

## MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION AGENDA

Edna DeVries, Mayor

PLANNING COMMISSION  
Doug Glenn, District 1 – Vice-Chair  
Richard Allen, District 2 – Chair  
Brendan Carpenter, District 3  
Michael Collins, District 4  
Linn McCabe, District 5  
Ivan Fonov, District 6  
Curt Scoggin, District 7



Michael Brown, Borough Manager

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

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

March 16, 2026  
REGULAR MEETING  
6:00 p.m.

### Ways to participate in the meeting:

**IN-PERSON:** You will have 3 minutes to present your oral comment.

**IN WRITING:** You can submit written comments to the Planning Commission Clerk at [msb.planning.commission@matsugov.us](mailto:msb.planning.commission@matsugov.us).

Written comments are due at **noon on the Friday prior to the meeting.**

### TELEPHONIC TESTIMONY:

- Dial 1-855-290-3803; you will hear “joining conference” when you are admitted to the meeting.
- You will be automatically muted and able to listen to the meeting.
- When the Chair announces audience participation or a public hearing you would like to speak to, press \*3; you will hear, “Your hand has been raised.”
- When it is your turn to testify, you will hear, “Your line has been unmuted.”
- State your name for the record, spell your last name, and provide your testimony.

**OBSERVE:** Observe the meeting via the live stream video at:

- <https://www.facebook.com/MatSuBorough>
- Matanuska-Susitna Borough - YouTube

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

II. APPROVAL OF AGENDA

III. PLEDGE OF ALLEGIANCE

IV. CONSENT AGENDA

A. MINUTES

Regular Meeting Minutes: March 2, 2026

B. INTRODUCTION FOR PUBLIC HEARING: QUASI-JUDICIAL MATTERS

C. INTRODUCTION FOR PUBLIC HEARING: LEGISLATIVE MATTERS

**Resolution 26-02** A Resolution Of The Matanuska Susitna Borough Planning Commission Recommending Approval Of An Ordinance Repealing MSB 8.25 Water Pollution Control And MSB 17.55.020(E), In Their Entirety.

**Staff:** Alex Strawn, Planning and Land Use Director

**Public Hearing Date:** April 6, 2026

**Resolution 26-03** A Resolution Of The Matanuska Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.80 Nonconforming Structures, To Repeal The Notification Process And Fee Section.

**Staff:** Alex Strawn, Planning and Land Use Director

**Public Hearing Date:** April 6, 2026

V. COMMITTEE REPORTS

VI. AGENCY/STAFF REPORTS

VII. LAND USE CLASSIFICATIONS

VIII. AUDIENCE PARTICIPATION (*Three minutes per person, for items not scheduled for public hearing*)

IX. PUBLIC HEARING: QUASI-JUDICIAL MATTERS

*Commission members may not receive or engage in ex-parte contact with the applicant, other parties interested in the application, or members of the public concerning the application or the issues presented in it.*

X. PUBLIC HEARING: LEGISLATIVE MATTERS

**Resolution 26-01** A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Repealing A General Standard Of MSB 17.30 Conditional Use Permit (CUP) For Earth Materials Extraction Activities.

**Staff:** Alex Strawn, Planning and Land Use Director

XI. CORRESPONDENCE & INFORMATION

XII. UNFINISHED BUSINESS

XIII. NEW BUSINESS

XIV. COMMISSION BUSINESS

A. Upcoming Planning Commission Agenda Items

XV. DIRECTOR AND COMMISSIONER COMMENTS

XVI. ADJOURNMENT (*Mandatory Midnight*)

**Individuals with disabilities requiring reasonable accommodation to participate in a Planning Commission meeting should contact the Borough ADA Coordinator at 861-8432 at least one week in advance of the meeting.**

# **MINUTES**

**March 2, 2026**

**(Pages 4-8)**

## MATANUSKA-SUSITNA BOROUGH

Edna DeVries, Mayor

PLANNING COMMISSION  
Doug Glenn, District 1 – Vice Chair  
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Brendan Carpenter, District 3  
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*Assembly Chambers of the  
Dorothy Swanda Jones Building  
350 E. Dahlia Avenue, Palmer*

### PLANNING COMMISSION MEETING MINUTES March 2, 2026

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

The Matanuska-Susitna Borough Planning Commission's regular meeting was held on March 2, 2026, at the Matanuska-Susitna Borough Assembly Chambers, 350 E. Dahlia Avenue, Palmer, Alaska. Chair Allen called the meeting to order at 6:00 p.m.

**Present:** – Commissioner Collins  
Commissioner McCabe  
Commissioner Glenn  
Commissioner Allen  
Commissioner Fonov

**Absent/Excused:** Commissioner Carpenter  
Commissioner Scoggin

**Staff Present:** – Mr. Wade Long, Development Services Manager  
Ms. Lacie Olivieri, Planning Department Admin

#### II. APPROVAL OF AGENDA

Chair Allen inquired if there were any changes to the agenda.

**GENERAL CONSENT:** The agenda was approved without objection.

#### III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Fonov.

#### IV. CONSENT AGENDA

A. MINUTES: Regular Meeting Minutes – January 19, 2025

B. INTRODUCTION FOR PUBLIC HEARING QUASI-JUDICIAL MATTERS  
*(There were no Quasi-Judicial Introductions)*

C. INTRODUCTION FOR PUBLIC HEARING LEGISLATIVE MATTERS  
*(There were no Legislative Introductions)*

**Resolution 26-01**      A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Repealing A General Standard Of MSB 17.30 Conditional Use Permit (CUP) For Earth Materials Extraction Activities.  
**Public Hearing Date:** March 16, 2026  
**Staff:** Alex Strawn, Planning and Land Use Director

Chair Allen read the Consent Agenda into the record.

**GENERAL CONSENT:**      The Consent Agenda was approved without objection.

V.      **COMMITTEE REPORTS**  
*(There were no committee reports.)*

VI.     **AGENCY/STAFF REPORTS**  
*(There were no Agency/Staff Reports)*

VII.    **LAND USE CLASSIFICATIONS**

VIII.   **AUDIENCE PARTICIPATION** (Three minutes per person.)

There being no persons to be heard, Audience Participation was closed without objection.

IX.     **PUBLIC HEARING QUASI-JUDICIAL MATTERS**

X.      **PUBLIC HEARING LEGISLATIVE MATTERS**

XI.     **CORRESPONDENCE AND INFORMATION**  
*(Correspondence and information were presented, and no comments were noted)*

XII.    **UNFINISHED BUSINESS**  
*(There was no unfinished business.)*

XIII.   **NEW BUSINESS**

XIV.    **COMMISSION BUSINESS**

XV.     **DIRECTOR AND COMMISSIONER COMMENTS**

Commissioner Glenn:      No comment

Commissioner McCabe:      No comment. See you next week.

Commissioner Collins:      No comment

Commissioner Fonov: I appreciate you all welcoming me to the commission I look forward to serving the community.

Lacie Olivieri: The clerks office wanted me to remind you all to fill out your APOC paperwork.

Wade Long: I'd like to welcome Commissioner Ivan Fonov to the Planning Commission. We are glad to have him on board. Planning Staff is here to support you with respect to the permitting processes, and we are available at any time to answer questions or provide guidance. That goes for all commissioners! I would also like to congratulate Commissioner Rick Allen on his appointment to the Palmer City Council. As a reminder, there will be a joint meeting of the Assembly and the Planning Commission next Tuesday, March 10, at 6 p.m. Recently some meetings seem to have had light agendas, and last month we did not have a meeting, this is not due to a lack of permit applications. Each of your agenda packets includes a list of **Future Planning Commission Items**, which reflects the substantial volume of work currently in progress. I just wanted you to be aware that our Current Planners are processing applications. Part of that process is to **Request Additional Information called RFAIs**. These are sent to applicants when clarifications or supplemental documentation are needed to complete an application review. Once the requested information is received, Planners continue processing the applications.

We are currently awaiting information from several applicants across multiple projects. We have issued some tower permits recently that didn't come before the commission because they are considered administrative due to their height. Rest assured, we expect to see many more applications advancing to the Commission in the near future. Finally, I want to provide the most recent update on the **Shoreline Cannabis** permit. As you may recall, this Commission denied their permit. That decision was appealed to the **Board of Adjustment and Appeals (BOAA)**, which overturned the Commission's decision. The Borough then appealed the BOAA's determination to Superior Court. The Court remanded the matter back to the BOAA for revised action, and on **February 19th**, the BOAA affirmed the Commission's original decision to deny the permit. The applicant is still within the appeal window. Because this continues to be a **quasijudicial matter**, I strongly advise Commissioners **not to discuss this case with anyone**. If you would like a copy of the most recent order, please let me know and I will provide it. This update is for informational purposes only and is not open for discussion at this time.

Commissioner Allen: Welcome, Commissioner Fonov. It is great to have a full panel of folks.

**XVI. ADJOURNMENT**

The regular meeting adjourned at 6:08 p.m.

