

[Matanuska Susitna Borough Code](#)

CHAPTER 17.27: SUTTON SPECIAL LAND USE DISTRICT

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17.27.010 DEFINITIONS.

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

“Access” means a legal way or means of approach to provide physical ingress or egress to a property.

“Alcohol and drug rehabilitation center” means a facility for the detention of individuals mandated to seek drug and alcohol rehabilitation by a court order. The facility must exercise 24-hour physical control and detention of the residents.

“Area, lot” means the total area within the property line, including easements but excluding dedicated rights-of-way.

“Automobile wrecking” means the dismantling or wrecking of automobiles or other motor vehicles, and the storage or keeping for commercial sale of dismantled or wrecked motor vehicles, or the parts resulting from such activity.

“Automobile wrecking yard” means the location within which the activity of automobile wrecking for commercial or public use is present.

“Box store” means a large-format retail store with more than 100,000 square feet of floor space.

“Buffer” means a method of protection against negative impacts, which provides a physical separation or barrier.

“Building” means any structure, including mobile homes, intended for the shelter, housing, or enclosure of any person, animal, process, equipment, goods, use, materials, or services of any kind or nature.

“Building height” for the purposes of determining the maximum height of a building or structure, means the vertical distance from the average finished grade adjacent to the building to the highest point on the roof, but not including radio antennae, water towers, church spires, penthouses constructed primarily for mechanical equipment, or similar incidental building features.

“Chemical processing facility” means a use or facility that processes raw or modified chemicals, in whole or in part.

“Commercial use” means any activity where goods or services are offered for sale or for profit.

“Correctional community residential centers (CCRC)” means a community residential center, other than a correctional institution, for the short-term or temporary detention of prisoners in transition from a correctional institution, performing restitution, or undergoing rehabilitation or recovery from a legal infirmity. CCRCs may not be used for detention of prisoners who pose a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or 24-hour physical supervision. The determination of whether a prisoner poses a threat or danger to the public for violent or sexual misconduct without imprisonment or physical confinement under guard or 24-hour physical supervision shall be made by the commissioner of corrections for state prisoners and the United States Attorney General, or U.S. Director of Bureau of Prisons for federal prisoners.

“Conditional use” means a use of a structure or land, which may be allowed by the planning commission after a public hearing and review and subject to certain, prescribed or imposed conditions.

“Conditional use permit” means a written document, which may specify controls and safeguards on the conditionally permitted activity to ensure compatibility with permitted uses.

“Correctional institution” means a facility other than a correctional community residential center providing for the imprisonment or physical confinement or detention of prisoners under guard or 24-hour physical supervision, such as prisons, prison farms, jails, reformatories, penitentiaries, houses of detention, detention centers, honor camps, and similar facilities.

“Grade, finished” means the lowest point of elevation of the finished surface of the ground, paving, or sidewalk between the building and a line five feet from the building or, when the property line is less than five feet from the building, between the building and the property line.

“Grade, natural” means the elevation of the ground surface in its natural state, before man-made alterations.

“Gravel pit” means an open land area where sand, gravel, and rock fragments are mined or excavated for sale or off-tract use.

“Industrial use, light” means the manufacturing of finished products or parts predominately from previously prepared materials, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products or components, but excludes heavy industrial processing.

“Industrial uses, heavy” means any manufacturing or processing of products predominately from raw materials or the warehousing, storage, distribution, shipping of such products.

“Junk” means any secondhand and used machinery, scrap iron, copper, lead, zinc, aluminum, or other metals; it also includes wrecked automobiles, tools, implements, rags, used building materials, rubber and paper. The above-listed materials are not intended to be exclusive; “junk” may include any other materials, which cannot, without further alteration and reconditioning, be used for their original purposes.

“Junkyard/refuse area” means a location which is commercially used for the purpose of outdoor storage, handling, dismantling, wrecking, keeping or sale of used, discarded, wrecked or abandoned airplanes, appliances, vehicles, boats, building and building materials, machinery, equipment, or parts thereof, including but not limited to, scrap metals, wood, lumber, plastic, fiber other tangible materials.

“Lot” means a designated parcel, plot, tract or area of land established by plat, subdivision or, as otherwise permitted by law, to be used, developed, or built upon as a unit. (See also Title [16](#))

“Maximum security facility” means a correctional facility designed and operated to provide the maximum security of incarcerated prisoners.

“Medical and industrial waste incinerators” means an incinerator used to dispose of medical or industrial waste.

“Natural resource extraction or processing” means a use or facility that extracts a natural resource(s) from the earth or a use or facility that process a natural resource. Natural resources include but are not limited to coal, gravel, iron, and limestone.

“Parking space” means a space for the parking of a motor vehicle within a public or private parking area.

