

CITY OF WASILLA

290 E. HERNING AVE.
WASILLA, ALASKA 99654-7091
PHONE: (907) 373-9050
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Code Ordinance
Requested By: Planning Commission
Prepared By: Planning
Introduction: 12/8/97
Public Hearing: 1/12/98
Adopted: 1/26/98

ORDINANCE SERIAL NO. 97-75

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, AMENDING SECTIONS 16.43.704 AND 16.43.802 OF THE WASILLA DEVELOPMENT CODE TO ALLOW SHORELINE SETBACK EXCEPTIONS FOR STRUCTURES CONSTRUCTED PRIOR TO JANUARY 1, 1987, AND/OR HAVE RECEIVED A LAND USE PERMIT PRIOR TO OCTOBER 28, 1997.

WHEREAS, in 1982 the City of Wasilla accepted a delegation of authority to administer the Wasilla Land Use Ordinance in 1982; and,

WHEREAS, the City of Wasilla adopted setback requirements which include a 75 foot waterfront setback and which remain in place today; and,

WHEREAS, the Matanuska-Susitna Borough, Title 17 provides for a shoreline setback exception procedure for MSB property owners outside the City limits with structures where construction was completed prior to January 1, 1987; and,

WHEREAS, the Wasilla Development Code, as adopted on August 26, 1996, does not provide for a Shoreline Setback Exception.

BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

SECTION 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Wasilla Municipal Code.

SECTION 2. Purpose. To amend Sections 16.43.704 and 16.43.802 "Setbacks and Height" to require a Shoreline Setback Exception for structures constructed prior to January 1, 1987, and/or have received a Land Use Permit prior to October 28, 1997.

SECTION 3. Amendment of section. WMC 16.43.704, Setbacks and height, is hereby amended to read as follows:

16.43.704 SETBACKS AND HEIGHT.

(A) Setbacks are measured from the outer-most portion of the building to the nearest lot line or building as appropriate. Temporary buildings may be permitted within the side or rear yard area as adm^[A]inistrative approval by the city p[P]lanner. The setbacks may be reduced up to 10 percent[%] by the city p[P]lanner after an investigation and finding that the resulting lesser setback would meet the purpose of the standards. [HOWEVER,] W[W]here other setback standards are applicable, the most restrictive setback standards apply. The following are the building setback and additional standards:

(1)[A.] Front and rear yard setbacks are [TWENTY-FIVE ([25])] feet from the lot line. In the c[C]ommercial district the city p[P]lanner may modify the front and rear setbacks by averaging the existing building line and applying this average setback to the building.

(2)[B.] In all residential districts (RR, R1, R2 and RM) the side yard setback is [TEN ([10])] feet. The c[C]ommercial, i[I]ndustrial and p[P]ublic districts the set back is 10 feet or no side yard setbacks, as long as all requirements of the state fire code or other applicable regulations are met.

(3)[C.] Building height is limited to 35 feet above the average finished grade of the lot. b[B]uilding height in the c[C]ommercial and i[I]ndustrial districts may exceed 35 under the provisions of a use permit approved by the city p[P]lanner.

(4)[D.] Additional Standards:

(a)[1.] Unattached residential dwelling units on same lot must be separated by [TWENTY-FIVE ([25])] feet.

(b)[2.] The city p[P]lanner shall designate the front yard for corner lots.

(c)[3.] Incidental architectural features such as window sills, cornices and eaves may project not more than three [(3)] feet into any required setback. This provision does not apply to cantilevered floors or other similar building extensions.

(d)[4.] Industrial uses or buildings must be setback a minimum 100 feet from any residential zoned lot line. Commercial buildings must be setback [THIRTY ([30])] feet from any residential zoned lot line. Industrial or commercial accessory uses may be located within this setback, provided that all other setback requirements are met.

(e)[5.] No building or footing may be located closer than 75[SEVENTY-FIVE] feet from the high-water mark of a water course or body of water; provided, docks, piers, marinas, and boathouses may be located closer than 75[SEVENTY-FIVE] feet if they are located primarily over water, not used for habitation; and do not contain sanitary facilities. The c[C]ity may require dedication of a maintenance easement of up to 15[FIFTEEN] feet from the high-water mark or bank of a body of water, whichever produces the greatest access. **This section does not apply to structures where construction was completed prior to January 1, 1987, if the present owners of the property had no personal knowledge of any violation of the requirements of this section prior to substantial completion of the structures. Furthermore, this section does not apply if a land use permit was issued prior to October 28, 1997. The city planner shall, upon application by a property owner,**

determine whether a property qualifies for an exception under this subsection.

SECTION 4. Amendment of section. WMC 16.43.802, Non-conformities, is hereby amended to read as follows:

16.43.802 NON-CONFORMITIE[Y]'S.

(A) The purpose of this section is to control, reduce or eliminate conflicts from the presence of buildings and uses not conforming to district regulations. Non-conformitie[Y]'s which are maintained in full compliance with the provisions of this section are not subject to fines or remedial actions. [A. TYPES OF NONCONFORMITY'S.] There are three basic types of non-conformitie[Y]'s:

(1)[.] Non-conforming u[U]ses. A non-conforming use is a use which is prohibited under this title, but which was lawful prior to the effective date of this t[T]itle or any subsequent revisions.

