer. This activity must be allowed within any new proposal!!

Overall, this resolution will interfere with the personal enjoyment of our private property, unlawfully reduce the size of our property by an unfair “taking”, reduce the value of our property, incur sizable increase to costs of current and future property owners, place property owners in violation by its unreasonable retroactive application violating the general standard of law, and all without clearly doing anything to protect our lakes or our Alaska homes.

We hope the advisory board yields to the input of on some of the largest personal property tax payers in the Mat-Su Borough.

Dale & Melani Kruger 1/18/25 &

Jeremy & Erica Dufrane 1/18/25



Bill.Gamble@matsugov.us; TimHaleDistrict1@gmail.com; stephanienowersdistrict2@gmail.com;
dee.mckee@matsugov.us; ron.bernier@matsugov.us; fonov@matsugov.us;
maxwell@sumnercohomes.com: Edna.Devries@matsugov.us: Alex.Strawn@matsugov.us

From Jennifer Jansma <mtbluetoes@aol.com>

Date Mon 1/20/2025 10:49 PM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

MATSU BOROUGH WATERBODY SETBACK ADVISORY BOARD

As a lake-side property owner on Big Lake, we have reviewed and reflected on the major changes being proposed and can not believe that these bullet points have even made it to a formal proposal for the lake side communities of the Matsu Borough.

We purchased our lake side cabin in 2018, a quaint A-frame log cabin built in 1967/69. Under the proposed objectives, even without remodeling our cabin with it's original footprint, we would be considered non compliant, as our plot of land is part of a peninsula and the whole cabin exists within 45' of the water.

"Earth and Sky, Woods and Fields, Lakes and Rivers, the Mountain and the Sea, are excellent schoolmasters, and teach some of us more than we can ever learn from books." (John Lubbock).

Our lake cabin is our family's place of restoration.

We are not sure if any of you on the board have and/or have had a opportunity to own a lake-side property. If you have ever had the opportunity to kayak, paddle and/or boat around the shorelines in the summer months, or ice skate during the winter months.

If you have, then you would see how many people/families lives you will be affecting, possibly destroying because of the ridiculous regulations that you all are proposing and possibly approving.

We agree that waterbody setback relief measures need to be reviewed and clarified, although, the retroactive penalization of the current established residents of lake side properties is preposterous.

Appreciate your time and consideration regarding this topic.

Jennifer Jansma and Eric Shumar



Outlook

Draft Waterbody Setback Proposal

From Mark Masteller <markamasteller@gmail.com>

Date Mon 1/20/2025 9:03 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Members of the Setback Advisory Committee,

I really appreciate all the work and careful thought that has gone into this draft Setback proposal, and I support the proposed changes to the existing regulations for waterbody setback that the Waterbody Setback Advisory Board has drafted. Proper setback regulations are critical to maintaining good water quality, especially as the Mat-Su continues to grow and "densify." And we are already seeing water quality issues in several of our local water bodies.

Stream and lake buffers also provide natural areas that can help prevent damage from flood waters, and unusual flood events are increasingly common. By providing "storage" areas that hold water and slow the rate of flow, these areas not only protect our homes from flooding but allow water to soak in and recharge ground water. It's far cheaper to provide natural storage areas than to repeatedly pay for infrastructure damage.

The proposed changes strike a careful balance between over-regulation and protecting our waters. I urge you to send the draft plan to the Assembly for approval. Thanks to the WSAB for their diligence and time on this issue.

Sincerely,
Mark Masteller
Palmer



Draft setback resolution comment

From Michael Davis <msdaviation@hotmail.com>

Date Mon 1/20/2025 7:50 PM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Bill Gamble <bill.gamble@matsugov.us>; Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

I believe the 75' setback is too restrictive and this ordinance's pathway to compliance via is onerous financially to the property owners of our borough. I want to protect our waterways but there has to be a reasonable solution that balances property rights with environmental conservation. I am in favor of reducing the setback to at most 45' and providing a pathway and possibly assistance to those property owners with structures that do not fall within whatever setback the borough settles on.

Michael Davis

Sent from my iPhone



Talkeetna Community Council, Inc.

A non-profit, community service organization

January 20th, 2025

Re: Waterbody Setback Advisory Board Recommendations
Submitted via email to msb.planning@matsugov.us

Dear MSB Planning Staff and Waterbody Setback Advisory Board Members,

The Talkeetna Community Council (TCCI) has been supportive of the formation of the Waterbody Setback Advisory board's formation to study the issue and the potential impacts to not only to our treasured natural resources, but the communities and landowners who reside and do business alongside our waterways. We appreciate the time and effort that the Advisory Board has put into studying the issue and the work that went into drafting a new ordinance.

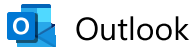
TCCI specifically supports the Board's recommendations to retain the 75ft. waterbody setback and to strengthen the borough's ability to monitor and enforce regulations through building permits. Additionally, we support the recommendations to leave vegetative buffers in place (or restore them if necessary), due to the important role that plays in protecting fish and wildlife in our lakes and streams.

We understand that the issue of waterbody setbacks has been a complicated issue to sort out, and we appreciate the time and effort that the Advisory Board has dedicated to solving this issue in the best way possible.

Regards,

Jonathan Korta
Chair-Talkeetna Community Council
jon@talkeetnacouncil.org
(907) 203-2532

Talkeetna Community Council, Inc.
P.O. Box 608, Talkeetna AK 99676



Outlook

Waterbody Setback

From Tom Boyle <aktomboyle@gmail.com>

Date Mon 1/20/2025 2:37 PM

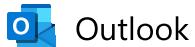
To Planning <msb.planning@matsugov.us>

Cc lisa.behrens.msbak@gmail.com <lisa.behrens.msbak@gmail.com>; Bill Gamble <bill.gamble@matsugov.us>; Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

A new provision is being proposed that a variance can never be granted for a property structure which is closer than 45' from the waterbody. This is extremely detrimental to owners of island properties which have structures with a depth less than 45' from the shoreline. Had the 45' stipulation been in effect, the island property owner likely would never have purchased the property. Creating a pathway to compliance for island homeowners would be extremely expensive.

Sent from my iPad



Outlook

Proposed setback changes

From Charles Spalding <charlesspaldingdmd@gmail.com>

Date Tue 1/21/2025 10:56 PM

To Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hello,

I think that the proposed changes to the lake setback rules should not be applied to existing structures. To go in and move structures would be far more damaging than to leave an existing structure.

This plan also seems like a plan to squeeze more money out of land owners and create additional beauricracy.

Talking with neighbors it has been brought to my attention that the majority of the people drafting these new regulations are not even home owners that would be affected by the new changes.

I also see that done of the board members happen to be engineers that would benefit personally from the requirements of having sites evaluated by a professional engineer.

Charles



Outlook

WSAB 24-01

From Daniel Sides <dansides@me.com>

Date Tue 1/21/2025 2:29 PM

To Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To whom it may concern. My name is Daniel Sides, I am a life long Alaskan and a current and long term resident, property owner, and tax payer in the Mat-Su Borough. I am writing to oppose the adoption of WSAB 24-01.

The borough has waterbody protections built into the current codes and those codes are clear, thoughtful and respect the landowner/tax payers rights while protecting the bodies of water we all enjoy and recreate on and in. Further nuance and rules in this area upset the balance of government and property owners.

I choose to live in the Mat-Su Borough for many reasons, chief among them is the boroughs long held belief in the sovereignty and dignity of its inhabitants. The Mat-Su Borough has always had a frugal government and managed to do more with less than almost any government entity that encompasses a land mass larger than many US States. The Mat-Su Borough is a bastion for those who like access to the convenience of modern life, with the political and personal freedoms to exist with minimal government interference. This proposed change to our property use goes against the very framework of why my family has chose to live in the Mat-Su.

There must be hundreds if not thousands of bodies of water across the 25,258 square miles of the borough. How many new employees will be required to assess, enforce, permit, approve, deny, and reassess properties as needed? Will property owners need to form a queue to be seen or heard by these entities? Is there a guarantee the new employees will be able to keep up with the demand. Will the decidedly more restrictive and encumbering rules be audited for timeliness of the response? Will they be able to shelve requests in perpetuity? What recourse if any will be available to taxpayers if satisfactory results are not found?

Will the board members or officials be elected? Or will they be employees who will be entrenched in the system and almost impossible to remove if their policies prove to be too burdensome and too expensive to manage?

Where will the money come from?

These newly proposed rules are not good government. These rules and this proposal needs to be vetted by the taxpayers/voters in a general or special election.

This would be the equivalent (not to scale) of purchasing a home in an area that did not have a home owners association, and because it didn't have a homeowners association. Then, many years later being told (with the force of law, taxation and eviction) that you are now a member of a homeowners association and you now have to get permission to change anything on your property.

Do any of you live in a neighborhood with a homeowners association? Did you seek that out? Did you deliberately purchase your home in an area that doesn't have a homeowner association?

To those who will vote on this issue, please understand this is very bad business. The taxpayers/voters need to have the vote to approve or deny this. Please don't be the ones who change government for the worse in the Mat-Su Borough.

Please vote "No" on WSAB 24-01

Thank you for your time.

Daniel Sides



Outlook

Waterbody setback

From Donald Ruhoff <dkruhoff@yahoo.com>

Date Tue 1/21/2025 9:15 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

There are some other questions that need to be asked.

What about a study on the ecological impact, wildlife conservation and who came up with the dates for all these things that are stated? Also has anyone done water samples to test these things? You speak of high water marks but yet we all know with lakes and rivers they change from year to year. Someone needs to pay for these studies and make qualified suggestions not demand their properties...how can these be proven???

You can't just throw something into the air and see what happens this is injustice. Not fair practices for homeowners. We live day to day in these areas do you??

All this seems like just a ploy for the Borough to collect more monies.

We all have to balance our budgets the Borough must do the same. What about Borough projects funded by grants that are not complete " due to funding ".....

I think this whole thing was not thought through or studied. Also what about all the "duck shacks" and water bodies that have docks, are you going to spend all this money to check each and everyone of these.

It feels like there is no Community with the Borough and that is what the Borough is supposed to be FOR the Communities. Like areas are being targeted for someone's profit. Plus these things don't seem studied and relevant.

After submitting our initial comments on the proposed Waterbody Setback Provisions, we have come across additional concerns. Our concerns are primarily associated with the self-serving aspect of some the Waterbody Setback Advisory Board Members. A majority of the board members have no listed lake front property ownership. Placing them in a position of proposing ridiculously onerous regulations on others with no exposure to themselves.

Secondly, and as concerning, is the apparent jobs program initiated to benefit several of the board members. The proposed resolution requiring the exclusive use of a "Qualified Professional registered with the State of Alaska" to oversee the design and construction of mitigation measures is clearly a conflict of interest initiated for their benefit. This does nothing more than complicate and greatly increase the cost of whatever this process is intended to do.

The Riparian Buffer, nor the 45' no compliance zone, have nothing to do with the misdirected self-stated goals of the Advisory Board. Had the board actually directed its efforts toward the original objective of assisting property owners in achieving compliance, then there may have been something beneficial to come out of the exercise. Misguided errored assumptions lead to the development of this board resolution. Waterbody setbacks of 75 feet, 45 feet, or even 25 feet have no actual impact other than to infringe on personal property rights. As owners of lake shoreline, we are the true stewards of this property and have witnessed the lack of impact from structure location. This resolution will interfere with the personal enjoyment of our private property, unlawfully reduce the size of our property by an unfair "taking", reduce the value of our property, incur huge costs to property owners, place property owners in violation by its unreasonable retroactive application violating the general standard of law, and all without doing anything to protect our lakes or our Alaska homes. This self-serving flawed document is grossly in error and must be disregarded in its entirety.

Thanks for the opportunity to further comment on the uselessness of this resolution. We would like to know what the advisory board is attempting to do other than cause an extreme hardship on some of the largest personal property tax payers in the Mat-Su Borough.

Respectfully,
Karla Ruhoff
Sent from my iPhone




Outlook

Big Lake setback concerns

From Donald Wenke <dswenke@gmail.com>

Date Tue 1/21/2025 9:35 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>

 1 attachment (20 KB)

Comment to WSAB Draft Resolution 24-01.docx;

[**EXTERNAL EMAIL** - CAUTION: Do not open unexpected attachments or links.]

Lacie

Please see attached comments/ concerns with proposed legislation. Additionally, I would like to add that I personally applied for and received a valid permit for all projects completed on our property from the MatSu borough. What's the point of following the rules, if someone is going to change them years later and attempt to fine you or invalidate the permitted work?

Donald S Wenke

[Dswenke@gmail.com](mailto:dswenke@gmail.com)

907 978 6198

[Attached Al Bolea's comments](#)



Outlook

Waterbody setback ordinance

From Dulce Ben-East <birchmama@gmail.com>

Date Tue 1/21/2025 1:06 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To whom it may concern;

I have reviewed the recommendations to the Assembly of the Waterbody Setback Advisory Board (WSAB) concerning the Setback Ordinance. I mostly agree with their recommendations, although I believe that more attention needs to be paid to impacts to salmon habitat. Our anadromous fish streams and the riparian zones and forests associated with them are extremely important to all of us. The Salmon Habitat Partnership is not convinced that a permit requirement is the best concept to address impacts to salmon habitat. I would like to see more emphasis and study on this aspect of the setback issue.

Thank you

Dulce Ben-East

resident of the MatSu Borough

Founder Alaska Wild Harvest and Kahiltna Birchworks Birch Syrup

Former member of Real Property Asset Management Board



Virus-free www.avg.com



Outlook

Comments on Water Setback report

From Ellen V <evisse@gmail.com>

Date Tue 1/21/2025 12:19 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Jan 21, 2025

To all it may concern,

RE: Waterbody Setback Advisory Board Report / Resolution revised Oct 29, 2024

My review and comments on this proposed plan of action:

I have reviewed the Advisory Board's recommendations

I have participated in two (2) lengthy, thorough presentations about the setback problems & the Board's recommendations.