“Permitted use” means a use of land or a structure allowed within the zoning district and includes all uses not listed as conditional uses or prohibited uses.

“Principal use” means the primary or predominant use of any lot, building, or structure.

“Refuse area” (See “Junkyard.”)

“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.

“Salvage Yard” (See “Junkyard.”)

“Setback” means the area of a lot adjacent to a lot line within which structures as herein defined may not be erected.

“Structure” means anything that is constructed or created and located on or under 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: fences; retaining walls; parking areas; roads; driveways or walkways; window awning; a temporary building when used for 30 calendar days or less; utility poles and lines; guy wires; clothes lines; flagpoles; planters; incidental yard furnishings; water wells; monitoring wells or tubes; patios, decks or steps less than 18 inches above average grade.

“Temporary structure” means a structure without any foundation or footings, used for no longer than 30 calendar days, which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

“Use” means the purpose for which land, a building or structure is arranged, designated or intended, or for which either land or a building is or may be occupied or maintained.

“Variance” means a grant of relief from one or more of the requirements of MSB Title 17 as provided for by state law and the borough code.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.020 ESTABLISHED.

(A) There is established a special land use district, which shall include all territory lying within the area designated as the Sutton community and further described in subsection (B).

(B) The Sutton Special Land Use District includes the following area:

Township 18 North, Range 3 East, Seward Meridian, Alaska; Sections 5 and 6, lying north of the thread (center of the braided channels) of the Matanuska River;

Township 18 North, Range 2 East, Seward Meridian, Alaska; Sections 1 and 2, lying north of the thread the Matanuska River; Section 3, lying north of the thread of the Matanuska River and northeast of the thread of Moose Creek; Section 4, lying northeast of the thread of Moose Creek; Sections 11 and 12, lying north of the thread of the Matanuska River;

Township 19 North, Range 4 East, Seward Meridian, Alaska; Sections 1 and 2, lying northwest of the thread of Kings River; Sections 8 and 9, All; Section 10 and 11, lying northwest of the thread of Kings River; Sections 15 and 16, lying northwest of the thread of Kings River; Section 17, lying northwest of the thread of Kings River and north of the thread of the Matanuska River; Section 18, All; Sections 19 and 20, lying north of the thread of the Matanuska River;

Township 19 North, Range 3 East, Seward Meridian, Alaska; Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, All; Sections 24, 25, 26, 27 and 28, lying northwest of the thread of the Matanuska River; Sections 29, 30 and 31, All; Sections 32 and 33, lying northwest of the thread of the Matanuska River;

Township 19 North, Range 2 East, Seward Meridian, Alaska; Sections 13 and 14, lying east of the thread of Moose Creek; Sections 22 and 23, lying east of the thread of Moose Creek; Sections 24, 25 and 26, All; Sections 27 and 28, lying east of the thread of Moose Creek; Sections 33 and 34, lying east of the thread of Moose Creek; Sections 35 and 36, All.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.030 PURPOSE.

This special land use district is adopted to protect the public health, safety, and general welfare of the residents of Sutton and to implement the recommendations of the Sutton Comprehensive Plan. The Sutton Planning Area is a scenic, rural, small town community. It is the desire of the community to preserve the area's scenic and residential qualities including air and water quality, quiet atmosphere, and outdoor recreation opportunities.

Growth and development is encouraged and fostered where a balance exists between private property rights, use of natural resources, public investment in community facilities and services, and the protection of the natural environment.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.040 CONFORMANCE REQUIRED.

No building, structure, land, or water area located within this special land use district shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected except in conformity with the regulations specified in this chapter.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.050 PERMITTED USES.

Those uses not identified as conditional uses or prohibited uses are permitted.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.060 CONDITIONAL USES.

(A) The following land uses are declared to be potentially damaging to the property values and usefulness of adjacent properties, or potentially harmful to the public health, safety, and welfare, and such uses are permitted only upon the issuance of a conditional use permit, as provided in this chapter:

- (1) junkyards and automobile wrecking yards pursuant to the requirements of MSB [17.60.110](#) and the requirements of this chapter;

- (2) man-made structures exceeding the maximum allowable height of 50 feet or more above average grade for man-made structures, including towers;
 - (a) tower farms containing two or more tall towers regulated under MSB [17.60.140](#) and the requirements of this chapter;
 - (b) tower line routes and tower service area grids, containing two or more towers regulated under MSB [17.60.140](#) and the requirements of this chapter;
 - (c) electrical lighting towers in excess of 185 feet located within the road rights-of-way along major arterial corridors regulated by MSB [17.60.140](#) and the requirements of this chapter.
 - (d) Exemptions. Exemptions to tall structures include: Church spires, amateur radio (ham radio) antennae, flag poles, penthouses constructed primarily for mechanical equipment, or other similar incidental building features are exempt from the requirement for a conditional use permit under the provisions of this section.
- (3) medical and industrial waste incinerators;
- (4) chemical processing facilities;
- (5) electrical transmission lines designed for the purpose of transporting or carrying electric power in quantities equal to or greater than 100,000 volts;
- (6) natural resource extraction or processing;
- (7) heavy industrial uses;
- (8) shooting ranges, indoor and outdoor;
- (9) box stores;

(10) race tracks used by motorized vehicles, carrying people on land or other surfaces, such as mud, ice, or snow pursuant to the requirements of MSB [17.63.005](#) through [17.63.050](#) and the requirements of this chapter.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.070 PROHIBITED USES.