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RICHARD ALLEN  
Planning Commission Chair

ATTEST:

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LACIE OLIVIERI  
Planning Commission Clerk

*Minutes approved:* \_\_\_\_\_

DRAFT

# **INTRODUCTION FOR PUBLIC HEARING LEGISLATIVE**

## **Resolution No. 26-02**

A Resolution Of The Matanuska Susitna Borough Planning Commission Recommending Approval Of An Ordinance Repealing MSB 8.25 Water Pollution Control And MSB 17.55.020(E), In Their Entirety.

**Staff:** Alex Strawn, Planning and Land Use Director

**Public Hearing Date:** April 6, 2026

**MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 8.25 WATER POLLUTION CONTROL AND MSB 17.55.020 (E), IN THEIR ENTIRETY.

**AGENDA OF:** March 3, 2026

**ASSEMBLY ACTION:**

**AGENDA ACTION REQUESTED:** Refer to Water and Wastewater Advisory Board and Planning Commission for 90 days.

Route To	Signatures
Originator	<div style="text-align: right;">2 / 12 / 2026</div> <p>X      A l e x   S t r a w n</p> <hr/> <p>Signed by: Alex</p>
Department Director	<div style="text-align: right;">2 / 12 / 2026</div> <p>X      A l e x   S t r a w n</p> <hr/> <p>Signed by: Alex</p>
Community Development Director	<div style="text-align: right;">2 / 16 / 2026</div> <p> Expired certificate</p> <p>X      J i l l i a n   M o r r i s s e y</p> <hr/> <p>Signed by: Jillian Morrissey</p>
Public Works Director	<div style="text-align: right;">2 / 16 / 2026</div> <p>X      T o m   A d a m s ,   P E</p> <hr/> <p>Signed by: Tom Adams</p>
Finance Director	<div style="text-align: right;">2 / 16 / 2026</div> <p> Recoverable Signature</p> <p>X      C h e y e n n e   H e i n d e l</p> <hr/> <p>Signed by: Cheyenne Heindel</p>
Borough Attorney	<div style="text-align: right;">2 / 17 / 2026</div> <p>X      N i c h o l a s   S p i r o p o u l o s</p> <hr/> <p>Signed by: Nicholas Spiropoulos</p>
Borough Manager	<div style="text-align: right;">2 / 17 / 2026</div> <p>X      M i c h a e l   B r o w n</p> <hr/> <p>Signed by: Mike Brown</p>
Borough Clerk	<div style="text-align: right;">2 / 23 / 2026</div> <p>X      L o n n i e   M c K e c h n i e</p> <hr/> <p>Signed by: Lonnie McKechnie</p>

**ATTACHMENT (S):** Ordinance Serial No. 26-030 (1 p)  
 MSB 8.25 (3 pp)  
 MSB 17.55 (5 pp)  
 Planning Commission Reso 26-\_\_ ( pp)  
 WWAB Reso 26-\_\_ ( pp)

**SUMMARY STATEMENT:** This ordinance is at the request of Assemblymember Sumner.

The proposed ordinance repeals MSB 8.25 and MSB 17.55.020(E), in their entirety. The State of Alaska has always retained primacy over the regulation and enforcement of septic systems and water pollution control. Enforcement authority in this area rests with the state, and the Borough ordinance has never had an operative enforcement role. As a result, these standards serve no practical regulatory purpose. Repealing the ordinances would eliminate any potential confusion regarding jurisdictional authority.

**RECOMMENDATION OF ADMINISTRATION:** Refer to Water and Wastewater Advisory Board and Planning Commission for 90 days.

**CHAPTER 8.25: WATER POLLUTION CONTROL**

Section

[8.25.005 Definitions](#)

[8.25.010 Purpose](#)

[8.25.020 Definitions \[Recodified as MSB 8.25.005\]](#)

[8.25.030 Sewage disposal](#)

[8.25.040 Use and location of facilities](#)

[8.25.050 Pollution prohibited](#)

[8.25.060 Enforcement \[Repealed\]](#)

[8.25.070 Penalty for violation \[Repealed\]](#)

[8.25.080 Violations, enforcement, and penalties](#)

Statutory reference

For statutory provisions authorizing second-class boroughs to provide for water pollution control in the area outside cities, see A.S. 29.35.210

**8.25.005 DEFINITIONS.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Cesspool" means a lined and covered excavation in the ground which receives the discharge of domestic sewage or other organic wastes from a building, designed to retain the organic matter and solids, but permitting the liquids to seep through the bottom and the sides.
- (2) "Pollution" means the contamination or altering of water or its contents to create a nuisance or make water unclear, or noxious, or impure, or unfit so that the water is actually or potentially harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial or recreational use, or to livestock, wild animals, birds, fish or other aquatic life.
- (3) "Septic tank" means a watertight receptacle which receives the discharge of a building sanitary drainage system or part of the discharge, and is designed and constructed to separate solids from the

liquid, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of open-joint or perforated piping, or a seepage pit.

(4) "Sewage" means any or all of the following:

- (a) human excreta;
- (b) food wastes disposed of through sewers;
- (c) wash water;
- (d) liquid wastes from residences, institutions, business buildings and industrial establishments;
- (e) diluting water in the waste disposal system;
- (f) water-carried waste products or discharge from human beings; and
- (g) other wastes from residences, public or private buildings.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 73-11, § 5, 1973)

**8.25.010 PURPOSE.**

The purpose of this chapter is to prevent the pollution of the waters of the state within the borough. All human excreta, sewage and other wastes shall be disposed of in a properly designed, constructed and maintained sanitary sewer system, septic tank or pit privy as prescribed in this chapter.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 73-11, § 1, 1973)

**8.25.020 Definitions. [Recodified as MSB 8.25.005]**

**8.25.030 SEWAGE DISPOSAL.**

(A) A person may not discharge or dispose, from facilities under the person's control, sewage or other wastes so sewage or other wastes shall gain access to any surface or subsurface waters of the state within the borough unless the sewage or wastes are first treated through a collective or individual sewage disposal system adequate to prevent water pollution.

(B) Cesspools shall not be permitted.

(C) Septic tanks shall have minimum tank capacities as follows:

- (1) one to four bedrooms: 1,000 gallons;
- (2) for each additional bedroom: 250 gallons shall be added to the minimum tank capacity.

(D) A person shall not conduct a commercial or industrial operation which results in the disposal of solid or liquid waste material into the waters of the state within the borough without procuring a permit from the state department of environmental conservation.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 73-11, § 2, 1973)

#### **8.25.040 USE AND LOCATION OF FACILITIES.**

An abandoned well or deep well may not be used for the disposal of sewage or used as a receptacle for household wastes. A septic tank, privy, seepage pit or subsurface disposal field may not be located within 100 feet of a well or within 100 feet of a lakeshore, stream, or any other body of water.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 73-11, § 3, 1973)

#### **8.25.050 POLLUTION PROHIBITED.**

A person may not pollute or add to the pollution of any lake, stream or other body of water.

(Ord. 94-001AM, § 8 (part), 1994; Ord. 73-11, § 4, 1973)

**8.25.060 Enforcement. [Repealed by Ord. 95-088(SUB)(am), § 5 (part), 1995. See MSB [8.25.080](#) for current provisions]**

**8.25.070 Penalty for violation. [Repealed by Ord. 95-088(SUB)(am), § 6 (part), 1995. See MSB [8.25.080](#) for current provisions]**

#### **8.25.080 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.

(Ord. 95-088(SUB)(am), § 17 (part), 1995)

**CHAPTER 17.55: SETBACKS AND SCREENING EASEMENTS**

Section

[17.55.004 Definitions](#)

[17.55.005 General](#)

[17.55.010 Setbacks](#)

[17.55.015 Shorelands; definition \[Repealed\]](#)

[17.55.020 Setbacks for shorelands](#)

[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.
- “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.
- “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.
- “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.
- “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.

(Ord. 22-063, § 3, 2022; Ord. 21-019, § 2, 2021; Ord. 17-088(SUB), § 2, 2017; Ord. 13-164, §§ 2, 3, 2013; Ord. 93-042, § 2 (part), 1993; Ord. 89-072, § 2 (part), 1989; Ord. 88-221, § 2 (part), 1988)

#### **17.55.005 GENERAL.**

This chapter establishes minimum structural setbacks from lot lines, water courses and water bodies, 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.

(Ord. 03-053, § 2, 2003; Ord. 88-190, § 3 (part), 1988)

#### **17.55.010 SETBACKS.**

(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 furthest 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 otherwise by ordinance, no furthest 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 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 furthest 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.

(Ord. 11-159, § 2, 2011; Ord. 11-019, § 2, 2011; Ord. 93-042, § 2 (part), 1993; Ord. 88-190, § 3 (part), 1988)

**17.55.015 Shorelands; definition. [Repealed by Ord. 17-088(SUB), § 3, 2017]**

**17.55.020 SETBACKS FOR SHORELANDS.**

(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, eaves may project three feet into the required setback area.

(B) Docks, piers, marinas, aircraft hangars, and boathouses may be located closer than 75 feet and over the water, provided they are not used for habitation and do not contain sanitary or petroleum fuel storage facilities. Structures permitted over water under this subsection shall conform to all applicable state and federal statutes and regulations.