I have learned that this group, with its three real estate representatives, biologists, and others have spend enormous amounts of time educating themselves about the problems and potential remedies & solutions—geological, physical, ecological, managerial, political, and more.

I have learned that the group was united in serving the goal— a healthy salmon & other fish resource habitat for Mat Su, and fairness to all property owners, builders, and tax payers.

I have, as a biologist, nothing but admiration and praise for the proposed plan.

It is professional, thorough, and truly addresses all the complications.

IT IS NOT OFTEN THAT WE HAVE THE PLEASURE OF SEEING A JOB SO WELL DONE! Hurrah!

I highly recommend that the Mat Su Assembly adopt the recommendations, AS IS!

If I would add to the existing excellence, it would be this:

- incorporate workable remediation methods **for each season.**
-
- When the ground is frozen, and we have winter rain and/or spring thaw, some erosion management schemes do not work.
-
- So add in more erosion mitigation methods for each season and extreme weather condition.

Huge gratitude for the dedication of the citizens who gave their time and their best to create this masterpiece!

Honor it and those who worked many months by passing the entirety of the Waterbody Setback Board's recommendations.

Thank you

Ellen VandeVisse
Palmer AK
907 745 0758



Outlook

Opposition to WSAB24-01

From Jake Lamphier <jakelamphier33@gmail.com>

Date Tue 1/21/2025 9:01 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To whom it may concern,

My name is Jake Lamphier, I am a property owner, Alaska resident and Tax paying citizen of the Mat-Su Borough. I oppose the adoption of WSAB 24-01.

First and foremost, I choose to move my family and my business to Willow in 2020 because we wanted easier access to the wild resources of Alaska and live a life less encumbered by government bureaucracy. The adoption of this proposal is an example of government overreach, affecting those of us who are responsible, law-abiding, tax paying citizens.

I am a business owner whose business is centered around consumptive use of wild animals. I am a lifelong outdoorsman, who cherishes the wilds of Alaska, of which my family almost exclusively secures our protein needs from wild salmon and wild game. I have a vested interest both personally and commercially in the conservation and proliferation of wild species of salmon and ungulates.

I grew up on the Kenai Peninsula where similar type regulations were adopted concerning the numerous anadromous stream/water bodies on the Kenai. Effective and prudent regulatory structure requires nuance and discernment to balance the ecological needs without causing overburdensome rules that negatively impact the economic opportunities and recreational desires of its residents. Excavation and dumping of over burden in salmon rearing streams is bad, creating a landscaped recreational lawn on a lake is not in the same category.

The population centers of the Mat - Su borough are located within the Anchorage - MatSu - Kenai Nonsubsistence area. Meaning that the residents domiciled within this area do not have a customary or traditional use of wild fish and game. Simply stated, this area is considered urban in the eyes of ADFG. Although our salmon runs in the MatSu are at historic lows and there is a serious biological concern for all 5 species of salmon that return to MatSu rivers, this measure means nothing to reversing that trend.

This proposal and its language regarding the hiring of MORE bureaucratic employees is the wrong direction for this borough. The borough is already struggling to hire and retain employees; the school district is in budgetary deficient and the creation of more government "jobs" is laughable.

Myself and countless others like me, moved to the MatSu to have less government and bureaucratic overreach in our life's. The management of the Municipality of Anchorage and its downfall (I was employed by the muni for 8 years), should be case in point of what happens to a community that embraces such flawed political practices.

We citizens do not want our lives or livelihoods influenced by unelected, government appointed bureaucrats. The MatSu borough can choose to be a bastion of freedom, safety and economic prosperity or follow in the footsteps of thousands of failing communities in our country. I urge this board to strike down WSAB 24-01 and reallocate my tax money and your time to matters more prudent to the flourishing of our borough.

With Respect,
Jake Lamphier
Willow, AK 99688
(907) - 394-6460
Sent from my iPad



Public Comments - Resolution and Ordinance for Waterbody Setbacks

From Harry Holt <hholt@mtaonline.net>

Date Tue 1/21/2025 9:18 AM

To Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

January 20, 2025

Jean Holt
1940 N. Finger Cove Dr.
Palmer, AK. 99645

To the Mat-Su Borough Waterbody Setback Advisory Board ,

Enclosed are my comments relating to the Resolution Serial No. 24-01 and Ordinance pertaining to Waterbody Setbacks.

*Resolution, page 1 of 5

- Does not have MSB 17.125 Definitions stated in description of the Resolution like the Ordinance.

*Resolution, page 1 of 5

- Paragraph of the Importance of the Advisory Board describes clearly what is required of the board. These goals have been meant by the board over the past year. Along with public comments they received recently to add or subtract to their recommendations if needed. Soon the Assembly will have the opportunity to give their comments, endorsements and passage of the Resolution and Ordinance.

- This has been way overdue for the protection of our waterbodies and the need for the implementation by the Planning Department is of top priority. No longer can this Not be addressed.

- There should be a "designated area" in the department pertaining to Water only. The Road Service have their own entity in the Planning Dept.

* Resolution, page 2 of 5, top of page.

- The need to mention Fish as stated under "wildlife like"?

*Resolution, page 3 of 5, top of page.

-75 feet setback of *lakes" (should it be waterbodies? And is the Board addressing lakes, rivers, streams and ponds as one, like they had in later board meetings?).

*Resolution, page 4 of 5

#7 Enhanced Enforcement

"Additional staff be hired to patrol water bodies during summer months" has been offered with the

Resolution by the Planning Dept. during the process of the board.

- One of the Weakest Links in the MatSu Planning Dept. There is a definite need to have a Full-Time position or positions for Water only in the Planning Dept. as stated earlier in Resolution, page 1 of 5. Not necessarily Code Compliance officer but one or others that incorporate a list of jobs descriptions pertaining to all facets of Waterbodies.

*Resolution, page 4 of 5

#8 Limitation of Variances

- Confusing, is this from 45 feet to water's edge?

- How is the Planning Dept. going to address these variances in the future?

-In the past, variances have been granted to applicants as close as 25' with the Planning Dept.

Recommendations from their Findings. Thus making it difficult for the Planning Commission decision making.

*Ordinance, page 1 of 26

Chapter 17.55 Setbacks

Section 17.55.025 Existing Structures within 75' of a Waterbody needs to be listed with the other Sections.

*Ordinance, page 3 of 26

-" Impervious surface" sentence to be added: as an example, Asphalt.

*Ordinance, page 5 of 26

-"Private Pond" It should be addressed like all waterbodies setbacks, etc. Not specify to ponds being eliminated from regulation.

*Ordinance, page 5 of 26

-"Secondary containment" Last sentence about Double-walled tank, confusing.

*Ordinance, page 7 of 26

-17.55.005 Purpose and Intent

-(A)1 to be added: Height of Structures (especially if allowed structures between 45'-75').

-(B) "Viewshed" Clearer understanding needed.

*Ordinance, page 8 of 26: "Standards" Clearer understanding make be needed or not, State/ Federal Standards?

*Ordinance, page 9 of 26

(F) 1 and 2

-This exceeds the required 25' Riparian Buffer by allowing commercial or industrial buildings of Pedestrian Walkways of 30 ft. Wide.

-This whole section needs a closer look for further consideration from the Advisory Board.

*Ordinance, page 10 of 26

-17.55.016 Waterbody Setbacks for Pollution Sources

-(B) last sentence about private ponds not required to be 100 ft., should be eliminated.

-(C) May need to add homes to be with commercial and industrial facilities for paved parking areas no closer than 25 ft.

-(1) Does this apply to asphalted driveways all the way to water's edge with homes?

*Ordinance, page 13 of 26

-17.55.020 Waterbody Setbacks of Structures

-(C) The sentence may need to clarify "incidental" accessory access. Does this refer to asphalt driveways from Street to edge of waterbody?

In the previous pages with notes, I question a lot about addressing paved driveways and parking with homes. It is important what the guidelines are since there are many properties with this situation and for the future.

*Wasilla, ce, page 14 of 26

-(1) An application for a Shoreline Setback Exception and a filing fee by Resolution of the Assembly for the City of Wasilla.

- The MatSu Borough does not need to spend time and money on City of Wasilla's Variance Request by property owner. I sure there will be many variance requests in the future or sooner.

* Ordinance, page 15 of 26

-17.55.040 Violations, Enforcement and Penalties

- This entire section is the other Weak Link in the Borough's Government . Until the Borough truly commits itself to the taxpayers and the function's of it's duties, nothing will change.

The Borough has neglected investing in what needs to be done, Protection of the Water Quality. With the amount of high taxes of waterfront properties all these years, the Borough has not designated a part of these monies for solutions of enforcement and resources.

*Ordinance, pages 17 - 20

-(B) # 1-7 need to be re-numbered correctly.

*Ordinance, pages 15- 26 of 26

- All the details of these Sections, Subsections must be taken seriously in order to have any substance of a Waterbody Ordinance. The Board has had to take the past, present and future to address the inadequacies of both the property owners waterbody setback violations and the borough government.

Thank you for the opportunity to comment.

Sincerely,
Jean Holt



Outlook

WSAB Reaolution 24-01 comments

From Home2 <grg142@gci.net>

Date Tue 1/21/2025 1:57 PM

To Lacie Olivieri <Lacie.olivieri@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

As concerned property owners on Big Lake I offer the following comments regarding the proposed resolution:

Reducing the setback from 75 feet to 45 feet for structures not built in compliance, while requiring new properties to conform to 75 feet is inconsistent and unreasonable. Keep the requirement consistent to facilitate clear enforcement and construction criteria. The goal is to improve waterbody preservation. Reducing the setback will not improve the ecological balance and biodiversity. Don't allow structures to encroach closer than 75 feet. And, focus enforcement on petroleum and septic violations that are contaminating the waterbodies.

Section 1; requiring a "qualified professional" to develop and oversee a non-delineated "compliance pathway" will result in prohibitive delays and significant cost increases to improve any existing properties. Property owners are liable for the work performed on their property regardless of quality or compliance by a qualified professional. Develop language that will ensure qualified professionals are competent. there are too many "unqualified" but licensed professionals working in the MatSu Borough. There is already significant non-conforming development occurring adjacent to waterbodies. This language will encourage impatient property owners to forge ahead and attempt to negotiate a variance.

Section 6; this language will significantly increase the cost for property owners utilizing heating oil on their property, and also creates a potential requirement for the storage of fuel cans on a property. Secondary storage will collect rain water, and the proposed language must consider the ongoing requirement to control the accumulation and treat contaminated water prior to discharge so that the secondary containment is capable of 110% capacity. The effort to inspect and ensure secondary containment is not only installed but maintained will be significant. **Suggestion:** to reduce the potential of contamination to waterbodies by petroleum release, require that all petroleum storage tanks above a reasonable specific quantity (i.e. 100 gallons) be located no closer than 100 feet from the body of water. This aligns compliance with current and proposed septic placement, and waives secondary containment for fuel can storage less than 100 gallons.

Section 7; what authority will "enhanced enforcement" personnel have to "immediately" respond to observed infractions? Currently, enforcement officers must obtain permission to access property. Riding around the lake and taking pictures may only succeed in increasing the backlog of enforcement actions.

I support methods that will preserve our shorelines, and improve the water quality. Please focus on the systems and methods that are adversely affecting our lakes and streams. Aggressively enforce the correction of violations to preserve the lakes and streams in the MatSu Borough. Thank you for your efforts to develop improved compliance language.

Respectfully,

Kurt and Melissa Hermes

Sent from my iPhone



Outlook

Waterbody Setback

From Lynn <lfuller@mtaonline.net>

Date Tue 1/21/2025 2:23 PM

To Planning <msb.planning@matsugov.us>; TimHaleDistrict1@gmail.com <TimHaleDistrict1@gmail.com>; StephanieNowersDistrict2@gmail.com <StephanieNowersDistrict2@gmail.com>; Dee McKee <dee.mckee@matsugov.us>; Maxwell Sumner <maxwell.sumner@matsugov.us>; Bill Gamble <Bill.gamble@matsugov.us>; Ron Bernier <ron.bernier@matsugov.us>; Fonov <Fonov@matsugov.us>; Edna DeVries <Edna.DeVries@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To the MSB Planning Department, Mayor and Assembly,
I strongly urge the Borough to adopt the waterbody setbacks as described in the WATERBODY SETBACK ADVISORY BOARD RESOLUTION SERIAL NO. 24-01, and/or to adopt recommendations of the Borough Fish & Wildlife Commission if they are more stringent than in the most recent draft resolution. To not do so risks harming property values and local fish and wildlife populations, and negatively impacting residents and visitors alike. Healthy waterbodies are critical to a healthy economy.

The Borough is so fortunate to be dotted with lakes, wetlands, rivers and streams that provide endless recreational opportunities for residents and visitors alike. For those fortunate enough to have property along a waterbody, the increased enjoyment and property value can be significant. However, a waterbody that crosses property boundaries is not the property of one person, but a common resource. Polluting or otherwise disturbing waterbodies- including the adjacent shorelines or streambacks that are biologically connected to them- should not be allowed any more than emitting toxic materials into the air should be. I believe the draft resolution strikes a conservative balance between protection of the waterbodies and personal property freedoms- such as allowing removal of some but not all of a vegetative buffer.

While some impacts to waterbodies are obvious and immediate, such as major streambank/shoreline pollution or disturbance, other impacts are cumulative over time and require a longer-term approach to ensure acceptable water quality. Removing shade from streambanks and shorelines (impacting water temperatures and fish populations) and adding pollutants from fertilizer runoff (eventually leading to unpleasant algal blooms and affecting all aquatic life) are just two examples of why we need to be proactive in our land use decision making.

In my experience as an educator and aquatic biologist, I have seen that most property owners support efforts that protect water quality when they understand how the actions on their property can affect the health of adjacent and nearby waterbodies. I would encourage the Borough to not only adopt the waterbody setbacks but increase its efforts to educate property owners, and waterbody recreationists, about additional ways they can keep our lands and waters healthy.

Thank you for your consideration.