(2)[.] Non-conforming b[B]uildings. A non-conforming building is one which was lawful at the time of construction but which does not presently conform to the provisions and standards of the district in which it is located. **This provision does not apply to buildings which have been allowed to continue per the shoreline setback exception process in WMC 16.43.704.**

(3)[.] Non-conforming l[L]ots of r[R]ecord. Non-conforming lots of record are those lots in existence on the effective date of this Title or any subsequent revisions which do not meet applicable minimum lot size requirements.

(B)[.] Regulation of n[N]on-conformitie[Y]'s. Priority regulatory attention shall be given to nonconformity's which are fire and safety hazards or which are clearly inconsistent with surrounding uses or buildings. The following are the regulations for the various types of nonconformity's:

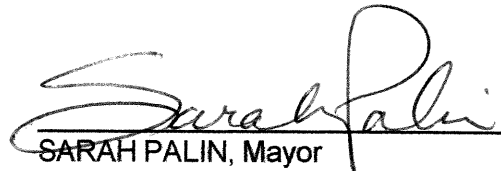
(1)[.] Uses. A non-conforming use may be changed to an allowed use or another non-conforming use with approval of the city p[P]lanner as a use permit. The city p[P]lanner must find the new use is more consistent with the uses allowed in the zoning district, or is less of a fire or safety hazard. When a non-conforming use is discontinued or abandoned for 12 [TWELVE] months or more at any time after the effective date of this t[T]itle, it shall not thereafter be resumed unless an extension is approved by the planning c[C]ommission under the procedures specified for a conditional use. When a non-conforming use is damaged so that the cost of repair exceeds 65 [SIXTY-FIVE] percent of the current assessed value of the building, the use must be changed to a use which is allowed in the district.

{2}[.] Buildings. The moving, replacement, repair and maintenance of the non-conforming portion of a building is allowed; provided that no additional building or new building is added within the yard and that the building complies with all other district requirements. Any non-conforming residential building which has been damaged may be repaired, rebuilt or replaced within one year of such damage unless an extension is approved by the planning c[C]ommission under the procedures for a conditional use; provided, that such replacement does not extend or expand the previously existing nonconformity. Other non-conforming buildings **and buildings which have been allowed under the shoreline setback exception process in WMC 16.43.704** which are damaged so that the cost of repairs exceeds **65** [SIXTY-FIVE] percent of the current assessed value of the building shall not be continued unless the building conforms with all requirements of the applicable zoning district.

{3}[.] Lots. Non-conforming lots of record in existence on the effective date of this t[T]itle which do not meet applicable minimum lot size requirements for the district in which they are located may be used for all uses permitted in the district, provided that all other provisions of this t[T]itle are met.

SECTION 5. Effective Date. This ordinance becomes effective upon adoption.

ADOPTED by the Wasilla City Council on this 26th day of January, 1998.


SARAH PALIN, Mayor

ATTEST:


KRISTIE L. VANGORDER, CMC/AE
City Clerk

(seal)



CITY OF WASILLA

290 E. HERNING AVE.
WASILLA, ALASKA 99654-7091

Code Ordinance
Requested By: Planning Commission
Prepared By: Planning
Introduction Date: 12-08-97
Public Hearing Date: _____

ORDINANCE SERIAL NO. 97-75

Subject: Shoreline Exception

Meeting Date: 12-08-97

RECOMMENDATION AND MOTION:

Move to adopt Ordinance No. 97-75 amending Section 16.43.704 of the Wasilla Development Code to allow Shoreline Setback Exceptions for structures constructed prior to January 1, 1987, and/or have received a land use permit prior to October 28, 1997.

Administration Recommendation:

Reviewed by Sarah H. Palin, Mayor: *SP*

Route To:	Department:	Reviewed (Initials):	Remarks:
1	Clerk's Office		
2	Finance		
3	Library		
4	Museum		
5 X	Planning	<i>CP</i>	
6	Police		
7	Public Works		
8 X	Admin.	<i>SP</i>	
9 X	City Attorney		reviewed via FAX

Attachment (s): Fiscal Note: YES X NO _____
(List other attachments; i.e., maps, bid information, etc.)

Copy of Shoreline Setback Exception draft form. This form is similar to MSB Shoreline Exception form.

Staff Recommendation:

Introduce Ordinance 97-75 and schedule for Public Hearing at the next regular meeting on 01/05/98.

Summary Statement:

Current Wasilla Municipal Code Title 16 Land Use, does not have provisions for Shoreline Setback Exceptions. This omission occurred when the City adopted the Wasilla Development Code, August 12, 1996.

- Area Code (907)
- Administration
Ph: 373-9055
Fx: 373-9092
- Clerks Office
Ph: 373-9090
Fx: 373-9092
- Finance
Ph: 373-9070
Fx: 373-9085
- Library
Ph: 376-5913
Fx: 376-2347
- Museum
Ph: 373-9071
Fx: 373-9072
- Parks & Recreation
Ph: 373-9053
Fx: 373-9072
- Planning
Ph: 373-9094
Fx: 373-9092
- Police
Ph: 373-9077
Fx: 373-9051
- Public Works
Ph: 373-9095
Fx: 373-9054
- _____
Ph: _____
Fx: _____