(1) Boathouses or aircraft hangars which are exempt from a minimum shoreline setback for structures shall:

- (a) be built over, in, or immediately adjacent to a waterbody and used solely for storing boats and boating accessories;
- (b) be designed, constructed and oriented for primary access by boats or aircraft directly to a waterbody;
- (c) not have more than incidental accessory access to a street or driveway; and
- (d) not be usable as a garage or habitable structure without significant alteration.

(C) In the city of Wasilla, this section does not apply to structures where construction was completed prior to November 16, 1982. Elsewhere in the borough, 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.

(Ord. 17-088(SUB), § 4, 2017; IM 96-019, page 1, presented 3-19-96; Ord. 93-095, § 2, 1993; Ord. 93-042, § 2 (part), 1993; Ord. 90-052, § 3, 1990; Ord. 88-190, § 3 (part), 1988; initiative election of 5-5-87)

**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.

(Ord. 95-088(SUB)(am), § 26 (part), 1995)

CODE ORDINANCE

Sponsored by: Sumner  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 26-030**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 8.25 WATER POLLUTION CONTROL AND MSB 17.55.020(E), IN THEIR ENTIRETY.

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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. Repeal of chapter. MSB 8.25 is hereby repealed in its entirety.

Section 3. Repeal of subsection. MSB 17.55.020(E) is hereby repealed in its entirety.

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

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2026.

\_\_\_\_\_  
EDNA DeVRIES, Borough Mayor

ATTEST:

\_\_\_\_\_  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

By: A. Strawn  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 26-02**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING MSB 8.25 WATER POLLUTION CONTROL AND MSB 17.55.020(E), IN THEIR ENTIRETY.

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WHEREAS, Assembly Ordinance 26-030 repeals MSB 8.25 and MSB 17.55.020(E), in their entirety; and

WHEREAS, The State of Alaska has always retained primacy over the regulation and enforcement of septic systems and water pollution control; and

WHEREAS, Enforcement authority in this area rests with the state, and the Borough ordinance has never had an operative enforcement role; and

WHEREAS, these standards serve no practical regulatory purpose; and

WHEREAS, Repealing the ordinances would eliminate any potential confusion regarding jurisdictional authority.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 26-030.

ADOPTED by the Matanuska-Susitna Borough Planning Commission  
on this \_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
RICHARD ALLEN, Chair

ATTEST

\_\_\_\_\_  
LACIE OLIVIERI, Planning Clerk

(SEAL)

YES:

NO:

# **INTRODUCTION FOR PUBLIC HEARING LEGISLATIVE**

## **Resolution No. 26-03**

A Resolution Of The Matanuska Susitna Borough Planning Commission Recommending Approval Of An Ordinance Amending MSB 17.80 Nonconforming Structures, To Repeal The Notification Process And Fee Section.

**Staff:** Alex Strawn, Planning and Land Use Director  
**Public Hearing Date:** April 6, 2026

**MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA- SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.80 NONCONFORMING STRUCTURES, TO REPEAL THE NOTIFICATION PROCESS AND FEE SECTION.

**AGENDA OF:** March 3, 2026

**ASSEMBLY ACTION:**

**AGENDA ACTION REQUESTED:** Refer to Planning Commission for 90 days.

Route To	Signatures
Originator	<div style="text-align: right; font-size: small;">2 / 6 / 2 0 2 6</div> <p>X      A l e x   S t r a w n</p> <hr/> <p><small>S i g n e d   b y :   A l e x</small></p>
Department Director	<div style="text-align: right; font-size: small;">2 / 6 / 2 0 2 6</div> <p>X      A l e x   S t r a w n</p> <hr/> <p><small>S i g n e d   b y :   A l e x</small></p>
Finance Director	<p>X      C h e y e n n e   H e i n d e l</p> <hr/> <p><small>S i g n e d   b y :   C h e y e n n e   H e i n d e l</small></p>
Borough Attorney	<div style="text-align: right; font-size: small;">2 / 1 7 / 2 0 2 6</div> <p>X      N i c h o l a s   S p i r o p o u l o s</p> <hr/> <p><small>S i g n e d   b y :   N i c h o l a s   S p i r o p o u l o s</small></p>
Borough Manager	<div style="text-align: right; font-size: small;">2 / 1 7 / 2 0 2 6</div> <p>X      M i c h a e l   B r o w n</p> <hr/> <p><small>S i g n e d   b y :   M i k e   B r o w n</small></p>
Borough Clerk	<div style="text-align: right; font-size: small;">2 / 1 8 / 2 0 2 6</div> <p>X      L o n n i e   M c K e c h n i e</p> <hr/> <p><small>S i g n e d   b y :   L o n n i e   M c K e c h n i e</small></p>

**ATTACHMENT (S) :** Ordinance Serial No. 26-028 (4 pp)  
 MSB 17.80 (7 pp)  
 Planning Commission Resolution No. 26-\_\_\_ ( pp)

**SUMMARY STATEMENT:** This ordinance is at the request of Assemblymember Sumner.

The determination of legal nonconforming status is ministerial in nature, meaning a structure either meets the standards or it does not. The public notice requirement is burdensome and costly, and it gives the false impression that public comments influence whether a structure qualifies for legal nonconforming status. Repealing this requirement eliminates that misunderstanding, reduces staff time and administrative costs, and shortens processing time by more than two weeks.

In 2019, the Assembly adopted a single fee rate for all nonconforming structure determinations. However, MSB 17.80.030 was not updated at that time and now conflicts with the adopted fee schedule. Repealing this section resolves that conflict.

The proposed ordinance supports the goals and objectives of the Borough Comprehensive Plan.

Matanuska-Susitna Borough Comprehensive Plan

Goal (LU-1): Protect and enhance the public safety, health, and welfare of Borough residents.

- Policy LU1-1: Provide for consistent, compatible, effective, and efficient development within the Borough.

**RECOMMENDATION OF ADMINISTRATION:** Refer to Planning Commission and then introduce and set for public hearing.

## CHAPTER 17.80: NONCONFORMING STRUCTURES

Section

[17.80.010 Intent](#)

[17.80.020 Legal nonconforming structures](#)

[17.80.030 Fees](#)

[17.80.040 Written determination required](#)

[17.80.050 Nonconforming lots of record](#)

[17.80.060 Standards for nonconforming structures](#)

[17.80.070 Application for a determination of legal nonconforming status](#)

[17.80.080 Repairs and maintenance](#)

[17.80.090 Restoration of damaged property](#)

[17.80.100 Termination of nonconformities](#)

[17.80.110 Violations and enforcement](#)

### **17.80.010 INTENT.**

(A) Within the Matanuska-Susitna Borough there may exist lots, permanent structures, and uses of land and structures, which were lawful before the effective date of the applicable regulations but which would be prohibited, regulated or restricted under the terms of current regulations, or a future amendment. Except as otherwise provided by code, it is the intent of this chapter to permit nonconforming permanent structures to remain until they are removed or abandoned but not to encourage their perpetuation. It is not intended that this chapter replace or supersede nonconformity regulations in other chapters within this title. This ordinance is promulgated pursuant to AS 29.40.040(A)(2) "Land Use Regulations" and encourages the minimization of the unfavorable effects of the construction of structures that do not conform to code.

(B) Nothing in this chapter requires a change in the plans or construction of any building actually under construction or development prior to the effective date of adoption of this ordinance as long as the building was allowable under the code in effect at the start of development. Where excavation, demolition or removal of an existing building has begun in preparation of rebuilding, such excavation, demolition or removal shall be considered to be actual construction or development, provided that continuous progress is being made toward

completion of the project. Development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **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;
- (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;
- (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](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.030 FEES.**

(A) Applications for determination of legal nonconforming status, made pursuant to MSB [17.80.020](#)(A)(1), (2) and (3), and (B)(1) and (2), are not subject to fees set forth in MSB [17.80.070](#).

(B) Applications for determination of legal nonconforming status, made pursuant to MSB [17.80.020](#)(B)(3) are subject to fees as set forth in MSB [17.80.070](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.040 WRITTEN DETERMINATION REQUIRED.**

Nonconforming structures, covered under MSB [17.80.020\(B\)\(3\)](#), shall not have legal nonconforming status for purposes of this chapter unless a written administrative determination of legal nonconforming status has been issued by the planning director, pursuant to MSB [17.80.070](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.050 NONCONFORMING LOTS OF RECORD.**

Structures and accessory buildings may be erected on nonconforming lots of record as long as they meet all applicable provisions of code. This provision shall apply even though the lot fails to meet the requirements for area, or width, or both, currently applicable.

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.060 STANDARDS FOR NONCONFORMING STRUCTURES.**

(A) Where a permanent structure exists that could not be built under the terms of the current regulations, the structure may continue to exist as long as it remains lawful subject to subsections (1) through (4) of this subsection. However:

(1) a nonconforming structure may not be enlarged or altered in any way unless the alteration or enlargement is otherwise specifically allowed by code. Any nonconforming structure or portion of a nonconforming structure may be altered to decrease its nonconformity.

(2) a nonconforming structure may not be enlarged or altered vertically or horizontally in a way which would increase the height, width, depth, area, or volume of the structure except as specifically allowed by current code for similar new structures in that location. A nonconforming structure which straddles a required minimum setback line may be expanded vertically or horizontally only where the expansion is located outside the minimum setback distance.