Lynn Fuller
Palmer, AK

Date: January 21, 2025
Subject: Matanuska-Susitna Borough
Proposed Waterbody Setback Ordinance

Dear, Water Body Setback Advisory Group

I first want you and those who review my comments to know that I first came to the Big Lake property I own on Big Lake in 1956, when it was owned by my older half-brothers. They and friends cleared the trees, dug by hand the dirt where the first log cabin was constructed about 12 feet from the shoreline. Then about 1998 my brother and I built the main house on the center of the property and a workshop on the south side of the property based on what we understood to be the governing regulations for our property. I also acquired the adjacent lot and cabin about 10 years ago. So, you must understand that this “Waterbody Setback Ordinance” as drafted has the potential of significantly impacting I and my family.

In addition, I was a State Senator that represented the Mat Su during my term in office and have real and legitimate concerns related to the process and implications of the ordinance as drafted on all the property owners of Big Lake and the other lakes covered by the draft ordinance.

I would like to associate myself with all the comments previously filed by Al Bolea, Jim Boltz and Joe Moran. To this extent the proposed ordinance fails to grandfather lawfully installed improvements existing prior to its effective date, it is likely unenforceable. Further it likely will result in an impermissible taking of private property. Approving these draconian proposals will, no doubt, result in undue litigation that will further burden taxpayers. Simply put, this action as proposed is an illegal taking and will not stand the test of legitimate and lawful rulemaking in any way shape or form. While I have been out of the legislative process for a few years, I doubt the proposed ordinance would stand scrutiny by the courts.

In my opinion many parts of this proposal are just government overreach and have not stated the science behind what problems are being solved with each proposal and measurements of how big each problem is in the first place. As proposed, this ordinance is onerous regulations on property owners with no true justification. As pointed out by others, several of the parts of the proposed ordinance benefit directly members the “Water Body Advisory Group” that drafted it, such as the proposed resolution requiring the exclusive use of a “Qualified Professional registered with the State of Alaska” to oversee the design and construction of mitigation measures is clearly a conflict of interest.

The proposed new Riparian Buffer and the 45' no compliance zone have nothing to do with the original public request. None of these provisions existed when we built the first cabin on the property in 1956 or when we built my home in 1998. We followed all governing rules at the time. Had the board directed its efforts toward the original objective of assisting property owners in achieving compliance, then there may have been something beneficial to come out of the exercise. There are many engineering solutions to problems if they are stated and measured; however, all these proposals are silent as to the rationale and what objective is being solved. If there were well thought, rational and specifically stated requirements for design, then would there even be

requirements for setbacks? As owners of lake shoreline, we are the true stewards of this property and have witnessed the lack of impact from structure location. Houses all over the USA and Europe are built right along shorelines with minimal impact, given specific design parameters. The original setback rationale is unclear and is most likely based on historical use of outhouses, of which impacts have been mitigated with current septic designs. The role of government is to define how to build next to shorelines so that impacts are mitigated! I only wish the Water Body Setback Board had addressed an immediate and more pressing issue of Big Lake shoreline erosion that has resulted in my losing up to 8 feet or more of property from the wake boats that produce 3-to-4.5-foot waves coming near shore undercutting the existing Riparian Buffer shoreline. If you take a tour of Big Lake, you will see the effort being made by some to mitigate the erosion by installing tons of large rock around the shoreline of individual properties.

One particularly disturbing part of this proposal is the 50% restriction on waterfront development and the 25-foot riparian buffer requirements. Again, what is the problem we are solving by this requirement? By taking a 25-foot area across 50% of our properties, our lakefront lawn and play area will be severely reduced. Obviously, most lake owners have installed lawns across 100% of their shoreline and have had this for years, with no impact. The ability for owners to cut any tree or bush on their property is imperative to maintaining beautiful lake views, which is the only reason lakefront property is purchased in the first place!! Under a strict interpretation of the current proposal owners who pull a weed within the 25-foot buffer would be criminals. This activity must be allowed within any new proposal!!

Overall, this resolution will interfere with the personal enjoyment of our private property, unlawfully reduce the size of our property by an unfair "taking", reduce the value of our property, incur sizable increase in costs for current and future property owners, place property owners in violation by its unreasonable retroactive application violating the general standard of law, and all without clearly doing anything to protect our lakes or our homes.

I would hope the advisory board yields to the input from myself and fellow property owners of the Mat-Su Borough.



Mike Szymanski



Outlook

Water setback proposal 24-01

From Rick Taylor <rick@taylorfire.com>

Date Tue 1/21/2025 6:13 AM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Hello

I am writing to share my desire to not move forward with or accept the proposed water setback changes as proposed in proposal 24-01. This proposal is over reaching and affects the appropriate and acceptable use of land negatively.

I see no information on restriction of public use areas nor use of users of the waterways and lakes. Only that of property owners.

This is only one of few concerns of mine as an owner of multiple water front properties.

I can understand a tax incentive for leaving natural vegetation as well as a reasonable setback for permanent structures. Possible restrictions on fuel and hazmat storage is of interest as well due to possible contamination.

Restricting what I see as normal yard activities such as gardens, sheds, gazebos, and docks is overreaching and a minimum.

It's unfortunate that the amount of time required to create this proposal and others similar was yet again spent on controlling only property owners of waterfront properties.

Please reconsider this proposal.

Thank you,
Rick Taylor

Memo To: Waterbody Setback Committee and MSB Planning Department

From: Ruth Wood, Talkeetna

Via Email to: msb.planning@matsugov.us

RE: Comments on MSB Waterbody Setback Advisory Board Resolution Serial No. 24-01 and draft Ordinance

Date: January 21, 2025

Thanks to this committee for the tremendous efforts they have put in to examining and bringing forward recommendations for waterbody setbacks. I have read through the committee's resolution and the draft ordinance. I support both the resolution and the draft ordinance as proposed. I have a few comments for your consideration.

First, and most important is retaining the 75 foot setback from waterbodies. Our natural waters are critical to healthy people, anadromous fish, and wildlife. Water is important in all of Alaska, but especially so in the MatSu Borough where we have so many lakes, rivers, and streams, and where our population is growing so fast.

Second, The proposed changes to 17.55.016 are mostly good, but I have a question about a couple:

“(C) Paved vehicle parking areas for commercial and industrial facilities shall not be located closer than 25 feet from the ordinary high water mark of any water body.”

I don't think that paved parking areas for commercial and industrial facilities should be allowed as close as 25 feet to a waterbody, and although the ordinance proposes requirements, I don't think they will sufficiently protect waterbodies. Additionally, most of our lakes have at least a 50 foot easement (there are different types of easements) around/along our lakes and streams. Paving within those easements for parking should not be allowed, nor for paving of pathways. Run-off from paving is a significant source of water pollution.

The draft ordinance includes: “(1) paved parking areas within 75 feet of a waterbody shall demonstrate that the development standards identified in MSB 17.02.035(B) regarding stormwater runoff are met.” MSB 17.02.035(B) is an addition to code added in this ordinance and mostly concerns variances. It isn't clear what is needed to demonstrate that standards are met— will it require either a variance or a mandatory building permit to pave within 75 feet of a waterbody?

The next section (D) goes on to talk about fuel storage within 75 feet, and the requirements seem sufficient. My question is whether the State has any requirements related to fuel storage within 75 feet, and will this code be in compliance with state requirements?

Third, I am glad to see that the resolution recommends a Path to Compliance for existing homes built within 75 in violation of MSB 17.55, and that the proposed ordinance outlines stringent requirements for those seeking nonconforming status and for those seeking variances. While I think stringent requirements are important, I think the borough needs to provide advice and assistance to those seeking nonconforming status for existing structures. For individuals with small properties near lakes, these requirements are formidable, and while necessary, the borough needs to be prepared to help individuals comply with the requirement.

Fourth, Land Use Permit Requirement - MSB 17.02 does need to include a mandate for building within the 75 foot setback, and it must be mandatory.

As an aside, the MatSu Borough is growing and growing fast. The Borough needs to require a building permit mandate for for any structure built on any lot, but most especially for building on any lot with waterbody frontage. This is because there is no other way to ensure that a property owner knows the the setback requirements for waterbodies or for lot lines. If the property owner is using a licensed contractor, the contractor should know, but many people build themselves.

The borough had a mandatory building permit, and it was repealed when residents complained about the cost. But, a mandatory building permit does not need to be expensive. It can be free or have a minimal cost as low as \$25. If you can afford to build, you can afford \$25. Yes, it would require staff and funding for the borough, but it is important, needed, and would be worth the cost to the borough.

Fifth, I don't have the expertise to comment on the provisions for riparian buffers, but I do know how critical they are. I see that there are requirements for retaining natural buffers, but removing riparian buffers should be kept to the absolute minimum.

Finally, To reiterate one of my comments above, I am particularly concerned that most waterbodies have easements of 50 or 75 feet along the ordinary high-water mark. There are many different types of easements— some state, some borough, and perhaps some federal, and different provisions in each kind of easement. I think easements around/along waterbodies are important for residents, and building, paving, etc. should not be allowed within an easement that's not a road right-of-way.

Again, thank your for the time you have put in to this committee.

Sincerely,
Ruth Wood, Talkeetna



January 21, 2025

Comments submitted by: Mat-Su Basin Salmon Habitat Partnership

Waterbody Setback Advisory Board
Matanuska-Susitna Borough
350 E. Dahlia Ave.
Palmer, Alaska
99645

Re: Matanuska-Susitna Borough Waterbody Setback Advisory Board Resolution 24-01

Dear Waterbody Setback Advisory Board members,

The Matanuska-Susitna Basin Salmon Habitat Partnership (Partnership) has been working to conserve salmon habitat in the Mat-Su Basin since 2005. We are a voluntary and non-regulatory coalition that has grown from a handful of founding organizations to over 65 diverse entities. The Mat-Su Borough is one of those founding organizations and has held a seat on the Partnership Steering Committee for over fifteen years. Partners share a common vision for thriving salmon, healthy habitat, and vibrant communities in the Mat-Su.

In the fastest growing region of Alaska, the Partnership appreciates the challenge faced by the Matanuska-Susitna Borough Waterbody Setback Advisory Board (WSAB) in balancing community needs and values. We commend the WSAB's hard work, openness, and sustained commitment to thoughtfully addressing identified issues with current setback standards, while retaining water quality and other community assets and values. The Mat-Su Basin Salmon Habitat Partnership is honored to have been able to provide technical expertise in support of this important effort with a designated seat on the WSAB held by Matthew LaCroix. Following, we offer information about the Partnership and resource documents in service of the Board's efforts to review its draft proposed ordinance - Resolution 24-01.

The future of Mat-Su salmon depends upon what happens to them during each life stage, from their incubation and rearing in freshwater, to their maturation in saltwater, to their return to freshwater to spawn. While research continues to determine the reasons for decline of some salmon stocks across Alaska and in the Mat-Su Basin, it is well-known

that freshwater habitat loss and fragmentation have been some of the primary drivers in the decline of anadromous fish in the U.S. and the world. Based on lessons learned elsewhere, we know that maintaining these functioning habitats is far more cost effective than trying to restore them once they are degraded. Therefore, the goal of the Mat-Su Basin Salmon Habitat Partnership is to ensure that Mat-Su salmon have healthy habitat, from upper Cook Inlet throughout the Mat-Su Basin. Our top priority is to protect and maintain healthy habitat wherever possible.

Guided by a strategic action plan, over the past 20 years, the Partnership has funded over 100 salmon habitat related projects in the Mat-Su through the National Fish Habitat Partnership totaling over \$4 million in direct funds with nearly \$15.5 million in other project contributions. Some of those funds have gone toward conserving and restoring riparian areas, which are the vegetated zone where land and water meet along streambanks and lakeshores. These areas provide important functions such as habitat for spawning and rearing salmon populations, flood resilience, and help support healthy water quality.

The Partnership's strategic action plan emphasizes support for the development of local land use planning mechanisms to maintain riparian buffers along waterbodies. The Partnership is grateful that the Matanuska-Susitna Borough Assembly gave this issue the attention it deserves by convening the WSAB. As expressed above, we appreciate the efforts of the WSAB in considering possible revisions to the existing standards for development adjacent to waterbodies.

One of the primary effects of housing and urban development on salmon and their habitat is the alteration of riparian habitat. Other primary effects include loss of wetlands, degradation of water quality, creation of impervious surfaces, and changes to natural drainage patterns. This occurs from the actual clearing of land, construction of buildings, and the various activities on those cleared lands that have direct and indirect impacts on waterbodies.

Riparian areas around streams and lakes are often altered or cleared to improve views or facilitate construction. This can have numerous negative consequences for healthy salmon populations including increasing water temperatures, loss of woody debris and more - that ultimately reduce the capacity of the waterbody in question to produce salmon. The Partnership's overall riparian goal is to prevent alteration of riparian areas that provide valuable salmon habitat. There are additional goals to address the filling of wetlands and to address impervious surfaces and storm water pollution.

Riparian areas serve key functions in supporting healthy freshwater salmon habitat. They also provide other broader community benefits - including greater flood resiliency and improving water quality.

The attached documents are two science summaries developed by the Partnership for community leaders in 2020 that synthesize information on the importance of riparian areas and wetlands and include a section on best practices – for both private and public landownership on the final document pages. Some best practices from the riparian summary include:

- Riparian buffers or setback corridors exist adjacent to streams, rivers and lakes where limited use or development occurs to protect and benefit both wildlife and landowners. Vegetated buffers prevent erosion and protect property during flooding.
- Recommended buffer widths can vary based on riparian functions including for erosion control, fish habitat, and wildlife habitat. In general, benefits will be greater with wider riparian buffers.