(A) Prohibited uses and structures within the Sutton Special Land Use District include:

- (1) maximum security facilities;
- (2) correctional community residential centers; and
- (3) alcohol and drug rehabilitation centers as defined under MSB [17.27.010](#).

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.080 INTENT OF CONDITIONAL USE PERMIT.

It is recognized that the uses listed in MSB [17.27.060](#) are uses which may be appropriate in this special land use district provided that controls and safeguards are applied to ensure their compatibility with permitted uses and to protect the public health, safety, and welfare. The conditional use permit procedure is intended to allow the community through the planning commission to consider the impact of the proposed conditional use on surrounding property and the application of controls and safeguards to ensure that the conditional use will be compatible with the surrounding area and in keeping with the character of the Sutton community and the overall goals of the Sutton Comprehensive Plan.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.090 APPLICATION AND FEE.

(A) An application for a conditional use permit shall be filed by the owner of the property concerned or the owner's authorized agent.

(B) Application for a conditional use permit shall be in writing on forms prescribed by the planning director. The application shall include:

- (1) a legal description of the property involved;
- (2) a statement of the proposed use; and
- (3) a detailed site plan showing the proposed location of all buildings and structures on the site, access points, visual screening, buffering, drainage, vehicular and pedestrian circulation patterns, parking areas, and the specific location of the proposed land use or uses, specific location of septic and waste water facilities, together with other information as may be required to comply with the standards for a conditional use listed in this chapter and in other pertinent sections of the borough code. For those conditional uses involving natural resource extraction or gravel pits, acceptable groundwater monitoring and reclamation plans shall be submitted for review and consideration by the planning commission.

(C) A non-refundable fee as prescribed by MSB [17.99](#).

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.100 PUBLIC HEARING.

(A) The planning commission will hold a public hearing to consider any conditional use permit application.

(B) Notice of any public hearing required under this code shall be given in accordance with this section.

(C) Forms of notices are as follows:

- (1) publication in a newspaper of general circulation in the borough 15 calendar days prior to the date of the public hearing;
- (2) mailing a public hearing notice at least 15 calendar days prior to the public hearing to all owners of property within a distance of one mile of the exterior boundary of the property that is the subject of the application, or to the record owners of the five tax parcels nearest the property that is the subject of the application, whichever is the greater number of persons. In addition, the Sutton Community Council will be notified.

(3) In addition to the requirements of subsection (C) (2) above, if the public hearing is for a conditional use permit within a recorded subdivision, all owners of record of property within that subdivision shall be mailed a public hearing notice.

(D) The applicant is responsible for posting a notice of the upcoming public hearing as provided by the borough in the local post office, community library, and fire hall.

(E) "Record owners" in this section refers to the owners as shown in the records of the borough tax assessor.

(F) The failure of any person to receive any notice required under this section, where the records of the borough indicate the notice was provided in a timely manner, shall not affect the validity of any proceeding under this title.

(G) Every public hearing notice shall state the following information:

(1) date, time, and location of the public hearing;

(2) brief description of the application;

(3) description of the property that is the subject of the application and a vicinity map of that land;

(4) legal description of the land;

(5) the names of the applicants and the owners of the subject property;

(6) identify the location where the application and other supporting material will be available for public inspection; and

(7) identify the planning department's telephone number.

(H) Prior to the date of the public hearing, the applicant will pay the cost of all mailings or advertisements required by ordinance specific to that action.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.110 PLANNING COMMISSION ACTION.

(A) The planning commission shall consider the recommendation of the Sutton Community Council, 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 the close of the public hearing. In recommending the granting of a conditional use permit, the planning commission shall state in writing the conditions of approval of the permit which it finds necessary to carry out the intent of this chapter. These conditions may increase the required lot or yard size, control the location and number of vehicular access points to the property, require screening and landscaping, and may require the reclamation of property to a character in keeping with surrounding lands. The commission may also impose other conditions and safeguards designed to ensure the compatibility of the conditional use with other lawful uses and the character and integrity of the Sutton community.

(B) The planning director shall incorporate any conditions or requirements stipulated by the commission in the conditional use permit.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.120 GENERAL STANDARDS.