(3) the physical location of a nonconforming structure may be changed only to reduce or eliminate the nonconformity.

(4) an existing structure devoted to a use not permitted by code shall not be enlarged, extended, moved, or structurally altered.

(B) Structures found in violation of any of the standards set forth in subsection (A) of this section, are not eligible for a determination of legal nonconforming status.

(C) Structures which are in trespass are not eligible for a legal nonconforming status determination.

(D) *[Repealed by Ord. 17-142, § 3, 2018]*

(E) The planning director may not grant legal nonconforming status, pursuant to MSB [17.80.070](#), unless the applicant provides evidence that the structure was erected prior to the adoption of the Acknowledgment of Existing Land Use Regulations, MSB 17.01.

(F) The planning director will consider public health, safety, and welfare concerns raised in comments received pursuant to MSB [17.80.070](#)(C) when making a determination whether to grant a legal nonconforming determination.

(Ord. 17-142, § 3, 2018; Ord. 01-016, § 2, 2001; Ord. 95-011(SUB1), § 3 (part), 1995)

**17.80.070 APPLICATION FOR A DETERMINATION OF LEGAL NONCONFORMING STATUS.**

(A) An application for a determination of legal nonconforming status may be initiated by the property owner or his authorized agent. The application shall be filed with the planning director on a form provided by the planning department. The application shall be accompanied by a nonrefundable application fee, established by the assembly, and made payable to the Matanuska-Susitna Borough. The planning director may not grant legal nonconforming status unless the applicant provides evidence that the structure was erected prior to the adoption of the Acknowledgment of Existing Land Use Regulations chapter except as noted herein.

(B) In addition to the completed application form, the submittal shall contain the following items:

- (1) description and photographs of the structure;
- (2) as-built drawing(s), prepared by a professional surveyor, registered in the state of Alaska, verifying the location(s) or the structure(s);
- (3) any other documentation the planning director may deem necessary to evaluate the application.

(C) When an application is submitted, the borough shall give notice of the application by publication in a newspaper of general circulation in the borough at least 15 calendar days before the earliest date the planning director may render a decision.

(D) Notice of the application shall be mailed to owners of all property within 600 feet of the lot lines of the property containing the nonconforming structure at least 10 calendar days prior to the earliest date upon which the planning director may make a final decision on the application. The notice shall contain the following:

- (1) the earliest date a decision may be rendered;
- (2) brief description of the application;
- (3) a vicinity map of the area surrounding the subject property;
- (4) legal description of the subject property;

- (5) the names of the applicants and owners of the subject property;
- (6) the planning department's telephone number; and
- (7) identify the location where the application and other supporting material will be available for public inspection.

(E) Prior to the date of the decision, the applicant shall pay the cost of all mailings or advertisements required by this section.

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.080 REPAIRS AND MAINTENANCE.**

Except as otherwise addressed by code, nothing in this chapter shall prevent keeping in good repair a nonconforming permanent building or a building in which a nonconforming use is conducted. However, any building that is declared by an authorized official to be unsafe or unlawful by reason of physical condition shall not be restored, repaired or rebuilt in violation of the standards set forth in MSB [17.80.060\(A\)](#).

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.090 RESTORATION OF DAMAGED PROPERTY.**

(A) Except as otherwise addressed by borough code, nothing in this ordinance shall prevent restoration and subsequent continued occupancy and use of a permanent building destroyed to up to 50 percent of its replacement value by fire, explosion, or other casualty or act of God.

(B) A dwelling made nonconforming through adoption or amendments to Title 17, Zoning, may be replaced or reconstructed within two years after accidental damage or accidental destruction by fire, explosion, or other casualty or act of God. Reconstruction or replacement not completed within two years of the date of the damage is prohibited except in compliance with current regulations. Replacement or reconstruction may be undertaken in the same three dimensional space that it occupied prior to damage or destruction even though the damage or destruction exceeded 50 percent of its replacement value provided it was a legal structure at the date of construction. Except as otherwise specifically allowed by code, reconstruction and replacement shall not increase the height, depth, area, or volume of the structure beyond that which existed on the date the structure became a pre-existing legal nonconforming structure.

- (1) The borough manager may grant a one time extension of the allowed time to complete rebuilding of a pre-existing legal nonconforming structure which is otherwise eligible for reconstruction under this section. To grant the time extension authorized under this section, the borough manager must find from evidence presented that:

- (a) the requirement to rebuild within two years from the date of destruction would result in undue hardship on the applicant;
- (b) the applicant diligently pursued reconstruction during the original two-year period; and
- (c) the need for an extension is caused by unforeseen and unavoidable circumstances beyond the control of the applicant.

(2) The extension shall be for a specific amount of time, not to exceed three years from the original two-year deadline.

(3) An application for the three-year extension of time to rebuild a pre-existing legal nonconforming structure shall be submitted in writing to the borough manager and shall provide sufficient detail to describe the proposed structure and its compliance with applicable borough code. The application must also contain the evidence required by MSB [17.80.090](#)(B)(1)(a-c).

(4) The borough manager will review the application and make a decision regarding the request. A public hearing is not required. Appeals of this decision are as prescribed in MSB 15.39.030.

(C) The percentage of loss, under MSB [17.80.090](#)(A) and (B) shall be determined by an independent adjustor or appraiser who is Financial Institutions Reform and Recovery Enforcement Act (FIRREA) certified or the appraisal must be accompanied by the appraiser's license number and certification of type of appraisal they are licensed to perform.

(Ord. 01-016, § 3, 2001; Ord. 99-197, § 2, 1999; Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.100 TERMINATION OF NONCONFORMITIES.**

When a legal nonconforming permanent structure is abandoned for a period of one year or more, the building shall not then be used except in compliance with this chapter. For the purposes of this chapter, abandonment means discontinuation or failure to complete construction and begin use, for a continuous period of more than one year. Whether the property owners intended to abandon the structure is not relevant to an abandonment determination. Reconstruction of a damaged nonconforming structure is not prohibited after the one-year period if the reconstruction was prohibited due to lawful orders issued by a court or in the course of an arson or criminal investigation.

(Ord. 95-011(SUB1), § 3 (part), 1995)

#### **17.80.110 VIOLATIONS AND ENFORCEMENT.**

Violations and enforcement of this chapter shall be consistent with the terms and provisions of Chapter 17.56.

(Ord. 95-011(SUB1), § 3 (part), 1995)



CODE ORDINANCE

Sponsored by: Sumner  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 26-028**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.80 NONCONFORMING STRUCTURES, TO REPEAL THE NOTIFICATION PROCESS AND FEE SECTION.

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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. Repeal of section. MSB 17.80.030 is hereby repealed in its entirety.

Section 3. Repeal of subsection. MSB 17.80.060(F) is hereby repealed in its entirety.

Section 4. Amendment of section. MSB 17.80.070 is hereby amended as follows:

17.80.070 Application for a Determination of Legal Nonconforming Status.

(A) An application for a determination of legal nonconforming status may be initiated by the property owner or his authorized agent. The application shall be filed with the planning director on a form provided by the planning department. The application shall be accompanied by a nonrefundable application fee, established by the assembly, and made payable to the

Matanuska-Susitna Borough. The planning director may not grant legal nonconforming status unless [THE APPLICANT PROVIDES] there is sufficient evidence that the structure [WAS ERECTED PRIOR TO THE ADOPTION OF THE ACKNOWLEDGMENT OF EXISTING LAND USE REGULATIONS CHAPTER EXCEPT AS NOTED HEREIN] meets the applicable eligibility criteria.

(B) In addition to the completed application form, the submittal shall contain the following items:

(1) description and photographs of the structure;

(2) as-built drawing(s), prepared by a professional surveyor, registered in the state of Alaska, verifying the location(s) or the structure(s);

(3) any other documentation the planning director may deem necessary to evaluate the application.

[(C) WHEN AN APPLICATION IS SUBMITTED, THE BOROUGH SHALL GIVE NOTICE OF THE APPLICATION BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE BOROUGH AT LEAST 15 CALENDAR DAYS BEFORE THE EARLIEST DATE THE PLANNING DIRECTOR MAY RENDER A DECISION.

(D) NOTICE OF THE APPLICATION SHALL BE MAILED TO OWNERS OF ALL PROPERTY WITHIN 600 FEET OF THE LOT LINES OF THE PROPERTY CONTAINING THE NONCONFORMING STRUCTURE

AT LEAST 10 CALENDAR DAYS PRIOR TO THE EARLIEST DATE UPON WHICH THE PLANNING DIRECTOR MAY MAKE A FINAL DECISION ON THE APPLICATION. THE NOTICE SHALL CONTAIN THE FOLLOWING:

(1) THE EARLIEST DATE A DECISION MAY BE RENDERED;

(2) BRIEF DESCRIPTION OF THE APPLICATION;

(3) A VICINITY MAP OF THE AREA SURROUNDING THE SUBJECT PROPERTY;

(4) LEGAL DESCRIPTION OF THE SUBJECT PROPERTY;

(5) THE NAMES OF THE APPLICANTS AND OWNERS OF THE SUBJECT PROPERTY;

(6) THE PLANNING DEPARTMENT'S TELEPHONE NUMBER; AND

(7) IDENTIFY THE LOCATION WHERE THE APPLICATION AND OTHER SUPPORTING MATERIAL WILL BE AVAILABLE FOR PUBLIC INSPECTION.