Some other highlights about riparian areas:

- Benefit Mat-Su communities by delivering economic, cultural and ecological services. They are vital for the overall health and function of streams, and important community assets. They also provide crucial habitat for rearing and spawning salmon and helping to maintain healthy water quality. The native vegetation in these areas additionally benefits people by providing natural erosion control and mitigating flood damage.
- Help to reduce the effects of flooding. Riparian vegetation provides rough surfaces that slow water velocity and the potential damage to property and buildings within the floodplain. This mitigates flood damage to personal property and enhances property values.
- Prevent erosion. When riparian vegetation is removed, stream banks are open to erosion from normal water activity like rainfall, snowmelt, and boat and aircraft wakes. These water activities can negatively impact property owners by causing streambank erosion, destruction of property, and existing infrastructure if a buffer does not exist.

- If vegetated with native plants, filters pollutants (such as fertilizers, heavy metals, pesticides and soil) from surface run-off.
- Help maintain cooler water temperatures by providing shade. Alaska fish species prefer cooler water temperature ranges for spawning, incubation, and rearing. Water temperatures above these ranges affect their health and productivity – even cause death. The significant fish die-offs during the summer of 2019 were attributed to warm temperatures with lower levels of dissolved oxygen. Riparian cover will be increasingly important in a projected warming climate to help maintain cool water temperatures and contribute to cold water refugia - places where aquatic species can retreat from warm waters.

The current Mat-Su Borough 75-foot setback applies only to habitable structures and does not require the retention of any riparian vegetation. As highlighted above, a vegetated riparian buffer provides greater benefits than a setback alone.

In fast growing Mat-Su, the greatest risk to salmon and their habitat is the cumulative impact of development and land use actions that compound over time to degrade riparian habitat, block salmon passage, and impact water quality, quantity, and flow. In addition to, and compounded by, urbanization, salmon and their habitat are vulnerable to impacts associated with climate change, changing ocean conditions, fishing practices, and invasive species. With a general trend of declines in salmon returns, maintaining healthy habitat is more important than ever.

Salmon are a critical part of the Mat-Su economy, ecology, and way of life. Thank you again to WSAB members for your sustained and committed efforts to find consensus in identifying potential solutions to address issues such as non-compliance with setback code while retaining other community values like water quality that is critical to healthy salmon habitat. We appreciate the opportunity to provide technical expertise in support of this important effort with a designated seat on the WSAB. Please do reach out with any questions or if we can be of additional service.

On behalf of the Mat-Su Basin Salmon Habitat Partnership Steering Committee,



Jessica Speed
Mat-Su Basin Salmon Habitat Partnership Coordinator
Jessica.speed@tu.org
907-595-7818

Attachments:

- 1) Value of Riparian Areas. Mat-Su Basin Salmon Habitat Partnership, 2020
http://matsusalmon.org/wp-content/uploads/2020/12/Riparian_Summary_1-14-21.pdf
- 2) Importance of Wetlands. Mat-Su Basin Salmon Habitat Partnership, 2020
http://matsusalmon.org/wp-content/uploads/2020/08/Wetlands_Summary_7-31-20.pdf

Healthy Streambanks Support Healthy Salmon

Healthy streambanks and salmon benefit everyone



Individuals rely on salmon for recreation and as a food source and cultural connection to the land. Healthy streambanks mitigate flood damage to personal property and enhance property value.



Local economies and businesses, such as sportfish guides and lodges, rely on sustainable fisheries and tourism, and benefit from streambank functions such as flood resilience.



The **State of Alaska** invests money and resources in fisheries management. Ensuring healthy streambanks and salmon runs will protect this investment into the future.

What are riparian areas?

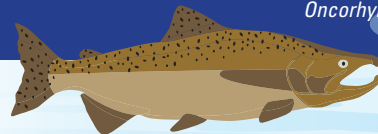
Riparian areas are the vegetated zone where land and water meet along streambanks or pond shores. These areas provide important habitat for rearing and spawning salmon populations. Removing or changing natural vegetation along waterways can impact both juvenile and adult salmon.

Conserving and maintaining continuous, healthy riparian corridors and habitat along streams and lakes will help salmon and other fish populations thrive, ensuring the longevity of this natural resource that Alaskans rely on for commercial, subsistence and sportfishing.



Riparian

Chinook (king)
Oncorhynchus tshawytscha



Sockeye (red)
O. nerka



Chum (keta/dog)
O. keta

Pink (humpback)
O. gorbuscha



Coho (silver)
O. kisutch

Salmon species in the Mat-Su

All five species of Pacific salmon found in the Mat-Su Basin spend varying amounts of their life cycle in freshwater, from a few months up to five years!

Thriving salmon and healthy habitats make vibrant communities in the Mat-Su

The Mat-Su is a special place where vibrant communities and resilient wild salmon are closely linked. Generally, salmon numbers remain strong here; however, human use and development may be impacting habitat quality and causing localized declines in salmon numbers.

We have a unique opportunity to develop our economy while living side by side with wild salmon, an important natural resource that supports our communities and economies.

What Services Do Riparian Areas Provide?

Riparian areas benefit our community by delivering economic, cultural and ecological services. They are vital for the overall health and function of streams, providing critical habitat for rearing and spawning salmon and helping to maintain healthy water quality. The native vegetation in these areas benefits people by providing natural erosion control and mitigating flood damage.

Water quality matters

Salmon are sensitive to the quality of the water in which they live, including temperature and the levels and type of sediment and nutrients in the water. Fisheries may be negatively affected by human activities that alter water temperature, change sediment levels, and pollute water, resulting in impaired water quality.⁵

Supply shade and cool temperatures

- Shade from vegetation helps maintain adequate water oxygen levels for aquatic life
 - » Warmer waters cannot carry as much oxygen, and Alaska stream species need high levels of dissolved oxygen
- Alaska fish species prefer cooler water temperature ranges for spawning, incubation, and rearing
 - » Water temperatures above these ranges affect their health and productivity

Maintain biodiversity

- Riparian corridors provide important habitat and migration routes for fish, mammals, and birds

Provide nutrients and organic matter

- Leaves and vegetation support insects and other juvenile salmon food sources

Provide protection for juvenile salmon

- Overhanging vegetation, emergent aquatic plants, and woody debris provide cover and protection from predators, as well as areas of refuge during high velocity floodwaters

Stabilize streambanks

- Riparian tree and shrub roots hold streambank soils together, helping to prevent erosion during flood events

Reduce flooding and resulting flood damage

- Riparian vegetation provides a rough surface that reduces the water velocity of flood waters and reduces the potential damage to floodplain surfaces and structures

Provide recreation opportunities

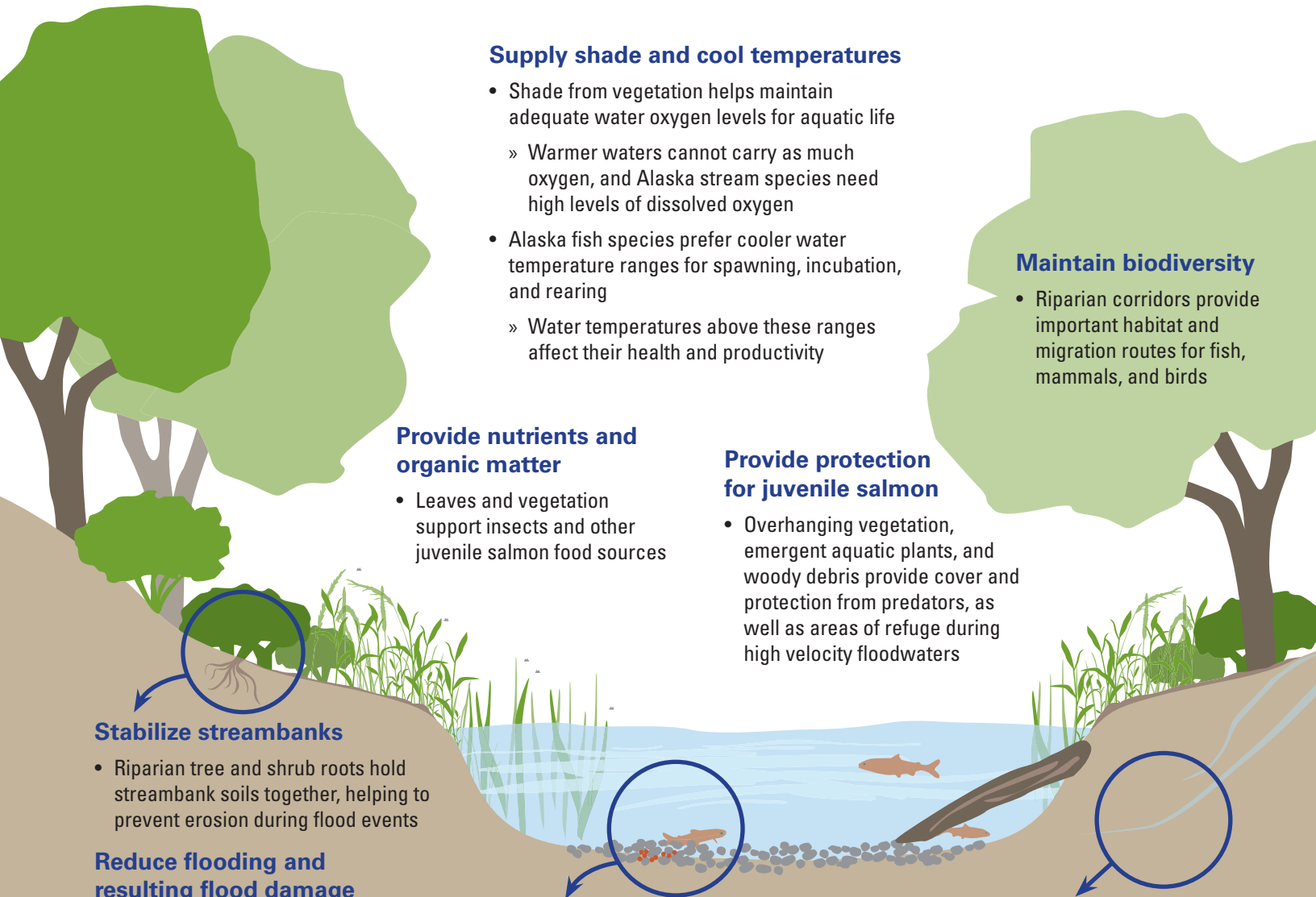
- Walking trails, ATV trails and boating activities allow people to enjoy these areas along with the wildlife

Retention of sediment

- Native riparian vegetation traps sediment which helps maintain water quality and support fish habitat
 - » Clear water keeps fish gills healthy and provides accessible, sediment-free gravel for spawning and healthy egg development

Filter urban pollutants

- Native riparian vegetation filters pollutants (such as fertilizers, heavy metals, pesticides, and soil) from surface runoff
 - » Some plants immobilize pollutants in the soil where they can be broken down by microbes over time, while others bioaccumulate them into the plant tissue



Human Activities and Resulting Impacts to Riparian Services

Human activities have the potential to negatively impact riparian areas, threaten salmon habitat and degrade water quality. Alterations and activities that affect salmon include removing, disturbing or changing the composition of native shoreline vegetation, development of impervious surfaces, and recreational activities.

Human Activities and Resulting Impacts



Alter or remove native vegetation



Develop impervious surfaces



Recreational activities

Increased water temperatures

- Water temperatures increase without proper shade
- Warm water can stress and delay timing of spawning salmon
- Prolonged exposure to warm water can damage or kill salmon eggs

Altered or damaged habitat

- Trampling vegetation, walking off of designated pathways to streams, or using unauthorized ATV crossings can lead to loss of vegetation and damage to habitat
 - » Human traffic can destroy salmon eggs and fry if people or vehicles cross over spawning sites, reducing salmon populations

Reduced nutrient availability

- Reduced or altered plant organic matter change the nutrients available in streams
- Altered riparian vegetation composition changes the species of insect foraging those leaves, affecting the diet of juvenile fish

Increased water velocity

- Without riparian vegetation, there are fewer rough surfaces to slow water velocity
 - » Increased water velocity results in eroded streambanks, loss of property, and fewer protected slow-water areas for salmon

Destabilized streambanks

- Turf grass's shallow root systems alone cannot adequately hold together streambanks
 - » Fewer roots to hold soil together results in destabilized streambanks and an increase in erosion
 - » Erosion could lead to streambank collapse

Increased flooding and flood damage

- Without riparian vegetation, there are fewer rough surfaces to slow water velocity
 - » Increased water velocity results in eroded streambanks and loss of property

Increased sedimentation

- Less riparian vegetation increases the sedimentation of water, which results in destroyed or reduced fish spawning grounds and decreases the quality of gravel beds where fish eggs develop
 - » Salmon fry waiting to emerge from nests could be buried
 - » Sediment irritates fish gills, reducing their oxygen intake

- Buildings and paved surfaces reduce the soil's ability to absorb water, which increases water volume, causing more sediment to enter streams
 - » Surface runoff carries sediment into water
- Recreational activities (such as using trails or boating) can add sediment to waterways

Increased water pollution

- Less riparian vegetation allows pollutants from surface runoff to enter waterways and degrade water quality and fish habitat
- Increased impervious surfaces (paved areas) lead to increased runoff pollution and flood potential without native vegetation to slow the runoff water and filter pollutants

Prevent alteration of riparian areas and minimize impacts to our creeks, streams, rivers and lakes that provide valuable salmon habitat.

In many places in the Mat-Su Basin, salmon and their habitats are healthy so protective measures, like reservations of water, sustainable land management, voluntary land protection and individual behaviors can prevent degradation. In other places, restoration is necessary to re-establish healthy streambanks and productive habitat.

