

PENDING

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CODE ORDINANCE

By: Borough Manager

Introduced:

Public Hearing:

Action:

**MATANUSKA-SUSITNA BOROUGH
ORDINANCE SERIAL NO. 16-051**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY; AMENDING 17.55.005, SETBACKS AND SCREENING EASEMENTS; ADOPTING MSB 17.55.030, RIPARIAN BUFFER STANDARDS TO PROTECT ANADROMOUS FISH, WILDLIFE HABITAT, AND WATER QUALITY IN DESIGNATED STREAMS; AMENDING 17.55.040, VIOLATIONS, ENFORCEMENT, AND PENALTIES; AND AMENDING MSB 17.125.010 DEFINITIONS.

BE IT ENACTED:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Borough Code.

Section 2. Amendment of section. MSB 17.55.005 General is hereby amended to read:

This chapter establishes minimum structural setbacks from lot lines, water courses and water bodies, rights-of-way, riparian buffer standards 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.

Section 3. Adoption of section. MSB 17.55.030 Riparian Buffer Standards is hereby adopted to read:

17.55.030 RIPARIAN BUFFERS FOR ANADROMOUS WATER BODIES

(A) The following anadromous streams, as identified in the "Atlas and Catalogue of Waters Important for Spawning, Rearing or Migration of Anadromous Fish" published by the Alaska Department of Fish and Game are subject to this chapter:

- 1) Cache Creek
- 2) Cottonwood Creek
- 3) Fish Creek
- 4) Goose Creek
- 5) Jim Creek
- 6) Lake Creek
- 7) Little Meadow Creek
- 8) Lucille Creek
- 9) McRoberts Creek
- 10) Meadow Creek
- 11) Montana Creek
- 12) Queer Creek
- 13) Rabideaux Creek
- 14) Sawyer (Buddy) Creek
- 15) Sheep Creek
- 16) Sunshine Creek
- 17) Swift Creek
- 18) Trapper Creek

- 19) Twister Creek
- 20) Wasilla Creek
- 21) Whiskers Creek
- 22) Wiggle Creek
- 23) Willow Creek
- 24) Little Susitna River
- 25) Matanuska River
- 26) Susitna River

(B) As of the effective date of this section, the natural vegetation within the following specified distances of the Ordinary High Water Mark (OHW) of the designated bodies of water or watercourses shall be retained as a riparian buffer. The width of the riparian buffer is based on the particular land use.

(1) The riparian buffer width on parcels developed for private residential or recreational use shall be fifty feet (50') from the OHW mark.

(2) The riparian buffer width on parcels developed for multi-family residential or public use shall be one hundred feet (100') from the OHW mark.

(3) The riparian buffer width on parcels developed for commercial or industrial use shall be one hundred feet (100') from the OHW mark.

(4) If riparian buffers required by other permits or regulations are larger than those specified above, the larger buffer widths shall stand.

(C)The area within riparian buffers may be 'minimally disturbed,' and developed in accordance with the relevant provisions of MSB code, state, federal, or other authorities.

(1) 'Minimal disturbance' allows for limited vegetation removal (e.g., to eliminate hazards or open a view), and a provision for water access.

(2) 'Minimal disturbance' does not allow the conversion of the buffer to another use.

(3) Where the vegetation within a riparian buffer is principally composed of species considered by the MSB to pose a 'Very High' or 'Extreme Fire Risk Hazard' Rating (i.e., black spruce), such vegetation may be thinned in accordance with MSB Community Wildfire Protection Plan recommendations to reduce fire risk.

(D) Unless specifically authorized under other sections of this or other MSB Titles, the following activities are prohibited within the riparian buffer:

(1) Complete removal of native vegetation from more than 10 percent (10%) of the surface area.

(2) Alteration of original land contours (grading and filling) of more than ten percent (10%) of the surface area.

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

(4) Stockpiling and storing snow.

(E) Herbaceous vegetation and tree root masses shall not be disturbed when removing trees from the buffer; nor shall wetlands within riparian buffers be disturbed or filled except as specifically provided for within this Title (such as to establish the waterfront access allowed under 17.55.040).

(F) Roads, utilities, and other linear developments (e.g., trails, railroad), shall cross watercourses and their associated riparian buffers at as close to a perpendicular angle as possible. Bridge deck height and abutment setback distances shall be sufficient to support natural bank vegetation.

(G) Roads, utilities and other linear development shall not result in the modification of riparian buffers, natural stream banks and shorelines, or other provisions for vehicles to ford streams unless specifically authorized by local, state or federal permits.

(H) Construction or other development within a riparian buffer may require a MSB Flood Hazard Development Permit.

Section 4. Amendment of section. MSB 17.55.040 Violations, Enforcement and Penalties is hereby amended to read:

(A) Except as otherwise specified in this chapter, violations of this chapter are infractions.

(B) Violations of parts 17.55.030 of this chapter which occur solely as a result of natural actions beyond the land owner's control (e.g., the migration of river channels) shall not be subject to enforcement actions.

(C) Remedies, enforcement actions, and penalties shall be consistent with the terms and provisions of MSB 1.45.

Section 5. Amendment of section. MSB 17.125.010

Definitions is hereby amended to read:

"Anadromous" means pertaining to fish such as salmon that

"Minimal disturbance" means to retain the principal character and function of a land characteristics.

"Ordinary High Water Mark (OHW)" means (A) in the non-tidal portion of a river, lake, or stream: the portion of the bed and banks up to which the presence and action of the water is so common and usual, and so long continued in all ordinary years, as to leave a natural line or "mark" impressed on the bank or shore as indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics; (B) in a braided river, lake, or stream: the area delimited by the natural line or "mark" as defined in part A above, impressed on the bank or shore of the outside margin on the most distant channels; or (C) in the tidally influenced portion of a river, lake, or stream: the portion of the bed(s) and banks below the OHW as described in A or B above, or mean high water elevation; whichever is higher at the project site. (11 AAC 195.010).

"Public Use" means the use of land or building that includes as its principal activity the provision of goods or services to the general public or community at large on other than a for-profit basis including but not limited to parks, trails, open space, recreation areas, schools, churches,

libraries, fire, law enforcement and the offices of governmental or non-profit agencies.

"Riparian" means pertaining to anything connected with or the area immediately adjacent to a body of water or watercourse.

Section 6. Effective date. This ordinance shall take effect upon adoption by the Matanuska-Susitna Borough Assembly.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2016.

VERN HALTER, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)