(A) A conditional use may be approved only if it meets the requirements of this section in addition to any other standards required by this chapter.

(B) In granting a conditional use permit, the planning commission must make the following findings:

(1) The conditional use will not detract from the value, character, or integrity of the Sutton community;

(2) The conditional use is consistent with the Sutton Comprehensive Plan's goals for preserving the area scenic quality, quiet atmosphere, and outdoor recreational opportunities;

(3) The conditional use fulfills all other requirements of this chapter pertaining to the conditional use in question;

(4) The granting of the conditional use permit will not be harmful to the public health, safety, convenience, and welfare;

(5) Sufficient access, setbacks, lot area, parking space, buffers, and other safeguards have been provided;

(6) If the permit is for a public use or structure, the commission must find that the proposed use or structure is located in a manner, which will maximize public benefits.

(7) Heavy industrial uses shall not produce noise, air pollution, water pollution, vibration, smoke, dust, fire hazard, noxious, toxic, or hazardous odor, gases, fumes, glare or light pollution, electrical interference, or industrial waste that is sufficient to create a nuisance beyond the boundaries of the premises.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.130 NONCONFORMING USES.

(A) There may exist nonconforming uses or structures within the Sutton Special Land Use District as of the date of adoption of this chapter, or amendments thereto, which were lawful before the effective date of the applicable regulations, but which would otherwise be prohibited, regulated, or restricted under this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are discontinued but not to encourage their perpetuation.

(B) Because nonconformities do not conform with the provisions within this chapter, they are declared to be incompatible with the uses in the Sutton Special Land Use District. This chapter does not require the relocation or removal of a nonconforming use or structure existing, or under construction, at the time of adoption of the ordinance if such use or structure was lawful at the time of its construction. No nonconforming use may be constructed or operated except to the extent it was in existence or under actual construction as of January 1, 2003 or amendments thereto. "Actual construction" is defined as the substantial placement of construction materials and performance of labor for construction of facilities, which cannot be reasonably used except in a manner which does not conform with these regulations.

(C) Nonconforming uses in existence or under construction as of January 1, 2003, shall apply for certification of their nonconforming use or structure from the planning director within 12 months of January 1, 2003, or of a later amendment which makes the use or structure nonconforming.

(D) No nonconforming use shall be expanded to include an adjacent parcel or parcels unless the area or expansion meets the requirements of this chapter, except that contiguous, unplatted tracts constituting a block of land in the same ownership held for the same purpose on January 1, 2003, and containing a nonconforming use or structure shall be considered one parcel.

(E) No nonconforming use or structure, which is abandoned, shall be used until meets the requirements of this chapter. "Abandonment" is defined as discontinuance of the use or structure for a period of more than 12 consecutive months.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.140 FLOOD DAMAGE PREVENTION AND COASTAL MANAGEMENT PLAN.

Compliance with flood hazard prevention and coastal management under MSB [17.27](#) shall be as prescribed in MSB [17.29](#) and the most recently adopted Matanuska-Susitna Borough Coastal Management Plan.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.150 APPEALS.

Appeals from decisions of the planning commission may be made under the provisions of MSB [15.39](#).

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.160 AMENDMENT.

(A) The planning commission shall study a proposed amendment or change proposed to this chapter and make a written recommendation to the assembly.

(B) The recommendation should give consideration as to what effect, if any, the proposed amendment or change would have on the public health, safety, convenience, and welfare. It should also state whether the proposed amendment or change:

- (1) will adversely affect the character and integrity of the Sutton area;

- (2) is contrary to the established land use pattern;
- (3) will materially alter the population density pattern and thereby increase the demand for public facilities and services;
- (4) will create or excessively increase traffic congestion or otherwise affect public safety;
- (5) will adversely affect property values in the adjacent area;
- (6) will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- (7) will constitute a grant of special privilege to an individual owner as contrasted with the public welfare; and
- (8) will adversely affect air or water quality, or permit noise or light pollution on adjacent properties.

(C) The recommendation will incorporate comments heard at the public hearing held by the planning commission.

(D) The Sutton Community Council should consider the proposed amendment or change and provide a recommendation to the planning commission.

(E) The planning commission recommendation to approve or disapprove of the proposed amendment shall be forwarded to the borough assembly.

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.170 ASSEMBLY PUBLIC HEARING.

Amendments to this chapter shall be brought to the assembly by ordinance pursuant to MSB [2.12](#).

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)

17.27.180 VIOLATIONS AND ENFORCEMENT.

Violations and enforcement of this chapter shall be consistent with the terms and conditions of MSB [17.56](#).

(Ord. 02-037 (SUB)(AM) § 2 (part), 2002)



This page of the Matanuska-Susitna Borough Code is current through Ordinance 11-159, passed December 20, 2011.

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