GOAL: Conserve riparian areas

Individual landowner actions	Public and private land recommendations	
<ul style="list-style-type: none"> Keep a continuous buffer of native trees, shrubs, and grasses near streams; do not modify or remove existing native vegetation. Leave woody debris in water. Minimize bank and vegetation trampling by using single access points to waters and utilizing elevated and light-penetrating walkways and ramps to access shoreline fishing and boat docks. Store snow from driveways on grassy areas away from the stream so pollutants can be filtered from the melted water. Securely store and properly dispose of oil, grease, chemicals and pesticides. 	<ul style="list-style-type: none"> Riparian buffers or setbacks are corridors adjacent to streams, rivers and lakes where limited use or development occurs in order to protect and benefit both wildlife and landowners. <ul style="list-style-type: none"> » Buffers prevent erosion and protect property during flooding. The Mat-Su Borough requires a riparian setback for structures to be a minimum of 75 feet from the ordinary high-water line. The larger the setback, the greater the benefits will be. Recommended buffer widths based on riparian functions include:² <ul style="list-style-type: none"> » Erosion control: buffer of 30-98 feet » Fish habitat: buffer of 30-230 feet to control stream temperature » Wildlife habitat: buffer of 33-164 feet Allow unobstructed fish passage in streams and creeks. <ul style="list-style-type: none"> » Utilize methods such as properly installed culverts to allow passage. 	<ul style="list-style-type: none"> Minimize bank and vegetation trampling by using single access points to waters and utilizing elevated and light-penetrating walkways and ramps to access shoreline fishing and boat docks. ATV stream crossing recommendations include:³ <ul style="list-style-type: none"> » Only cross salmon streams at authorized crossings. » Cross at existing crossings, or at a low banked area with a rocky bed and drive slowly. » Check for adult fish and gravel nests before crossing and avoid spawning areas. » Cross at a right angle to the flow. » Do not drive up and down streams. » Ride at least 10 feet from the edge of a stream to protect streambank vegetation.

GOAL: Restore riparian areas

Restoring riparian areas improves water quality, reduces erosion and excessive flooding, and provides critical fish habitat

<ul style="list-style-type: none"> Replant native vegetation or allow natural vegetation to return to streambanks. 	<ul style="list-style-type: none"> Stabilize banks utilizing bioengineering techniques as described in ADF&G's <i>Streambank Revegetation and Protection</i>⁴ guide, as opposed to rip rap or sheet pile. 	<ul style="list-style-type: none"> Remove invasive plant species and/or detrimental structures from riparian areas.
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What is the best way to protect my property from erosion?

The best erosion prevention strategy is to keep native stream vegetation. Plant roots naturally hold soil together, slow runoff, and disperse rainfall, all while maintaining benefits for fish and wildlife. Rock rip rap may provide some local protection from erosion, but it often transfers the erosion problem to another location. Rip rap allows sediment and pollutants to flow into the stream without being filtered by native vegetation, does not provide nutrients for fish, increases water velocity, and could ultimately contribute to declining fish populations.

Salmon swim in glacial streams, so why is sediment a problem?

Although Alaska salmon populations have evolved to thrive in glacier river systems with a degree of natural sediment levels, they are still vulnerable to sudden increases in sedimentation. This is particularly true in clear water streams and tributaries when large influxes of sediment enter into spawning and rearing habitats. This large input of material can clog gills, reduce or degrade available spawning habitat, suffocate or smother eggs, or reduce juvenile feeding success.⁵

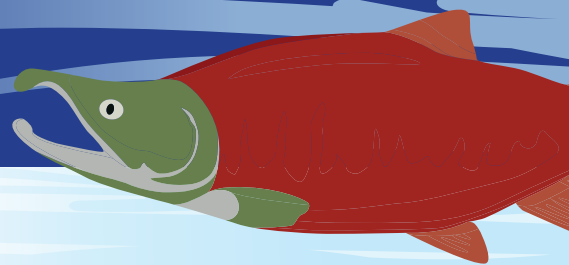
References:

1. *Living Next to a Salmon Stream*. http://greatlandtrust.org/wp-content/uploads/2014/10/2012-11-28-GLT-DRAFT-Living-Next-to-a-Salmon-Stream_v5_lores.pdf
2. *Riparian Buffer Zones: Functions and Recommended Widths*. http://www.eightmileriver.org/resources/digital_library/appendicies/09c3_Riparian%20Buffer%20Science_YALE.pdf
3. *Off Road Vehicle Crossings at Salmon Streams*. <https://www.adfg.alaska.gov/static/license/uselicense/pdfs/OffRoadVehicleCrossingsatSalmonStreams.pdf>
4. *Streambank Revegetation and Protection: A Guide for Alaska*. <https://www.adfg.alaska.gov/index.cfm?adfg=streambankprotection.main>
5. Kjelland, M.E., Woodley, C.M., Swannack, T.M. et al. *A review of the potential effects of suspended sediment on fishes: potential dredging-related physiological, behavioral, and transgenerational implications*. *Environ Syst Decis* 35, 334–350 (2015). <https://doi.org/10.1007/s10669-015-9557-2>

Additional information:

- *Building a Fish friendly Mat-Su Basin: Salmon-Safe Guidelines for Development in the Matanuska-Susitna Borough*. <http://matsusalmon.org/wp-content/uploads/2018/07/Building-a-Fish-Friendly-Mat-Su-Basin-June-2018-060118-6MB.pdf>
- *Conserving Salmon Habitat in the Mat-Su Basin: The Strategic Action Plan of the Mat-Su Basin Salmon Habitat Partnership*. 2013. <http://matsusalmon.org/wp-content/uploads/2012/10/2013-Strategic-Action-Plan.pdf>
- *The Role of Riparian Areas*. <https://www.adfg.alaska.gov/static/fishing/pdfs/sport/byarea/interior/publications/ripariandisplay.pdf>
- *Sharing the Edge: Copper River Landowner's Guide for Site Development and Fish Habitat Protection*. <https://copperriver.org/wp-content/uploads/2016/03/Landowners-Guide.pdf>

Wetlands Help Salmon & Communities Thrive



Healthy, functioning wetlands benefit everyone



Individuals rely on wetlands for fishing and recreation opportunities, and wetlands provide natural erosion and flood control that benefits landowners



Businesses and **local economies** benefit from flood control and rely on fisheries, hunting, tourism, and outdoor recreation opportunities that wetlands provide



The **Matanuska-Susitna Borough** benefits and saves money from wetlands that provide natural stormwater management, flood control, and filtration of pollutants to our watersheds and water supply

Thriving salmon and healthy habitats make vibrant communities in the Mat-Su

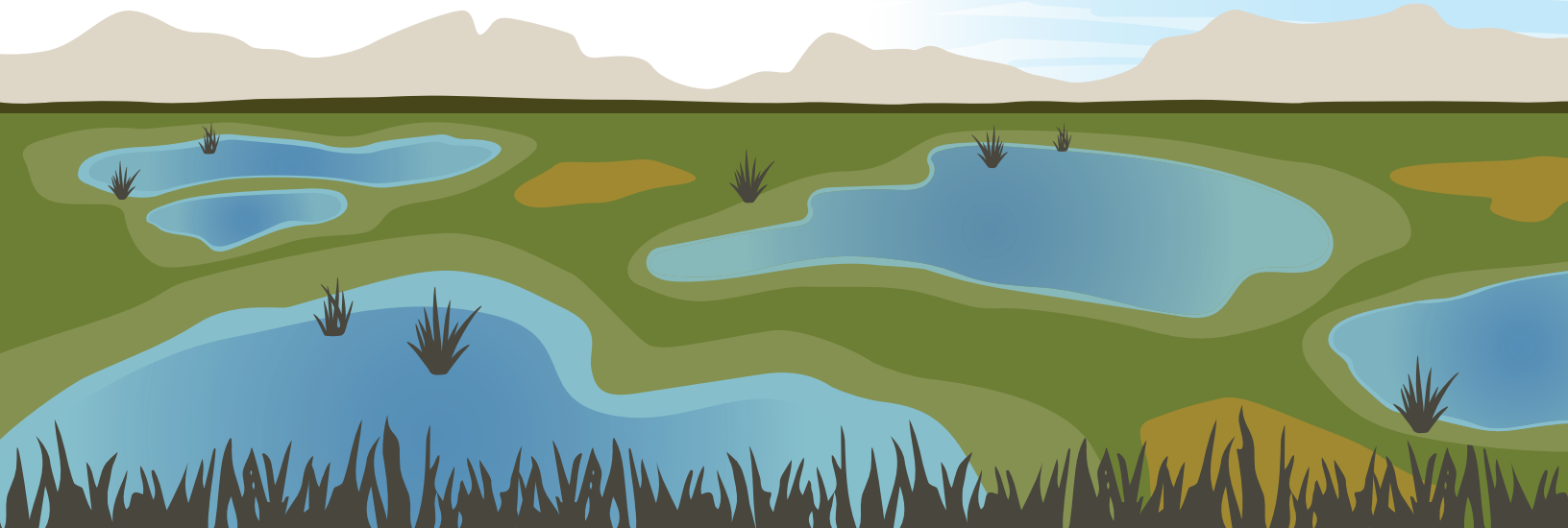
The Mat-Su is a special place where vibrant communities and resilient wild salmon are closely linked. Generally, salmon numbers remain strong here; however, human use and development may be impacting habitat quality and causing localized declines in salmon numbers.

Other parts of the world have already seen the decline or extinction of salmon populations. We have a unique opportunity in the Mat-Su to safely develop our economy while ensuring the survival of wild salmon, an important natural and cultural resource that supports our communities and economies.

What are wetlands?

Wetlands are areas of land that are covered by or saturated with water, such as marshes or bogs. Surface water may be present seasonally or permanently. Wetlands are an important part of a watershed, connecting surface and subsurface waters of rivers, streams, lakes, and oceans.

Approximately 25% of the Matanuska-Susitna Borough's 25,258 square mile land mass is wetlands.¹ This vast amount of wetlands is one reason why the Mat-Su has such abundant salmon resources, as wetlands provide habitat for juvenile salmon rearing.



What Services Do Wetlands Provide?

February 5, 2025

Waterbody Setback Meeting

123 of 175



Wetlands provide important economic, ecological and cultural services to the Mat-Su. Key services wetlands provide include:

Fish and wildlife habitat

- Provide important feeding and sheltered rearing habitat for salmon and other fish species
- Provide safe and healthy waterways important to spawning salmon
- Provide an ideal environment for the development of organisms that attract and feed many species, including salmon
- Support salmon-bearing waters by storing and releasing cooler water that helps regulate water temperature, stream flows and lake levels
- Support biodiversity by providing food, water and shelter for mammals and birds

Erosion and flood control

- Stabilize shorelines and reduce erosion by distributing the flow of stream or river currents and holding soil together with plant roots
- Reduce flood water levels and flood-related damages to homes and businesses by acting like giant sponges
 - » Wetlands absorb, store and slowly release surface water, rain, snowmelt, and flood waters over time
 - » Vegetation slows the movement of water over floodplains, helping reduce erosion on adjacent lands

Water quality improvement and management

- Protect and improve water quality by acting as giant environmental filters
 - » Wetlands slowly filter fertilizer, sediments, heavy metals, and pollutants before water seeps into rivers, streams, and underground aquifers
- Provide wellhead protection by replenishing and purifying groundwater/drinking water
- Manage stormwater and increased amounts of surface water runoff due to paved surfaces, which helps reduce the impacts of runoff, such as increased sedimentation and water pollution that disrupt water flow and affect fish habitat and egg development

Economic benefits

All of these services provide economic benefits. For example, when wetlands purify groundwater and manage stormwater, our communities avoid the costs associated with the construction and continuous management of water and stormwater treatment facilities, saving millions of dollars.²

For example, in Minnesota, “the cost of replacing the natural flood control function of 5,000 acres of drained wetlands was found to be \$1.5 million annually.”³

National and local protections for wetlands

“The lack of state regulations combined with the broad scope of federal regulations make the need for local conservation and protection efforts all the more important.”

-Matanuska-Susitna Borough *Wetlands Management Plan*

Clean Water Act Section 404

Federal law requires a permit be obtained from the U.S. Army Corps of Engineers (USACE) before a wetland can be developed, filled or dredged. The USACE only has jurisdiction over wetlands if they are connected to navigable waters.

- Other agencies involved in or overseeing the permit review process: the Environmental Protection Agency (EPA), the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), Alaska Department of Environmental Conservation (ADEC), Alaska Department of Fish & Game’s Division of Habitat, and the Matanuska-Susitna Borough (MSB)
- USACE has decreased required mitigation plans for developments in recent years, reducing protections for wetlands

State of Alaska:*

- No regulations that apply to the Mat-Su

Mat-Su Borough:

- An ordinance regulating development along waterbodies and in floodplains requires a 75-foot setback for built structures from shorelines
- An ordinance regulating floodplain development requires all structures to conform to the minimum standards of development and obtain Flood Hazard Insurance
- The Su-Knik Wetlands Mitigation Bank is comprised of undeveloped, borough-owned wetlands. Landowners and developers can mitigate development of private wetlands by paying to protect banked wetlands.
- MSB Wetlands Management Plan provides guidance for developers and landowners¹