(E) PRIOR TO THE DATE OF THE DECISION, THE APPLICANT SHALL PAY THE COST OF ALL MAILINGS OR ADVERTISEMENTS REQUIRED BY THIS SECTION.]

Section 5. Effective date. This ordinance shall take effect upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day of -, 2026.

EDNA DeVRIES, Borough Mayor

ATTEST:

LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

By: A. Strawn  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 26-03**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING MSB 17.80 NONCONFORMING STRUCTURES TO REPEAL THE NOTIFICATION PROCESS AND FEE SECTION.

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WHEREAS, Assembly Ordinance 26-028 repeals the fee section and notification process for requests for a determination of legal nonconforming status; and

WHEREAS, MSB 17.80.030 conflicts with the fee schedule adopted by the Assembly; and

WHEREAS, the determination of legal nonconforming status is ministerial in nature; and

WHEREAS, the public notice requirement in MSB 17.80 is burdensome and costly, and it gives the false impression that public comments influence whether a structure qualifies for legal nonconforming status; and

WHEREAS, the proposed ordinance resolves the fee conflict, reduces staff time and administrative costs, and shortens processing time by more than two weeks; and

WHEREAS, the proposed ordinance supports the goals and objectives of the Borough Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 26-028.

ADOPTED by the Matanuska-Susitna Borough Planning Commission on this \_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
RICHARD ALLEN, Chair

ATTEST

\_\_\_\_\_  
LACIE OLIVIERI, Planning Clerk

(SEAL)

YES:

NO:

# **PUBLIC HEARING LEGISLATIVE**

## **Resolution No. 26-01**

A Resolution Of The Matanuska-Susitna Borough Planning Commission Recommending Approval Of An Ordinance Repealing A General Standard Of MSB 17.30 Conditional Use Permit (CUP) For Earth Materials Extraction Activities.

**Staff:** Alex Strawn, Planning and Land Use Director

**MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING A GENERAL STANDARD OF MSB 17.30 CONDITIONAL USE PERMIT (CUP) FOR EARTH MATERIALS EXTRACTION ACTIVITIES.

**AGENDA OF:** February 17, 2026

**ASSEMBLY ACTION:**

**AGENDA ACTION REQUESTED:** Refer to Planning Commission for 90 days.

Route To	Signatures
Originator	 Recoverable Signature X A l e x S t r a w n Signed by: Alex
Department Director	 Recoverable Signature X A l e x S t r a w n Signed by: Alex
Finance Director	 Recoverable Signature X C h e y e n n e H e i n d e l Signed by: Cheyenne Heindel
Borough Attorney	X N i c h o l a s S p i r o p o u l o s Signed by: Nicholas Spiropoulos 1 / 2 3 / 2 0 2 6
Borough Manager	X M i c h a e l B r o w n Signed by: Mike Brown 1 / 2 3 / 2 0 2 6
Borough Clerk	 Recoverable Signature X L o n n i e M c K e c h n i e Signed by: Lonnie McKechnie

**ATTACHMENT (S):** Ordinance Serial No. 26-021 (1 p)  
 MSB 17.30 (13 pp)  
 Planning Commission Resolution No. 26-\_\_\_ ( pp)

**SUMMARY STATEMENT:** This ordinance is at the request of Assemblymember Sumner.

The proposed ordinance repeals MSB 17.30.060(A)(1). Within Title 17, earth materials extraction is the only conditional use permit subject to a specific comprehensive plan consistency standard. Alaska Statute 29.40.040(A) provides that comprehensive plans are to be implemented through the adoption of land use regulations. Accordingly, when a conditional use complies with the applicable land use standards, the use is considered consistent with the comprehensive plan. The Borough's comprehensive plans are adopted as guiding policy documents and are not self-implementing. The

existing standard effectively assigns the comprehensive plan a regulatory role beyond its intended purpose. The proposed ordinance removes this standard while maintaining the intent and operation of the Borough's established conditional use review processes.

The proposed ordinance supports the goals and objectives of the Borough Comprehensive Plan.

Matanuska-Susitna Borough Comprehensive Plan

Goal E-3: Create an attractive environment for business investment.

- Policy E3-2: Institute appropriate land use guidelines and regulations that reduce land use conflicts and protect residents and businesses.

**RECOMMENDATION OF ADMINISTRATION:** Refer to Planning Commission and then introduce and set for public hearing.

**CHAPTER 17.30: CONDITIONAL USE PERMIT (CUP) FOR EARTH MATERIALS EXTRACTION ACTIVITIES**

Section

[17.30.010 Intent and purpose](#)

[17.30.020 Applicability](#)

[17.30.025 Nonconforming uses](#)

[17.30.030 Types of permits available](#)

[17.30.035 Application procedures](#)

[17.30.037 Material extraction below or within four feet of the seasonal high water table](#)

[17.30.040 Criteria to qualify for an administrative permit](#)

[17.30.050 Planning commission approval](#)

[17.30.055 Required compliance with state and federal laws](#)

[17.30.060 General standards for approval](#)

[17.30.110 Amendment of conditional use permit](#)

[17.30.120 Transfer of a conditional use permit](#)

[17.30.130 Termination of permit](#)

[17.30.140 Violations, enforcement, and penalties](#)

[17.30.150 Appeal procedures](#)

**17.30.010 INTENT AND PURPOSE.**

(A) It is the intent of the Matanuska-Susitna Borough to recognize the value and importance of promoting the utilization of natural resources within its boundaries. The purpose of this chapter is to allow resource extraction activities while promoting the public health, safety, order, prosperity, and general welfare of the Matanuska-Susitna Borough through regulation of land use to reduce the adverse impacts of land uses and development between and among properties. It is the further purpose of this chapter to promote compatible, orderly development. These purposes are accomplished by:

- (1) allowing for a public review process for earth materials extraction activities in the Matanuska-Susitna Borough;
- (2) enhancing the character and stability of residential, agricultural, business, commercial, and industrial areas, promoting the orderly and beneficial development of such areas by the owner/permittee in a manner that will not devalue the extraction site or neighboring properties for future beneficial uses upon completion of gravel extraction;
- (3) promoting diversified land use and economic opportunity;
- (4) encouraging the most appropriate uses of land;
- (5) enhancing the natural, manmade, and historical amenities of the Matanuska-Susitna Borough;
- (6) recognizing and preserving traditional uses of land within the Matanuska-Susitna Borough; and
- (7) protecting and enhancing the quality, peace, quiet and safety of the Matanuska-Susitna Borough neighborhoods.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.020 APPLICABILITY.**

- (A) This chapter applies to all private and public lands in the borough except where the use is prohibited by ordinance within a special land use district. Where a special land use district regulates earth materials extraction as a conditional use, the granting of a conditional use permit shall require compliance with this chapter. Where this chapter is in conflict with the conditional use permit conditions of the special land use district, the more restrictive conditions shall apply.
- (B) This chapter does not apply within the cities of Houston, Palmer, or Wasilla, or the Port MacKenzie Special Use District.
- (C) This chapter applies to commercial earth materials extraction activities where the principal activity of use of the property is the extraction of earth materials.
- (D) This chapter does not apply when earth material extraction activity is not intended for sale or barter.
- (E) Annual extraction of more than 2,000 cubic yards of earth materials on property that has not been granted a permit or pre-existing legal nonconforming status as of the date of the enactment of this chapter is required to obtain a conditional use permit or administrative permit.
- (F) *[Repealed by Ord. 11-153, § 13, 2011]*

(G) Extraction of 2,000 cubic yards or less annually on any one parcel does not require an administrative or conditional use permit. Where a site is exempt under this subsection the exemption is revoked if operations proceed within four feet of the seasonal high water table.

(H) This chapter shall not apply to earth material extraction activities on land owned by the state of Alaska that are in existence as of the date of adoption of the ordinance codified in this chapter except for such operations that extract materials within four feet of the water table. Where a site is exempt under this subsection the exemption is revoked if operations proceed to within four feet of the water table.

(Ord. 16-102, § 10, 2016; Ord. 12-096, § 3, 2012; Ord. 11-153, § 13, 2011; Ord. 08-043, §§ 2, 3, 2008; Ord. 07-130, § 2, 2007; Ord. 05-124(SUB)(AM), § 2 (part), 2005)

### **17.30.025 NONCONFORMING USES.**

(A) At the date of adoption of the ordinance codified in this chapter, or amendments thereto, earth materials extraction activities that have been granted a permit or pre-existing legal nonconforming status are permitted to continue subject to the provisions of this section.

(B) *[Repealed by Ord. 11-153, § 14, 2011]*

(C) *[Repealed by Ord. 11-153, § 14, 2011]*

(D) Legal nonconforming extraction operations shall comply with MSB 17.28.067(A) through (D).