Local governments:*

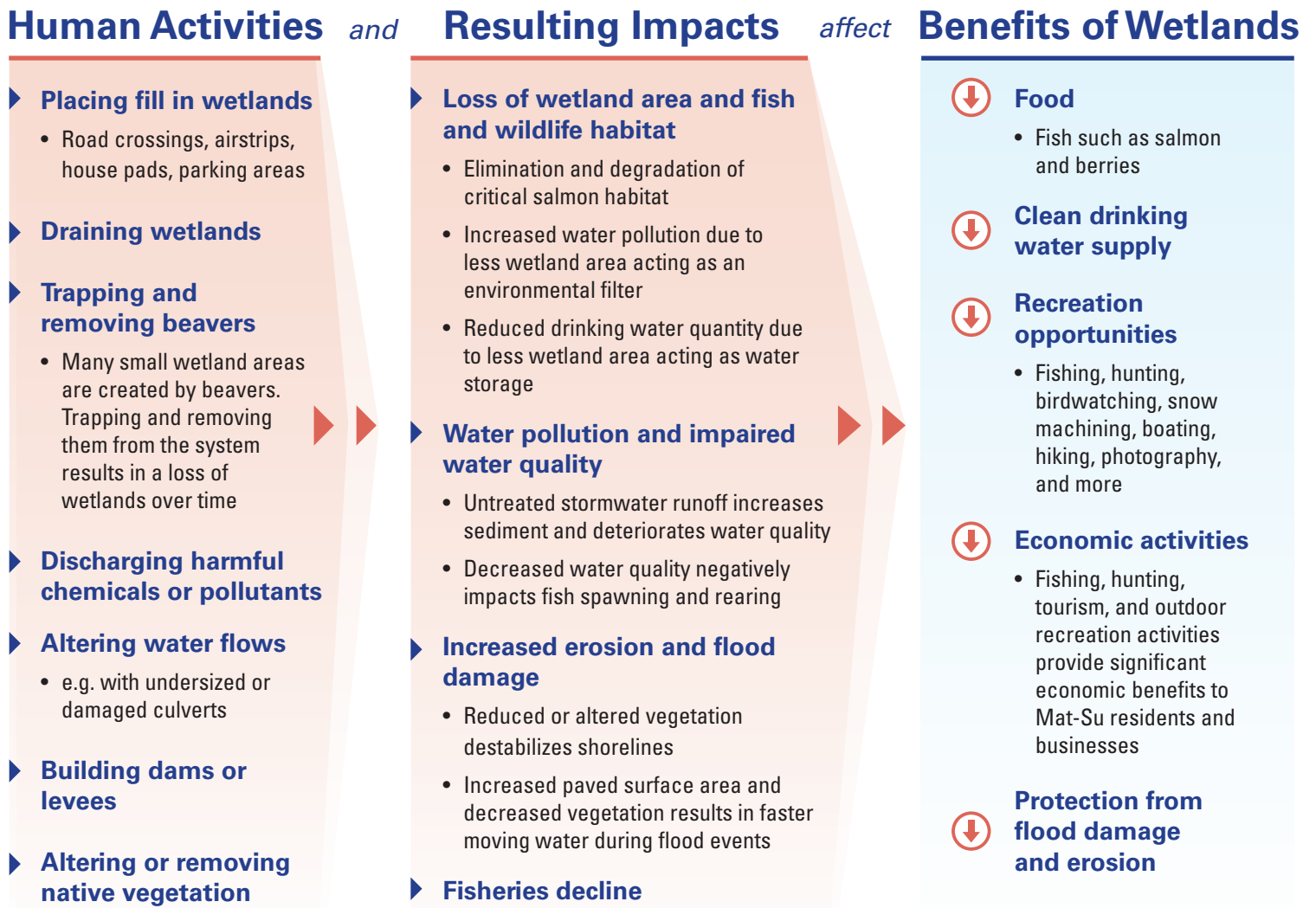
- No direct control over wetlands through regulation, mitigation, or enforcement

* = gap in regulation

What Challenges Do Wetlands Face?

February 5, 2025
 Waterbody Setback Meeting
 "As development continues, the demands for groundwater and surface water will increase. Undisturbed wetlands are critical to maintaining water supplies, balances, and quality."
 -Matanuska-Susitna Borough Wetlands Management Plan

Human activities and climate change cause the majority of challenges that wetlands face. Predominant stressors to wetlands include biological, chemical, and physical alterations to habitat. In the Mat-Su Basin, loss of wetlands is most often caused by urban development, jeopardizing these natural assets that support the Mat-Su way of life. In particular, the loss and filling of wetlands can have a range of detrimental impacts on salmon populations.



💰 Economic benefits of healthy salmon populations in the Mat-Su

Commercial and sportfishing support thousands of jobs and millions of dollars in earned wages in the Mat-Su.

Commercial: \$0.6-\$2.1 million annual earnings between 2004-2012 for Mat-Su resident permit holders only (*does not include supporting industries*)⁴

Sportfish: \$31-\$64 million annual earnings for Mat-Su residents (*includes supporting industries*)⁴

Residents also benefit economically from fishing by saving money at the grocery store.

Best Practices

The best approach is conservation!

“Avoiding negative impacts to wetlands through careful planning and management is vital to maintaining their functions and values,” and “maintaining current wetland functions will be less expensive than fixing a degraded system.”

- Matanuska-Susitna Borough Wetlands Management Plan

In many places in the Mat-Su Basin, salmon and their habitats are healthy so protective measures, like reservations of water, sustainable land management, voluntary land protection, and individual behaviors can prevent degradation. In other places, restoration is necessary to re-establish functioning wetlands and productive habitat.

“Today, the survival of Pacific salmon depends upon our ability to manage harvests and protect, maintain, and improve salmon ecosystems in harmony with human development.”

- ADF&G Alaska's Wild Salmon

GOAL: Conserve wetlands

Public and private land recommendations

<ul style="list-style-type: none"> • Develop/follow protection mechanisms <ul style="list-style-type: none"> » Tax incentives to protect wetland habitat » Development setbacks or buffers » Land swaps » Set minimum flow rates and stream and lake levels to maintain viable aquatic systems » Floodplain development • Encourage voluntary conservation easements and/or purchase wetlands from sellers 	<ul style="list-style-type: none"> • Enhance degraded wetlands • Mitigation options <ul style="list-style-type: none"> » On-site mitigation » Mitigation banks: These banks “restore, enhance, or otherwise permanently preserve wetlands in perpetuity and generate credits which may be used to offset unavoidable wetland impacts”⁵ in another location » In-lieu fee programs: compensatory mitigation for impacts or unavoidable losses to wetlands due to development or other projects 	<ul style="list-style-type: none"> • Due to potential declines in water quality from already-filled wetlands, consider limited to no additional filling of wetlands, or provide compensatory mitigation, in the following heavily impacted watersheds:⁶ <ul style="list-style-type: none"> » Wasilla Creek Watershed » Cottonwood Creek Watershed » Lucile Creek Watershed » Meadow Creek Watershed • Avoid discharging warmed roadside ditch water directly into a stream; re-infiltrate ditch water on the downhill side of a road running parallel to a stream to reduce the risk of elevating stream temperatures⁷
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Are all wetland types created equal?

A variety of wetland types exist, and they all have different characteristics and functions depending on their location in the landscape. Individual wetlands contribute to the overall functioning of an entire watershed. Wetland development should be evaluated on both an individual basis and considering the collective health of a watershed.

How much filling of wetlands is too much?

“Substantial declines in water quality may be expected after more than five percent of wetlands in a boreal watershed have been filled,”¹ though additional research is needed to confirm this. In some Mat-Su watersheds, around 10% of wetlands have already been filled. Many of these waterbodies have been designated as having “impaired” water quality.

Are some wetlands more critical for salmon populations than others?

Some wetlands directly support salmon populations while others do not; however, some wetlands may indirectly support salmon by contributing to the overall health of a watershed. In Alaska, individual wetlands and their ecological roles regarding salmon need to be continually identified and assessed.

References:

1. *Wetlands Management Plan*. Matanuska-Susitna Borough. 2012. <https://www.matsugov.us/environment/wetlands2012/matsugov2012.pdf>
2. <http://www.epa.gov/watertrain>
3. *Wetland Functions and Values*. U.S. Environmental Protection Agency. <http://www.epa.gov/watertrain>
4. *The Economic Geography Of Salmon*. Cultural Research North. http://www.matsusalmon.org/dev/wp-content/uploads/2015/12/David_Holen-Mat-Su-Salmon-Symposium-2015.pdf
5. *A Comprehensive Inventory of Impaired Anadromous Fish Habitats in the Matanuska-Susitna Basin, with Recommendations for Restoration, 2013*. Alaska Department of Fish & Game. http://www.adfg.alaska.gov/static/regulations/regprocess/fisheriesboard/pdfs/2013-2014/uci/anadromous_fish.pdf
6. Gracz, Mike. *Wetland Loss Assessment by Wetland Type and Watershed in an Expanded Core Area of the Matanuska-Susitna Borough*. <http://matsusalmon.org/wp-content/uploads/2018/08/MatSuWetlandLoss2018-7.pdf>
7. Haserodt, Megan. *Effects of Roads on Groundwater Flow Patterns in Peatlands and Implications for Nearby Salmon Streams on the Kenai Peninsula, AK*.

Additional information:

- <http://greatlandtrust.org/priorities/habitat-conservation/>
- *Appendix 5.3 Wetland Habitats: Featured Species-associated Wetland Habitats: Freshwater Grass Wetland, Freshwater Sedge Wetland, Bog, and Salt Marsh (Estuarine)*. https://www.adfg.alaska.gov/static/species/wildlife_action_plan/appendix5_wetland_habitats.pdf
- *Conserving Salmon Habitat in the Mat-Su Basin: The Strategic Action Plan of the Mat-Su Basin Salmon Habitat Partnership, 2013*. <http://matsusalmon.org/wp-content/uploads/2012/10/2013-Strategic-Action-Plan.pdf>
- <https://www.fisheries.noaa.gov/national/habitat-conservation/coastal-wetlands-too-valuable-lose>
- *Alaska's Wild Salmon*. Alaska Department of Fish & Game. https://www.adfg.alaska.gov/static/home/library/pdfs/ak_wild_salmon.pdf



Outlook

Comments on upcoming Big Lake Set back change

From Sarah Hanvy <sehanvy23@gmail.com>

Date Tue 1/21/2025 10:13 AM

To Lacie Olivieri <lacie.olivieri@matsugov.us>; Planning <msb.planning@matsugov.us>

 1 attachment (20 KB)

Comment to WSAB Draft Resolution 24-01.docx;

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

To Mrs. Lacie and MSB planning,

Hello, I was informed today is the last day to submit comments about the upcoming set back requirement changes for Big Lake. This letter is on behalf of myself and my husband, Justin Erdelac.

We are both residents of Long Island, lot #27. We've now owned this property for approximately three years. We are full time residents of the island and navigate the break up and freeze up periods. As full time residents we know the majority of people on the island and many around Big Lake.

The best part about where I live are my neighbors and the community. Many people who this set back will impact have lived in Big Lake or had homes in Big Lake since the 60s and 70s. As such, most are now retired. Therefore, to make homes in this area fit this compliance, it would be a major undertaking that would likely cause many of these long term residents undo financial stress (potentially to the point of selling) and likely grief to find a qualified engineer to then make plans to have these homes fit in compliance.

Although this legislation would not impact me as much as many of my neighbors, as my house was built in 1967, it opens the door for great concern as well as the elimination of any future variance as my house is closer than 45 feet.

What happens when eventually all houses have to fit in compliance? Will there be tax subsidies or grants to help pay for these changes? What constitutes a variance? Will I still be able to add gutters to my house this summer? Frankly, If I did have to make my house in compliance we will likely have to consider selling our dream home for the amount of money it would take to fix it to this bill's standards.

If I understand correctly a lot of these changes are to help bolster environmental health. I would respectfully submit that one of the greatest problems on the Lake is shore line erosion from wake boats. Additionally, if boats were better inspected or regulated on the lake there would be less incidents of oil and gas being spilled in the lake. Instead, why not tax wake boats that have taken at least a foot of my shore line in the last 3 years that I am still paying taxes on?

Ultimately, this bill is not of aid to myself, my family, my neighbors, and my Big Lake community cannot in good faith support this bill passing. I additionally submit Al Bolea's comments as they reflect our beliefs as well.

Please do not hesitate to reach out with questions or concerns,

Sincerely,

Sarah Hanvy and Justin Erdelac

Dear Mr. Gamble, and all concerned

My family and I own a cabin on Flat Lake that we built in 2012. We built the cabin on the only buildable portion of our property. The proposed Waterbody Setback Advisory Boards resolution 42-01 dated Oct 29,2024 puts undue/retroactive burden on our property and many other properties on Matsu borough lakes. Much of the property in the borough that surrounds lakes is very swampy/wet and unbuildable with 75' setback rules.

Our cabin is less than 75' back but more than 45' from the shoreline. We have built a fine cabin and have had power installed at great costs. We have left all trees on the shoreline only removing the dead. Our property is naturally very appealing and creates no water hazards. We are proud property owners and Matsu tax payers that intend to spend much of our future retirement years on this property.

The proposed effort to enforce the proposed resolution after decades of no guidance or enforcement with no reasonable ability to comply is unacceptable

My self and my family are fully in support of all shoreline and clean water protection with reasonable and responsible setback requirements . The requirements do need to be at a reasonable cost and burden to the property owner.

Thank you for your time on this matter

Most Respectfully

Thomas VanHoomissen
Flat Lk Cabins Unit 2
22400 Flat Lake Island Cir

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After reviewing resolution 24-01 we believe that this resolution does not need to be implemented and any changes to the code should be handled on a case by case basis with regard to the codes and regulations already in place with the Matsu Borough.

The terrain around big lake and all water bodies around Alaska are all different with their own difficulties to develop. I don't think any waterfront property owner would approve of having to pay for a permit for something they can be worked out on their own with the codes and regulations that are currently in place. Resolution 24-01 gives the impression of government overreach that most Alaskans are tired of. All property owners that we know do care for the environment and if they didn't their neighbors and simple peer pressure would self-correct the issues.

Once you start changing the codes, where does it stop. Please leave well enough alone. I believe it would be wiser to concentrate on the thousands of unpopulated lakes that may need supplemental protection.

When you look around the populated lakes and see properties well maintained all year around (ice roads cleared by our local owners) and no one is asking for borough handouts.

While developing our property we broke ground on our existing Big Lake weekend getaway (still in the process of completion) worked with Kendra Johnson code compliance officer staying constantly in contact and who was amazing, she assured us that the existing structures could not be habitable but could remain as a boat house and shed now years later you are trying to change the rules.

The rules and regulations on the books now do not need any change, we bought our property to enjoy freedom from compliance that has increased greatly in anchorage and neighboring communities in the last few years

We wholeheartedly disagree with any retroactive code or new regulation that could change our agreement with Kendra.

If any changes are to be made, perhaps it should be up to a vote of the landowners.



Comments for MATANUSKA-SUSITNA BOROUGH WATERBODY SETBACK ADVISORY BOARD

From Chris Wallstrum <chriswallstrum@gmail.com>

Date Tue 1/21/2025 9:14 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Please see attached comments for creation of the Water Setback Advisory Board Ordinance 23-079.

A MSB 17.02 should be mandatory for ALL non-conforming structures adjacent to waterbodies. Therefor a thorough review of the human waste, fuel storages and other potential contaminants can be vetted and alternatives considered. Other structures have been rebuilt in the footprints of old legal non-conforming and expanded. A review of Legal non-conforming structures should be considered. What if a structure burns if unrepairable or owner wants to upgrade/remodel. Can it be completed because the footprint is grandfathered in that close to lake?

MSB 17.02 currently does not mention ground-disturbing activity

Many mentions that a 17.02 is required for ground-disturbing activities within 75 feet of the ordinary high-water mark of any water body- why a private pond not regulated by WOTUS? If it is a pond it is owned by the landowner, not the public- should not be regulated and exempted.

Private Pond- Why 5 acres- If it is not Waters of the US- Then it shouldn't matter if its on one single property owner or more.

17.55.016 (A)- How will this be treated with outhouses? Such places as horseshoe lake on the peninsula, Nancy lake, big lake complex etc. have outhouses that are less than 100 feet from the lake. Enforcement action to rid these pollution devices form the lake area should take place. Alterative means should be considered to aid water quality.

17.55.016 (B) Owners with dogs live and have facilities closer than 100 feet to waterbodies. How do you enforce dogs living closer than 100 feet?

17.55.016 (E)(1) 50% of surface area of what? Lot. Lake area, landowner cumulative area? To what extent from the watercourse? This very vague.

17.55.016 (E)(1) (a) no definition of vegetation health.

17.55.016 (E)(2) 50% of surface area- define to what extent? This is very vague.

17.02.035(A) the director may issue a land use permit if... This needs to be SHALL if all conditions are met. May is too objective and open to abuse.

There should be an exemption to the permit process for small sized work under a certain size (so many sq feet)

Landowners with approved Army Corps of engineers' wetland permits shall have all the available time of the permit and not have to get a retroactive permit from the borough for approved activities. Also all activities that are not conducted in, on or adjacent to Waters of the United States shall be exempted for MSB17.02

Storage of oils, lubes and other Petroleum products should no be able to be stored in boat houses or airplane hangars that are within the 75' of the water. Also maintenance activities shall not be able to take place within the 75 feet distance. Hazardous substances do not include 10 gallons or less. That still should not be stored or used within the 75 feet without secondary containment.



VIA EMAIL ONLY: msb.planning@matsugov.us

January 21, 2025

Re: draft revision for the Mat Su Borough Waterbody Setback Ordinance

To the Mat-Su Borough Waterbody Setback Advisory Board:

Thank you for the opportunity to provide comments on the Advisory Board's draft revisions to the borough code relating to waterbody setbacks and related issues. I am submitting these comments on behalf of Cook Inletkeeper (Inletkeeper), which is a community-based organization with more than 8,500 members and supporters throughout the Cook Inlet watershed. Many of our members live, recreate and fish for salmon in and around the streams and rivers of the Matanuska-Susitna Basin.

1. General comments

Overall, Inletkeeper is very supportive of the revisions and the Advisory Board's efforts to address shortcomings of the current ordinance language, particularly as they relate to lakes, habitable vs. uninhabited dwellings, and commercial parking lots and fuel tanks too close to the water's edge. We support the nine (9) recommendations and appreciate the intention to provide homeowners a path to compliance, thus resisting the easy way out of grandfathering all violators - as many as 750 just on lakes - into code. In addition, we strongly support the recommendation for enhanced enforcement. Accountability is critical for landowners, especially for those who have the good fortune to live adjacent to our public waterways.

2. Vegetative buffer

We encourage the Advisory Board to include more detail for *maintaining a vegetative buffer along the shoreline* in Recommendation #4: Shoreline standards. It is important for the Mat-Su Borough (MSB) to adopt standards that highlight the need for buffers to be native vegetation and ideally shade-generating shrubs and trees. Allowing invasive species, like European Bird Cherry that now proliferate along Anchorage's waterways, to be planted in the MSB creates a whole list of harms for our fish and wildlife.

The Mat-Su Basin Salmon Habitat Partnership, of which the MSB is a member, put together an [outreach piece](#) explaining the important role that riparian vegetation plays in maintaining the health of our fisheries by providing shelter, shade and nutrients for wild salmon. We encourage the Board to specifically point to this document so the Assembly understands what an easy lift this recommendation would be to accomplish.

3. Impervious surface

The definition of “Impervious surface” (page 3) should be further clarified to specifically address a common misunderstanding about gravel vs. paved parking areas and walkways. Gravel driveways may or may not be impervious depending on whether a lining was used in construction.

An investigation into urbanization impacts in Anchorage, found that stream conditions deteriorated at impervious watershed areas of approximately 5%.¹ It would be helpful to understand the Advisory Board’s justification for the language on p. 17: *(3) the total area of impervious surfaces within 75 feet of a waterbody will not exceed 20% of the area within 75 [sic] of the waterbody. And (a) Impervious surface may exceed 20% if the requirements of MSB 17.02.035(B) are met.* This 20% threshold seems high based on the study in Anchorage. For reference, when the City of Homer adopted its [Bridge Creek Watershed Protection District](#) code for its drinking water source, it adopted a 4.2% - 6.4% maximum impervious cover, depending on lot size.

4. Commercial and Industrial projects

The Advisory Board’s Recommendation #2: Setback Maintenance and Expansion, expresses a desire for commercial and industrial projects to be included under the 75-foot setback requirement. Meanwhile, the suggested ordinance language (p10) includes: *(C) Paved vehicle parking areas for commercial and industrial facilities shall not be located closer than 25 feet from the ordinary high water mark of any water body.* We recommend at a minimum, that this be changed to no closer than 45 feet.

Inletkeeper would like to thank each of the Advisory Board members for their time and attention to this important waterbody setback ordinance and recommendations. We will continue to track this effort to ensure the land, waters and communities of the Mat-Su Borough thrive long into the future.

Sincerely,



Sue Mauger
Science Director

¹ Ourso, R. T., and S. A. Frenzel. 2003. Identification of linear and threshold responses in streams along a gradient of urbanization in Anchorage, Alaska. *Hydrobiologia* 501:117–131.



Outlook

water body setback comments

From J Stras <jstras@mtaonline.net>

Date Tue 1/21/2025 4:17 PM

To Planning <msb.planning@matsugov.us>

[EXTERNAL EMAIL - CAUTION: Do not open unexpected attachments or links.]

Please let me know you received this in good order.

January 21, 2025

To Whom It May Concern:

Clean water is integral to the quality of our lives here in the Mat- Su Valley. I think you recognize that and I appreciate your efforts to develop water setback rules that allow us to live relatively near (but not too near) water bodies, and yet still provide strong protections necessary to maintain clean water.

I support the work you have done and agree with most of it.

Alex some time (years) ago you and I had a conversation that stuck with me. You mentioned runoff from paved or other hard non-permeable surfaces. The magnitude and potentially toxic nature of what could end up in our the water strikes me as significant. I don't think a 25 foot setback from water is adequate. I suggest that the setback of such surfaces be set at 75 feet.

At pages 5 and 6 of 26 of the draft ordinance: the definition of structure has a long list of things that aren't to be considered structures. It is not possible to think of all such non-structures. The definition of structures there should be a catch all for what is a non-structure.. like "and similar "

At page 6 of 26, the definition of "subdivision" should include "de-facto subdivision" or "de-facto division". What I am getting at is that condo plats have all the characteristics of a conventional subdivision, but are not considered a subdivision by the borough, which excludes condo plats from platting requirements.... notably condo plats are exempt from public notice and comment. Condo plats have identical impacts to water as do conventional subdivisions and should be regulated in the same way.

At page 7 of 26, getting back to Alex's presentation, I made a note that Alex some discussed setbacks that do not come under the definition of structure. I can't recall the details, but it's important to cover all the bases.

At page 7 of 26, (2), add "and erosion" after "flooding"

At page 8 of 26, near the top at (2)... need to define "pollutants"... Pollutants are broader than hazardous materials.

At page 8 of 26 the (2) in the middle of the page. Is July 3, 1973 an accurate date? I have a note that it is not correct.

Overall, I support the work you are doing.

Sincerely,
John Strassenburgh



January 21, 2025

Mat-Su Borough Waterbody Setback Advisory Board
Dorothy Swanda Jones Building
350 E. Dahlia Avenue
Palmer, AK 99654

Via: msb.planning@matsugov.us

RE: Comments on the revisions to the Mat-Su Waterbody Setback Ordinance

Dear Members of the Mat-Su Borough Waterbody Setback Advisory Board,

Thank you for the time and dedication that you have put into these revisions. It is clear the committee went above and beyond to develop a proposal that would meet the needs of a growing community that cares deeply about its fisheries (and the rivers and lakes they depend on). On behalf of Trout Unlimited (TU), please accept these comments on the proposed revised Waterbody Setback Ordinance.

TU is a locally driven organization of anglers, connected to a national network of fisheries experts, that helps to care for rivers that communities depend on. In Alaska, TU has more than 20,000 supporters that are passionate anglers, lodge and outfitter business owners, fishing and hunting guides, subsistence users, commercial fishermen, and Alaskans from a variety of walks of life. Our members and supporters rely on Alaska waters, and the fish and wildlife that inhabit them, for fishing, hunting, subsistence, outdoor recreation, and for employment in related industries. Many of our supporters live in the Mat-Su borough, and even more visit regularly to hunt, fish, and recreate.

The 75-foot setback, Ordinance 73-6 originally passed in 1973, was important when it was established. Its importance has only increased as the population of the Mat-Su has grown, and the region's fisheries face increasing challenges. Maintaining sensible guidance for building near rivers, lakes and streams is integral to sustaining the Mat-Su's remarkable fisheries. We support a 75-foot setback because it provides practical guidelines that help a community grow, develop, and thrive while minimizing impacts to fish habitat.



Additionally, we want to commend the inclusion of vegetative buffers around waterbodies in section 17.55.016 (Waterbody Setbacks). As you know, the requirement to leave at least 50% of native vegetation around waterways is beneficial for many reasons including: providing shade for cooler water with higher levels of dissolved oxygen; retaining sediment to improve water quality; stabilizing banks to reduce erosion; preventing flooding and expensive flood damage to properties; and filtering urban pollutants.¹ Keeping existing riparian zones healthy is an important way that we can directly care for our salmon. Stormwater analysis for land use permits will also tailor stormwater management to each property's unique conditions, with riparian buffers being an important tool. This provision ensures that future building and growth will limit negative impacts on fish habitat.

Finally, we support other additions to the ordinance. The path to compliance that the Board has developed within section 17.55 was one of the main requests from the Mat-Su Borough Assembly and is essential to make this ordinance effective moving forward. We also support the expansion of the ordinance to include non-residential structures and other pollution sources such as fuel tanks and animal waste sites. For all the reasons that riparian buffers are important, we are in favor of keeping development more than 45 feet away from waterbodies. These additions align well with the goals of the Mat-Su Borough Stormwater Management Plan². With these sensible additions in place to protect fish habitat, minimize flood damage, and maintain clean water, the Mat-Su Borough can continue to be a leader when it comes to caring for our water resources and set a strong example of how to responsibly live within salmon habitat.

On behalf of Trout Unlimited members and supporters, I want to sincerely thank you for clarifying and strengthening this ordinance in a thorough and thoughtful manner.

Sincerely,



Chennery Fife

Southcentral Alaska Engagement Manager, Trout Unlimited

¹ https://matsusalmon.org/wp-content/uploads/2020/12/Riparian_Summary_1-14-21.pdf

² <https://matsugov.us/docs/general/13970/stormwater-management-plan.pdf>

Date: 1/21/2025

Subject: Opposition to the Proposed Ordinance Addressing Water Body Setbacks

Dear Matanuska-Susitna Borough Assembly,

I am writing to express my strong opposition to the proposed ordinance regarding properties within 75 feet of water bodies. While I understand and respect the need for clear regulations to protect water body setbacks and ensure compliance, the current draft of this ordinance introduces unnecessary and unfair measures that place additional burdens on property owners who are already in compliance.

Key Points of Opposition:

1. Expansion Beyond Original Purpose

The initial purpose of this ordinance was to address properties currently in violation of the 75-foot setback regulation. Since its inception, numerous additional provisions have been added that go far beyond addressing these violations. For example:

- The requirement for all residents within 75 feet of a water body—even those in compliance—to obtain permits for any work.
- Resolution #7 suggests hiring additional staff to patrol water bodies during the summer months, via water access, introducing more government oversight and cost. Apparently the Resolution is recommending that taxpayers buy boats for Borough Staff.

This overreach unfairly penalizes compliant property owners, adding unnecessary bureaucracy and financial burdens without clear benefits to the environment or community.

2. Lack of Representation on the Drafting Committee

The committee responsible for drafting this ordinance appears to lack adequate representation from waterfront property owners. Based on MSB property records and recorder site data:

- It appears only one committee member owns waterfront property, and their structure is less than 75' from the water body.
- The Borough and Recorder's websites show possibly at least two members do not own property within the borough, potentially reducing the credibility of their input on local property issues.

This lack of balanced representation undermines the fairness and effectiveness of the proposed ordinance.

3. Insufficient Notification to Affected Owners

As a waterfront property owner with holdings in multiple districts of the MSB, I have received no notification—via mail or email—about this ordinance. If the ordinance primarily affects waterfront property owners, it is essential that all such owners are directly notified, including noticing those in violation. Failure to do so constitutes inadequate public notice and undermines transparency.

4. Environmental Concerns Misrepresented

The 2024 State of Alaska Department of Fish and Game Chinook Salmon data on Alexander Creek and Talachulitna River highlights the salmon returns in 2024 were just 1.5%+/- of prior averages. Despite minimal shoreline disruption in this area, salmon populations remain critically low, indicating factors well beyond residential setback violations (Bycatch, invasive species, over harvesting, etc.) are affecting fish habitats. Introducing additional regulations for compliant property owners will not address these broader environmental issues.