(E) Operations with pre-existing legal nonconforming status that extract material below or within four feet of the seasonal high water table shall conduct operations in accordance with the requirements outlined in MSB [17.30.037\(D\)](#), except that MSB [17.30.037\(D\)](#)(8)(b) through (d) shall not apply.

(F) Nonconforming status shall expire if material extraction or earth material processing activity ceases for longer than five years.

(Ord. 11-153, § 14, 2011; Ord. 05-124(SUB)(AM), § 2 (part), 2005)

### **17.30.030 TYPES OF PERMITS AVAILABLE.**

(A) There are two types of permits available for earth materials extraction:

(1) *Administrative permit* – a use permit approved by the director with public notification may be issued if the proposed development meets the minimum thresholds for an administrative decision.

(2) *Conditional use permit* – a conditional use permit granted by the planning commission after a public hearing, when the proposed development goes beyond the minimum threshold for an administrative permit.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.035 APPLICATION PROCEDURES.**

(A) For all permits required under this chapter, the following shall be submitted to the department:

- (1) a completed application form provided by the department;
- (2) a site development plan in accordance with MSB 17.28.050 and 17.28.060;
- (3) the fee in the amount designated in MSB 17.99; and
- (4) reclamation plan in accordance with MSB 17.28.063.

(B) The director may reject any application which is incomplete or fails to meet the requirements of this section. The rejection shall be in writing and shall state the deficient items. Once the deficiencies have been corrected, the complete application will be processed.

(C) If the minimum criteria for an administrative permit can be met, the director will notify surrounding property owners in accordance with MSB 17.03, public notification, except that the notification area will be one-half mile. Within 30 days of acceptance of the application, the administrative permit will be issued with conditions to address concerns raised by neighboring property owners, and as deemed appropriate by the director, to protect the public health, safety and general welfare.

(D) *[Repealed by Ord. 11-153, § 15, 2011]*

(E) If the proposed development exceeds the minimum criteria for an administrative permit, a public hearing before the planning commission shall be conducted within 45 calendar days of the acceptance of a complete application in accordance with MSB 17.03, public notification, except that the notification area will be one-half mile. The applicant may waive the 45-day limit.

(F) The planning commission shall hear any interested parties and shall render a decision on the application for a conditional use permit within 30 calendar days from the date of public hearing, unless the applicant agrees to a time extension. In the granting of a conditional use permit, the planning commission shall state in writing the conditions of approval of the permit.

(Ord. 11-153, § 15, 2011: Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.037 MATERIAL EXTRACTION BELOW OR WITHIN FOUR FEET OF THE SEASONAL HIGH WATER TABLE.**

(A) Extraction of material below or within four feet of the seasonal high water table requires a permit under this section except:

- (1) material extraction in navigable water performed under the authority of the state or federal

governments.

(B) Prior to application for a water table extraction permit, the following requirements shall be met:

(1) installation of a sufficient number of monitoring wells and test pits, as recommended by a qualified professional, to adequately determine groundwater flow direction, hydraulic gradient, water table and seasonal high water table elevation, and monitor groundwater quality upgradient and downgradient of the proposed activity on the property on which the activity will take place. Monitoring well and test pit locations must provide the qualified professional with adequate information to characterize the entire property that will be permitted for material extraction:

(a) Monitoring wells shall be installed, maintained, and decommissioned in accordance with 18 AAC 80.015.

(b) Well casing elevations shall be surveyed to a vertical accuracy of 0.01 feet by a registered land surveyor.

(c) Monitoring well logs and a report must be submitted to the Alaska Department of Natural Resources (ADNR) prior to time of application. The submittal to ADNR must comply with 11 AAC 93.140 by showing well construction parameters and information.

(2) collection of a sufficient number of representative groundwater samples, as recommended by a qualified professional, to determine baseline water quality.

(a) Baseline representative groundwater samples shall be collected biannually (either mid-summer and fall or fall and late winter) from monitoring wells, and at a minimum, be analyzed for arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, total nitrite/nitrates, phosphates, total dissolved solids, fecal coliform bacteria, benzene, toluene, ethylbenzene, and xylenes by appropriate methods approved by the state. Additional analytes shall be included if recommended by a qualified professional and based on review of regulated potential sources of contamination within one-half mile of the boundary of the property on which the activity will take place;

(b) Representative groundwater samples shall be collected under supervision of a qualified professional using sampling methods and analytical methods as defined by a state-certified laboratory. Sampling methods shall include documentation to assure acquisition of representative samples.

(3) Determination of seasonal high water table elevation, groundwater flow direction, hydraulic gradient, and water table elevation for the site shall be measured under supervision of a qualified professional.

(4) A written report shall be completed by a qualified professional that makes a determination about the potential adverse effects to groundwater and surface water body elevation, groundwater and surface water

quality, surrounding water users and adjacent properties. The determination shall be based on available data, interpretations of the data and knowledge of groundwater processes.

- (5) The report shall be submitted with the conditional use permit application and shall:
- (a) identify existing public water system sources (i.e., wells, springs, surface water intakes), as identified by the state, that are located within one-half mile of the boundary of the property on which the activity will take place;
  - (b) identify actual or presumed private drinking water wells located within one-half mile of the boundary of the property on which the activity will take place and include a copy of the available well logs. The qualified professional shall inspect ADNR well log records available for properties within one-half mile of the boundary of the property on which the activity will take place;
  - (c) identify public drinking water source capture areas less than or equal to the distance of the two-year-time-of-travel isochron as identified or approved by the state, located within one-half mile of the boundary of the property on which the activity will take place;
  - (d) identify existing regulated potential sources of contamination within at least one-half mile of the boundary of the property on which the activity will take place;
  - (e) contain maps at appropriate scales presenting the results of the well search, the setbacks required by subsection (D)(8) of this section, and illustrating wetlands and water bodies; at least one map shall show identified potential sources of contamination;
  - (f) include the water table elevation monitoring data, groundwater sampling analytical results, monitoring well logs and records of any test pits, and a discussion of the seasonal high water table determination;
  - (g) evaluate subsurface hydrologic conditions and identify potential adverse effects that may occur as a result of material extraction. The evaluation of the hydrologic conditions shall include identifying confining layers; and
  - (h) The report and all data relied upon in creation of the report shall be provided to the borough and shall be available to the public for inspection and review by members of the public.
- (6) A monitoring plan shall be completed by a qualified professional with appropriate action levels requiring additional investigation and monitoring to assess potential adverse effects to groundwater or surface water.
- (a) The monitoring plan shall include a field sampling plan; and

- (b) The plan shall contain all well construction and development details.
- (C) In addition to the application requirements for a conditional use permit for earth materials extraction, the application for a water table extraction permit shall include:
- (1) a description of the proposed extent and depth of material extraction beneath the seasonal high water table.
  - (2) a written report that meets the requirements of subsection (B) of this section, a monitoring plan, and a spill prevention, control, and countermeasures plan as required by this section.
  - (3) a fee in the amount designated by the assembly in accordance with this chapter.
  - (4) a certificate of general liability insurance with limits not less than \$1,000,000 per occurrence/\$1,000,000 aggregate for operations involving less than 40 acres and \$2,000,000 per occurrence/\$2,000,000 aggregate for operations involving 40 acres or larger. Insurance shall insure liability for bodily injury and property damage and be written on the Insurance Services Office form number CG0001 12 07 or a form as broad as CG0001 12 07. The certificate of insurance shall include 30 days' notice of cancellation to the borough. The borough shall be named on the applicant's general liability policy as an additional insured and the applicant shall waive their rights of subrogation against the borough. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit period. Insurance coverage must include liability for providing comparable alternate sources of drinking water to all impacted parties served by any private or public water system adversely affected as a result of the activity.
  - (5) a certificate of pollution liability insurance with limits of \$1,000,000 per occurrence/\$1,000,000 aggregate including third party bodily injury and property damage and cleanup costs. If the responsible party's pollution liability (environmental) insurance is written on a claims-made form, the responsible party shall provide insurance for a period of three years after expiration or termination of the permit. The policy(ies) shall evidence a retroactive date, no later than the effective date of the conditional use permit.
- (D) Operating standards for extraction within or below four feet of the seasonal high water table are as follows:
- (1) Implement a monitoring plan that meets the requirements of this chapter. If existing wells will provide sufficient data, no additional wells are required;
  - (2) Implement the spill prevention, control and countermeasures plan in accordance with Environmental Protection Agency's requirements for above ground storage tank operations regardless of the quantity of petroleum products on site;
    - (a) Fuel storage containers larger than 50 gallons shall be contained in impermeable berms and

basins capable of retaining 110 percent of the storage capacity;

(b) Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface;

(c) Locate above ground storage tanks farthest from the path of groundwater flow to private and public water systems and farthest from state-approved drinking water source capture areas, and outside the setbacks for all drinking water sources;

(d) Equipment operating within the area of excavation shall be maintained to minimize leaks of petroleum fluids. Equipment that releases petroleum fluids to the environment shall be repaired as soon as practical. The responsible party or owner shall contain the leaks immediately on discovery; and

(e) In the event of a reportable release of regulated contaminants, notification shall include the director and shall occur concurrently with the state and federal agencies, if applicable.