Proposed Solutions:

1. Focus on Violators:

- The ordinance should prioritize addressing existing violations of the 75-foot setback rule.
- Properties built before July 3, 1973 and May 12, 1987, should qualify for variances and that is what this Ordinance should address. However, structures built after this date knowingly violating the ordinance should not receive leniency.

2. Exempt Compliant Owners:

- Do not impose additional regulations, costs, or permit requirements on property owners who have adhered to the 75-foot setback rule.
- Focus enforcement and any additional costs on properties in violation, as they are the ones impacting habitat and the environment.

3. Improve Notification and Representation:

- Notify all waterfront property owners directly about any proposed ordinance changes.
- Ensure committees drafting such regulations include adequate representation from waterfront property owners and other stakeholders directly impacted by the ordinance.

4. Limit Scope of New Regulations:

- Avoid introducing more rules and government oversight when the existing 75-foot setback rule is already challenging to enforce. Prioritize enforcing the current regulations effectively before considering new measures.

Conclusion:

The Advisory Board did not follow the directive of MSB Ordinance #23-079 Section #7. This ordinance, as currently written, unfairly penalizes compliant property owners, imposes unnecessary costs, and expands government regulation without addressing the core issue: how to manage existing setback violations. I urge the committee and assembly to refocus the ordinance solely on resolving violations and creating a fair path forward for affected landowners.

Let us work together to ensure fairness, transparency, and effective environmental stewardship without overburdening those who have followed the rules. Thank you for considering these concerns.

Thank you,


Butch Moore Big Lake, AK 99652



3060 Lazy Eight Ct #2 PMB 449
Wasilla, AK 99654

January 21, 2025

Waterbody Setback Advisory Board
via MatSu Borough Planning Department
msb.planning@matsugov.us

Subject: Community Council Comments on proposed code changes for Waterbody Setbacks in the Matanuska Susitna Borough

Board Members,

The North Lakes Community Council (NLCC) very much appreciates the opportunity provided by the Waterbody Setback Advisory Board (WSAB) to review and comment on the proposed code changes and draft recommendations. We witnessed the extensive work you put into this topic since August of 2023 and the objectiveness of your deliberations. It is clear to us you worked hard to strike an appropriate balance between the freedoms afforded to property owners and the need to protect the environment we all enjoy as residents of the Borough.

The importance of this issue in the North Lakes Community:

There are approximately 10,000 residents living within the NLCC boundaries. Within our boundaries alone, there are a total of (15) lakes and a total of 426 individual properties with lake frontage. Of those properties, 92 (22%) are undeveloped (reference attachment). There are also a number of creeks and streams within our boundaries, many of which are important habitats for juvenile salmon and other fish and waterfowl species. We can only imagine the number of property owners that will ultimately be affected by setback requirements across the entire Borough!

NLCC review process:

Our process began with a presentation from the MSB Planning Director at our November 21, 2024 NLCC Membership Meeting. The Director provided a high level summary of the history and compliance status; an overview of the WSAB membership and review process; and a summary of the WSAB recommendations. This was a typical monthly membership meeting and was attended by approximately 28 people, a small percentage of whom reside adjacent to a waterbody.

In early December, the NLCC Board sent copies of the MSB Planning Department presentation, the draft resolution, and links to the WSAB web page to our Mailchimp email subscribers (about 350 people). We also posted the same information on several local neighborhood Facebook group pages. Our request was for residents to review and become familiar with the proposed changes and to provide feedback to the NLCC or directly to the MSB Planning department.

We gathered additional input from area residents at our December 19, 2024 NLCC Membership meeting.

Lastly, we reached out to Matt LaCroix (WSAB Member) in early January and he provided us with helpful summary information - which we also sent out to our Mailchimp subscribers and posted to the neighborhood Facebook groups.

Unfortunately, we were unable to reach out directly to the 426 lakefront property owners in our NLCC boundaries. Like other Community Councils, we do not have the resources or direct access to email or mailing addresses for these Borough residents. While we may have reached a few of them, we fear that many lakefront property owners and residents are simply uninformed of the existing setback requirement or the proposed changes.

The nature of feedback received from area residents:

The feedback we received was mixed and touched on the following themes:

- appreciation for an increased focus on environmental / habitat protection of our waterbodies.
- concern with increased government compliance requirements on private properties.
- appreciation that commercial properties (not just private properties) will be required to adhere to setback requirements.
- confusion about the requirements for leaving riparian buffers.
- frustration with the number of properties “grandfathered” in and allowed variances.
- confusion about the process of coming into compliance for existing properties that are less than 75 feet, but more than 45 feet from the waterbody.
- questions about the permitting process and restrictions for clearing and grading within 75 feet setback.
- frustration with the lack of enforcement to this point, and questioning the strategy for lakefront development oversight and enforcement.
- questions about when people will be notified, particularly if they are not in compliance.

The NLCC has a responsibility to pass along and properly characterize the feedback we receive from residents in our area and we believe the items listed above do so.

Additionally, the NLCC Board as a whole has concerns about transparency and the public outreach process. We are particularly concerned about the outreach and engagement of those most affected; the lakefront property owners.

Recommendations:

The NLCC recommends that the Waterbody Setback Board;

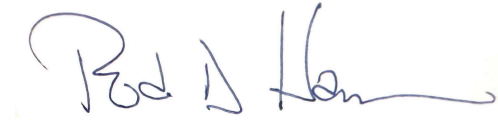
- A. take deliberate steps to increase the transparency and visibility of proposed changes to Borough residents;
- B. implement a process to assure full understanding and an opportunity for feedback from the MSB Assembly prior to finalizing and taking action on an Ordinance for code changes;
- C. conduct additional public outreach to lakefront property owners prior to a public hearing in front of the MSB Assembly

The following specific steps are suggested to implement these recommendations:

1. In the spirit of transparency, the WSAB should provide public access to all comments received as a result of this latest review process. This information could be cataloged and available through a link on the WSAB web page.
2. The WSAB and MSB Planning Staff should prepare a response to the feedback received and, also in the spirit of transparency, provide a link on the WSAB web page.
3. An initiative should be undertaken to provide an FAQ (Frequently Asked Questions) document on the WSAB web page.
4. The WSAB should schedule a non quasi-judicial briefing to the MSB Assembly as soon as practical. This would not be a public hearing for adoption of the ordinance, but rather a status update. The purpose of this briefing is to inform and answer questions that Assembly Members might have. It is also an opportunity for the Assembly to provide any "steering" for consideration. Such a process would lessen the likelihood of a disconnect at a future public hearing and decision on the Ordinance.
5. After the briefing to the MSB Assembly, there should be a public notice outreach to all MSB lakefront property owners. This should be in the form of a hard-copy mailout to those property owners and a period of time for them to provide feedback. We realize this would be a significant mailout to thousands of Borough property owners.
6. Provide separate written notice to all lakefront property owners that the MSB knows is currently out of compliance with setback requirements, or will be as a result of code changes.
7. After the receipt of public input, from the members of the public who are most directly affected, the ordinance should then be finalized and a quasi-judicial public hearing scheduled with the MSB Assembly.

In closing, we hope these suggestions are helpful. Our objective is to help assure transparency and help position the Assembly Members to ultimately make decisions fully understanding the perspective of lakefront property owners.

Sincerely,

A handwritten signature in blue ink that reads "Rod D. Hanson". The signature is fluid and cursive, with the first name "Rod" being the most prominent.

Rod D. Hanson
President, North Lakes Community Council
board@nlakes.cc

cc: NLCC Board Members board@nlakes.cc

Attached: Lakefront Properties within NLCC Boundaries

NLCC Lakefront Properties				
As of 12/18/24				
No.	Name		Total	Undeveloped
1	Wasilla Lake	*	26	3
2	Upper Wasilla Lake	*	59	5
3	Mud Lake	*	19	5
4	Cottonwood Lake	*	51	12
5	Finger Lake	*	103	31
6	Kings Lake		10	6
7	Anderson Lake		52	8
8	Dry Lakes #1		4	1
9	Dry Lake #2		3	3
10	Niklason Lake		46	7
11	Cornelius Lake		20	5
12	Gooding Lake		12	4
13	Boyd Pond		1	0
14	Wolf Lake	*	10	0
15	Hart Lake	*	10	2
	TOTAL		426	92
	Percent Developed		78%	
	Percent Undeveloped		22%	
*	These numbers are only those properties in the NLCC boundaries. These lakes have additional properties in adjoining Community Council areas.			

CODE ORDINANCE

Sponsored by:
Introduced:

Draft: 11/5/2024

Public Hearing:
Action:

Bold Underline = Language being added
[CAPS AND BRACKETS] = Language being deleted

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. 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] **PURPOSE AND INTENT**
- 17.55.010 SETBACKS **FROM RIGHTS-OF-WAY AND LOT LINES**
- 17.55.015 SHORELANDS; DEFINITION [REPEALED]
- 17.55.016 WATERBODY SETBACKS FOR POLLUTION SOURCES**
- 17.55.020 **WATERBODY** SETBACKS FOR [SHORELANDS] **STRUCTURES**
- 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.

- "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.

- "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.

"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 an imminent and substantial 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). "Hazardous substance" does not include uncontaminated crude oil or uncontaminated refined oil in an amount of 10 gallons or less.

- "Impervious surface" means the area of the

subject site covered by impenetrable materials. This surface has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

- "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.

- "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.

"Private pond" means a natural or constructed waterbody less than five acres in size that lacks a surface connection to other waterbodies and is located entirely on property with a single owner.

- "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.

"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, overflowing or improper draining of the primary storage container. Double-walled tanks do not qualify as secondary containment.

- "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.

- **"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).

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 waterbodies, 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.

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 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.

17.55.016 WATERBODY 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 body of water.

(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 for commercial and industrial facilities shall not be located closer than 25 feet from the ordinary high water mark of any water body.

(1) paved parking areas within 75 feet of a waterbody 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 may have a drip collection system instead of secondary containment.

(2) 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.

(a) the riparian buffer area shall be left undisturbed except that dead, diseased, or fallen trees may be removed, 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 or liquid waste, including debris, and animal and yard wastes.

(4) Stockpiling imported snow from an offsite location.

(5) The application of fertilizers or herbicides.

17.55.020 WATERBODY SETBACKS FOR [SHORELANDS]

STRUCTURES.

(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, 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 waterbody and over the waterbody, 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 state, federal, and borough regulatory standards and receive a land use permit prior to construction in accordance with MSB 17.02.

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

([1]2) 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 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.]

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.

Section 3. Amendment of Paragraph. MSB 17.02.020(A)(6) is hereby amended as follows:

(6) construction or placement of any building, or structure within 75 feet of [ANY WATERCOURSE OR WATER BODY] the ordinary high water mark of any water body;
[.]

Section 4. Amendment of Paragraph. MSB 17.02.020(A)(7) is hereby adopted as follows:

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

Section 5. Amendment of Subparagraph. 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 6. Adoption of Subsection. MSB 17.02.035 Standards for development within 75 feet of a waterbody is adopted as follows:

17.02.035 STANDARDS FOR DEVELOPMENT WITHIN 75 FEET OF A WATERBODY

(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 MSB 17.55.016(E) (1), a land use permit may be issued where no riparian buffer exists or where the property owner proposes to remove the riparian buffer if the requirements of MSB 17.02.035(B) are met.

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

(3) the total area of impervious surfaces within 75 feet of a waterbody will not exceed 20% of the area within 75 of the waterbody.

(a) Impervious surface may exceed 20% if the requirements of MSB 17.02.035(B) are met.

(B) For existing structures seeking nonconforming status in accordance with MSB 17.80.020(B) (4), those seeking a variance from the waterbody setback in accordance with MSB 17.65, or a land use permit application in accordance with MSB 17.02.035(A) (1) (a) or 17.02.035(A) (3) (a), the following additional requirements apply:

(1) site plan requirements identified in MSB 17.02.030, and

(2) The application shall include the following information:

(a) 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;

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

(c) plans and specifications for infiltrative methods shall identify soil type and depth to the seasonal high water table, with a minimum of 2 feet from the bottom of any basin or swale to the seasonal high water table; and

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

(2) a land use permit may only be issued upon a finding that the applicant's proposed runoff pollution mitigation measures will meet the following criteria:

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

(b) 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;

(c) 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;

(d) 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

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

(3) runoff pollution mitigation measures shall be designed and installed under the oversight of a qualified professional.

(4) 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.

(5) a revised stormwater runoff analysis will be required if future development could reasonably result in increased stormwater runoff.

(6) landowners are responsible for maintenance of approved runoff pollution mitigation measures specified in their permit while the structure permitted under this subsection remains within 75 feet of a lake, pond, or ponded or emergent wetland.

Section 7. Adoption of Subsection. MSB 17.65.020(B) is hereby adopted as follows:

(B) For variances from the waterbody setback requirement in MSB 17.55.020(A) the Planning Commission must find each of the following requirements has been met:

(1) the site plan required by MSB 17.65.050(C) (4) demonstrates that the development standards identified in MSB 17.02.035(A) will be met.

(2) the variance application demonstrates compliance with the requirements identified in 17.02.035(B) regarding stormwater runoff.

(3) The Planning Commission shall not authorize a variance if the location of the structure is:

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

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

Section 8. 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 are legal nonconforming structures.

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

(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 January 1, 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 are legal nonconforming structures.

(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.

(4) Habitable buildings and garages that were

constructed between 45 and 75 feet of the ordinary high water mark of a lake, pond, or emergent wetland between January 1, 1987, and the effective date of this section may be granted legal nonconforming status upon issuance of a mandatory land use permit in accordance with MSB 17.02.020(B).

Section 9. 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 uses 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 an area of undisturbed native vegetation.

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

• "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 10. 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)

Revised - October 29, 2024

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 17.02 - 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, 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 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 existing 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, extending this requirement to all future developments along any waterbody, and should be expanded to include commercial and industrial projects.

3. 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.

4. 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.

5. 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.

6. 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.

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

8. 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.

9. 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 ____ day of _____, ____.

Bill Kendig, Board Chair

ATTEST:

Lacie Olivieri, Board Clerk

DRAFT