(3) Groundwater flow direction, hydraulic gradient, and groundwater table elevation for the subject parcel shall be measured at least monthly during active extraction. Monitoring wells must be maintained or replaced with equivalent monitoring wells.

(4) Collect groundwater samples biannually prior to seasonal excavation startup and within two weeks of seasonal shutdown from the down-gradient and cross-gradient monitoring wells. Sample collection shall be conducted in accordance with sampling methods defined by a state certified laboratory.

(a) Representative groundwater samples shall be analyzed, at a minimum, for benzene, toluene, ethylbenzene, xylenes, and total dissolved solids, by methods approved by a certified laboratory as well as any analyte identified in the water quality monitoring data with a concentration within 15 percent of the applicable water quality standards established by state regulation. Groundwater sample analysis shall include testing for analytes that may indicate water quality changes including, but not limited to, pH, conductivity, nitrates, sulfates, sodium, calcium, magnesium, bicarbonate, and potassium.

(b) Analytical sampling results and water elevation monitoring data shall be retained for two years following completion of reclamation activities and shall be provided to the director upon request.

(i) If the monitoring data indicates that a maximum contaminant level set under 18 AAC 80 has been exceeded, or if the water level measurements indicate a shift, beyond natural variability, in the elevation of the water table, the owner or responsible party shall report that result to the department within 48 hours of notification.

(c) A qualified professional shall annually submit a report to the department that includes:

- (i) a table of monitoring results;
  - (ii) water quality sample analytical results in a table that includes the appropriate maximum contaminant levels established under 18 AAC 80; and
  - (iii) water table elevation monitoring data.
- (5) Operations shall not breach or extract material from a confined aquifer or a confining layer beneath a perched aquifer currently used as a drinking water source.
- (a) If evidence suggests a confined aquifer or confining layer has been breached, or if groundwater or surface water elevation changes rapidly or beyond natural variation, the director shall be notified within 24 hours.
    - (i) A hydrologic assessment, conducted by a qualified professional, to determine the affected area and the nature and degree of effects and a description of potential repair or mitigation options shall be submitted to the director within 14 calendar days of notification;
    - (ii) Repair or mitigation sufficient to address identified effects shall be initiated as soon as practical, not to exceed 45 calendar days from the date the assessment is received by the director;
- (6) Proof of insurance as required by subsection (C)(4) of this section to mitigate impacts arising from the extraction activity shall be maintained until completion and acceptance of reclamation activities.
- (7) Operations should be conducted in accordance with the current publication of the State of Alaska's User Manual Best Management Practices for Gravel Pits.
- (8) Operations shall maintain the following setbacks:
- (a) sixty-five feet from the property line, except where operations encompass contiguous parcels and extraction within four feet of the seasonal high water table is proposed across adjoining lot lines;
  - (b) five hundred feet from the nearest downgradient drinking water source;
  - (c) three hundred fifty feet from the nearest cross-gradient drinking water source; and
  - (d) two hundred feet from the nearest upgradient drinking water source.
    - (i) Minimum separation distances shall not apply to drinking water sources constructed after a permit to extract material below the water table has been issued.

(Ord. 11-153, § 16, 2011)

**17.30.040 CRITERIA TO QUALIFY FOR AN ADMINISTRATIVE PERMIT.**

(A) To qualify for an administrative permit, all of the following criteria must be met:

(1) *[Repealed by Ord. 16-102, § 11, 2016]*

(2) extraction activities subject to the permit shall not exceed:

(a) twenty-four months. A one-time extension of six months may be granted administratively upon written request from the applicant; provided, that all conditions of the permit have been met; or

(b) annual volume of 7,000 cubic yards (one cubic yard equals one and one-half tons) or less; and

(3) any proposed batch plant use shall not exceed 24 months.

(B) The director may also set basic conditions of approval for issuance of the administrative permit, as appropriate for the area in which the development is sited, for the following:

(1) setbacks (no less than minimum setback requirements as established in MSB 17.55; however, may be increased as appropriate for existing surrounding development);

(2) visual screening, noise mitigation, lighting restrictions and roads/access restrictions as appropriate for surrounding development and in accordance with development standards referenced in MSB 17.28.060, site development standards; and

(3) road maintenance may be required by permittee.

(Ord. 16-102, § 11, 2016; Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.050 PLANNING COMMISSION APPROVAL.**

(A) *[Repealed by Ord. 16-102, § 12, 2016]*

(B) The commission may set conditions of approval for issuance of the conditional use permit, as appropriate for the area in which the development is sited, for the following:

(1) setbacks (no less than minimum setback requirements as established in MSB 17.55; however, may be increased as appropriate for existing surrounding development);

(2) visual screening, noise mitigation, lighting restrictions and roads/access restrictions as appropriate for surrounding development and in accordance with development standards referenced in MSB 17.28.060,

site development standards;

(3) road maintenance may be required of the permittee; and

(4) length of time of operation and location of batch plants.

(Ord. 16-102, § 12, 2016: Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.055 REQUIRED COMPLIANCE WITH STATE AND FEDERAL LAWS.**

(A) All applicants for permits for earth materials extraction are required to demonstrate compliance with state and federal law. Prior to final approval of the permit, the applicant or agent shall provide written documentation of compliance with the following:

(1) mining license as required by the Alaska State Department of Revenue, pursuant to A.S. 43.65;

(2) mining permit as required by the Alaska State Department of Natural Resources (ADNR) if extraction activities are to take place on state land;

(3) reclamation plan as required by ADNR, pursuant to A.S. 27.19;

(4) notice of intent for construction general permit or multi-sector general permit and storm water pollution prevention plan, and other associated permits or plans required by the Department of Environmental Conservation (DEC) pursuant to the Alaska Pollutant Discharge Elimination System (APDES) requirements; and

(5) United States Army Corps of Engineers permit pursuant to Section 404 of the Clean Water Act, 33 U.S.C. 1344, if material extraction activity is to take place within wetlands, lakes and streams.

(B) In addition to the requirements in subsection (A) of this section, all activity shall be conducted in compliance with state or federal regulations governing the items listed below. Written documentation of compliance with these regulations is not required. Complaints received by the borough of violations of requirements within this section will be forwarded to the appropriate agency for enforcement.

(1) *Air quality.*

(a) EPA air quality control permit is required for asphalt plants and crushers.

(b) ADNR burn permit is required for brush or stump burning. Combustibles shall be stockpiled separate from noncombustibles, and burn permit requirements shall be followed.

(c) ADEC dust control and air quality regulations pertaining to burning activities shall be followed.

(2) *Water quality.*

(a) EPA or ADEC regulations controlling spills, spill reporting, storage and disposal of oil, anti-freeze and hydrocarbons.

(3) *Use and storage of hazardous materials, waste and explosives.*

(a) EPA regulations controlling use of hazardous materials shall be followed.

(b) Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (FBATFE) regulations shall be followed when storing or using explosives.

(C) Failure to comply with any of the requirements in subsections (A) and (B) of this section is a violation of the permit, and is subject to enforcement pursuant to MSB [17.30.140](#).

(IM 07-289, page 2 (part), presented 11-13-07; Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.060 GENERAL STANDARDS FOR APPROVAL.**

(A) In granting an administrative permit or a conditional use permit, the director or commission must make the following findings:

- (1) that the use is not inconsistent with the applicable comprehensive plan;
- (2) that the use will preserve the value, spirit, character, and integrity of the surrounding area;
- (3) that the applicant has met all other requirements of this chapter pertaining to the use in question;
- (4) that granting the permit will not be harmful to the public health, safety and general welfare; and
- (5) that the sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the conditions listed in MSB [17.30.050](#)(B).

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.110 AMENDMENT OF CONDITIONAL USE PERMIT.**

(A) A conditional use permit may be amended by application to the department and approval by the planning commission. The applicant shall provide the department an update of all information required in the original permit, shall describe the proposed changes in detail, and shall provide copies of any additional state and federal permits which the amendments may require. The notice and hearing provisions of this chapter shall apply to an amendment to the permit.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.120 TRANSFER OF A CONDITIONAL USE PERMIT.**

(A) A permit may be transferred subject to the conditions of MSB 17.60.180.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.130 TERMINATION OF PERMIT.**

(A) A permit shall terminate under this chapter subject to the conditions in MSB 17.60.190.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.140 VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

(A) Unless otherwise specified, any violation of this chapter is an infraction.

(B) It is a violation to conduct commercial earth material extraction activities without a permit issued under this chapter unless designated as an interim materials district or as a pre-existing legal nonconforming use in accordance with MSB 17.28 or MSB [17.30.025](#).

(C) It is a violation to operate with a permit issued under this chapter but in violation of any criteria or condition which was necessary for the issuance of the permit.

(D) Enforcement of the provisions of this chapter and associated penalties shall be consistent with the terms and conditions of MSB 1.45.

(Ord. 11-153, § 17, 2011; Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**17.30.150 APPEAL PROCEDURES.**

(A) The provisions of MSB 15.39 govern appeals from a decision of the planning commission granting, denying, modifying, or revoking a conditional use permit under this chapter. The provisions of MSB 15.39 govern an appeal of a planning department enforcement action or decision.

(Ord. 05-124(SUB)(AM), § 2 (part), 2005)

**Sec. 29.40.040. Land use regulation.**

- (a) In accordance with a comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by ordinance shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to, zoning regulations restricting the use of land and improvements by geographic districts;
- (1) land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
  - (2) measures to further the goals and objectives of the comprehensive plan.
- (b) A variance from a land use regulation adopted under this section may not be granted if
- (1) special conditions that require the variance are caused by the person seeking the variance;
  - (2) the variance will permit a land use in a district in which that use is prohibited;  
or
  - (3) the variance is sought solely to relieve pecuniary hardship or inconvenience. (§ 11 ch 74 SLA 1985)

**Sec. 29.40.050. Appeals from administrative decisions.**

- (a) By ordinance the assembly shall provide for an appeal from an administrative decision of a municipal employee, board, or commission made in the enforcement, administration, or application of a land use regulation adopted under this chapter. The assembly may provide for an appeal to a court, hearing officer, board of adjustment, or other body. The assembly shall provide for an appeal from a decision on a request for a variance from the terms of a land use regulation when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.
- (b) By ordinance the assembly may provide for appointment of a hearing officer, or for the composition, appointment, and terms of office of a board of adjustment or other body established to hear appeals from administrative actions. The assembly may define proper parties and prescribe evidentiary rules, standards of review, and remedies available to the hearing officer, board of adjustment, or other body. (§ 11 ch 74 SLA 1985)

**Sec. 29.40.060. Judicial review.**

- (a) The assembly shall provide by ordinance for an appeal by a municipal officer or person aggrieved from a decision of a hearing officer, board of adjustment, or other body to the superior court.
- (b) An appeal to the superior court under this section is an administrative appeal heard solely on the record established by the hearing officer, board of adjustment, or other body. (§ 11 ch 74 SLA 1985)



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## Gravel pits

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**From** Susan Dent <docdent@mtaonline.net>

**Date** Fri 3/6/2026 6:15 AM

**To** MSB Planning Commission <msb.planning.commission@matsugov.us>

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

Dear planning commission

Gravel pits have a tremendous impact on communities. A community's comprehensive plan must be considered when approving new pits. Maxwell Sumners ordinance should not be approved.

Thank you.

Susan Dent

Sent from my iPad



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**proposed Ordinance OR26-021**

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**From** Alex Mahoy <amahoy@yahoo.com>

**Date** Sun 3/8/2026 11:59 AM

**To** MSB Planning Commission <msb.planning.commission@matsugov.us>

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

Regarding the proposed Ordinance OR26-021 - just say NO. Tired of these builders/contractors trying to change things to line their pockets at our expense.

from: Alexander Mahoy  
8048 W Sun Ridge cir  
Wasilla

Thank you for your attention to this matter.

Sent from my iPhone

Dear Planning Commission Members and Assembly Members,

My name is Sharon Herrell-Rudd, and I am a resident of the Meadow Lakes area. I am writing to express my opposition to proposed Ordinance OR26-021.

The Comprehensive Plan exists to guide responsible development and ensure that the voices of residents are considered when major land use decisions are made. Removing the requirement that the Comprehensive Plan be considered when reviewing a Conditional Use Permit for gravel extraction removes a critical safeguard for communities like ours.

Gravel pits bring significant impacts including increased truck traffic, dust, noise, and potential declines in nearby property values. These decisions should never be made without careful consideration of the surrounding community and the long-term vision outlined in our Comprehensive Plans.

The situation involving the proposed gravel operation on Mental Health Trust land near Sylvan demonstrated exactly why this requirement matters. Community members were able to raise valid concerns, and those concerns were taken seriously because the Comprehensive Plan had to be considered during the review process.

If Ordinance OR26-021 is approved, residents will lose an important tool that ensures community planning and public input remain part of the decision-making process.

I respectfully urge the Planning Commission and the Assembly to vote NO on Ordinance OR26-021 and maintain the current protections that require Comprehensive Plans to be considered.

Thank you for your service and your attention to this important issue.

Sincerely,

Sharon Herrell-Rudd

Meadow Lakes Resident



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## OR 26-021

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**From** Amy Schachle <amyschachle@yahoo.com>

**Date** Sun 3/8/2026 5:05 PM

**To** MSB Planning Commission <msb.planning.commission@matsugov.us>

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

Hello Planning Commission,

I am writing to urge you to vote no on OR 26-021 which eliminates the requirement that a communities' Comprehensive Plan be considered when a Conditional Use Permit for gravel is being reviewed. Why shouldn't a communities' Comprehensive Plan be Considered when proposing anything for a community? OR 26-021 appears to be a way for less desirable projects to more easily gain access to established communities. It's even more worrying that OR26-21 is being proposed by an Assembly person that has strong ties to building in the community and would greatly benefit from this.

I urge you to vote not on OR 26-021 and allow all community Comprehensive Plans to be taken into consideration when granting permission for projects in the community.

Sincerely,  
Amy Schachle

7494 West Sun Ridge Circle  
99623

CODE ORDINANCE

Sponsored by: Sumner  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
ORDINANCE SERIAL NO. 26-021**

AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING  
A GENERAL STANDARD OF MSB 17.30, CONDITIONAL USE PERMIT (CUP) FOR  
EARTH MATERIALS EXTRACTION ACTIVITIES.

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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. Repeal of paragraph. MSB 17.30.060 (A) (1) is hereby  
repealed in its entirety.

Section 3. Effective date. This ordinance shall take effect  
upon adoption.

ADOPTED by the Matanuska-Susitna Borough Assembly this - day  
of -, 2026.

\_\_\_\_\_  
EDNA DeVRIES, Borough Mayor

ATTEST:

\_\_\_\_\_  
LONNIE R. McKECHNIE, CMC, Borough Clerk

(SEAL)

By: A. Strawn  
Introduced:  
Public Hearing:  
Action:

**MATANUSKA-SUSITNA BOROUGH  
PLANNING COMMISSION RESOLUTION NO. 26-01**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE REPEALING A GENERAL STANDARD OF MSB 17.30 CONDITIONAL USE PERMIT (CUP) FOR EARTH MATERIALS EXTRACTION ACTIVITIES.

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WHEREAS, Assembly Ordinance 26-021 repeals MSB 17.30.060 (A) (1); and

WHEREAS, within Title 17, earth materials extraction is the only conditional use permit subject to a specific comprehensive plan consistency standard; and

WHEREAS, Alaska Statute 29.40.040 (A) provides that comprehensive plans are to be implemented through the adoption of land use regulations; and

WHEREAS, the Borough's comprehensive plans are adopted as guiding policy documents and are not self-implementing; and

WHEREAS, the existing standard effectively assigns the comprehensive plan a regulatory role beyond its intended purpose; and

WHEREAS, the proposed ordinance removes this standard while maintaining the intent and operation of the Borough's established conditional use review processes; and

WHEREAS, the proposed ordinance supports the goals and objectives of the Borough Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends approval of Assembly Ordinance 26-021.

ADOPTED by the Matanuska-Susitna Borough Planning Commission on this \_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
RICHARD ALLEN, Chair

ATTEST

\_\_\_\_\_  
LACIE OLIVIERI, Planning Clerk

(SEAL)

YES:

NO:

# **COMMISSION BUSINESS**



## MATANUSKA-SUSITNA BOROUGH

### Planning and Land Use Department

350 East Dahlia Avenue • Palmer, AK 99645

Phone (907) 861-7822

[Matsu.gov](http://Matsu.gov)

### MEMORANDUM

DATE: March 9, 2026

TO: Planning Commission

FROM: Alex Strawn, Planning and Land Use Director



SUBJECT: Tentative Future PC Items

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### Upcoming PC Actions

#### Quasi-Judicial

- Houdini's Herbs – Marijuana Retail Facility; 8164B01L001A (Staff: Rick Benedict)
- Ficklin Gravel Products LLC – Earth Materials Extraction; 16N04W03A009 (Staff: Rick Benedict)
- Butte Land Co. – Earth Materials Extraction; 17N02E35A024 (Staff: Natasha Heindel)
- Harman Northeast – Earth Materials Extraction; 18N01W15B015 (Staff: Rick Benedict)
- Three Bears Alaska Inc. – Core Area Conditional Use Permit; 8211000L001 (Staff: Rick Benedict)
- Alaska Gravel Company – Earth Materials Extraction; 21N04W18C004 (Staff: Rebecca Skjothaug)
- Knetch – Variance; 6070000L1051 (Staff: Rebecca Skjothaug)
- Hart Variance - Tax ID# 8578B05L015A (Staff: Natasha Heindel)
- Bad Gramm3r LLC – Marijuana Retail Facility; 1068000L020 (Staff: Rick Benedict)
- McIntyre Farms LLC – Marijuana Cultivation Facility; 6025B02L007 (Staff: Rick Benedict)
- Riordan Variance - Tax ID# 6041B08L010 (Staff: Rebecca Skjothaug)

#### Legislative

- Historic Preservation Plan (HPP) (Staff: Paul Clark)
- MSB Borough-Wide Comprehensive Plan (Staff: Jason Ortiz/Alex Strawn)