

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.63 RACE TRACK REGULATIONS BY AMENDING THE APPLICABILITY AND MAKING THE STANDARDS MORE CONSISTENT WITH OTHER PERMITS WITHIN BOROUGH CODE.

AGENDA OF: May 15, 2018

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator - A. Strawn	AS	
	Planning and Land Use Director	EP	
	Borough Attorney	SUBSTANS	
	Borough Clerk	JAM	5/7/18

ATTACHMENT (S) : Fiscal Note: YES ___ NO X
 Planning Commission Resolution 18-09 (2 pp)
 Existing MSB 17.63 - Race Track Regulations (8 pp)
 Ordinance Serial No. 18-021 (8 pp)

SUMMARY STATEMENT:

This ordinance is intended to make MSB 17.63 - Racetracks more consistent with other sections of code which require a conditional use permit. In addition, this ordinance allows "small-scale" race tracks to operate without a conditional use permit as long as they register with the Borough and comply with standards for noise, parking, sanitary facilities, and hours of operation. Race tracks which host 10 or fewer events are considered "small-scale."

Assembly Ordinance 18-021 eliminates costly application requirements from MSB 17.63 that are unnecessary in determining whether the proposed use meets the standards of code. For instance, MSB 17.63 currently requires a certified drawing depicting details of the race track itself. This requirement is particularly problematic for dirt tracks associated with

motorcross or dirtbike racing because the track is not permanent and may change over time. In actuality, when evaluating the potential impacts of a proposed racetrack it is only important for the commission to know the general location of the track itself. It is also not necessary for the commission to have certified drawings depicting the height and bulk of buildings associated with the use. The requirement for exterior signage detail is being eliminated because of potential constitutional issues that arise when regulating signs on an individual basis.

Deleting paragraph MSB 17.63.020(I)(2) removes the need for commission approval of related and unrelated facilities and land uses on the race track site. This requirement is very broad in scope and goes well beyond the stated intent of allowing commercial motorized race tracks to operate within the borough while minimizing negative impacts to the public.

The Planning Commission held a public hearing on this matter on April 16, 2018 and voted unanimously to pass resolution 18-09, a resolution recommending approval of Ordinance 18-021.

RECOMMENDATION OF ADMINISTRATION: Staff recommends adoption of Ordinance 18-021 amending MSB 17.63 Race Track Regulations by amending the applicability and making the standards more consistent with other permits within borough code.

By: Alex Strawn
Introduced: April 2, 2018
Public Hearing: April 16, 2018
Action: April 16, 2018

**MATANUSKA-SUSITNA BOROUGH
PLANNING COMMISSION RESOLUTION NO. 18-09**

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH PLANNING COMMISSION RECOMMENDING ASSEMBLY ADOPTION OF ORDINANCE 18-021, AMENDING MSB 17.63 RACE TRACK REGULATIONS TO MAKE THE STANDARDS MORE CONSISTENT WITH OTHER PERMITS WITHIN BOROUGH CODE.

WHEREAS, MSB 17.63 Race Track Regulations contains inconsistent language when compared to other Conditional Use Permit requirements within MSB Title 17; and

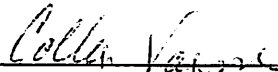
WHEREAS, the recommended update to MSB 17.63 eliminates costly application requirements that are unnecessary in determining whether the proposed use meets the standards of code; and

WHEREAS, Assembly Ordinance 18-021 requires new race tracks to be consistent with the applicable comprehensive plan which is a standard requirement for many conditional use permits within Borough code.

NOW, THEREFORE, BE IT RESOLVED, that the Matanuska-Susitna Borough Planning Commission hereby recommends assembly adoption of Ordinance 18-021, amending MSB 17.63 Race Track Regulations to make the standards more consistent with other permits within borough code.

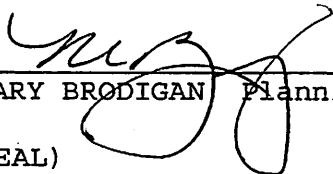
BE IT FURTHER RESOLVED, that the Matanuska-Susitna Borough Planning Commission recommends Ordinance 18-021 be modified to allow racetracks that hold 10 or fewer events per year to operate without a permit as long as they register with the borough and follow standards for noise, hours of operation, sanitary facilities, and parking.

ADOPTED by the Matanuska-Susitna Borough Planning Commission this 16th day of April 16, 2018.



COLLEEN VAGUE, Chair

ATTEST



MARY BRODIGAN Planning Clerk
(SEAL)

APPROVED UNANIMOUSLY: Vague, Patterson, Chesbro, Elder, and Mossanen

CHAPTER 17.63: RACE TRACK REGULATIONS

Section

<u>17.63.005</u>	Definitions
<u>17.63.007</u>	Purpose and intent
<u>17.63.010</u>	Application of chapter
<u>17.63.015</u>	Conditional use permit required
<u>17.63.020</u>	Applications for conditional use permits
<u>17.63.025</u>	Action on permit applications
<u>17.63.030</u>	Operational requirements
<u>17.63.035</u>	Amendment or modification of permit
<u>17.63.040</u>	Suspension & revocation of permits
<u>17.63.045</u>	Appeals
<u>17.63.050</u>	Penalties and remedies
<u>17.63.200</u>	Nonconforming uses

17.63.005 DEFINITIONS.

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

- “Commercial race track” means a race track where prizes, goods, or services are offered for sale or profit, including admission fee.
- “Commission” means the Matanuska-Susitna Borough Planning Commission.
- “Decibel” means a unit of measurement describing the amplitude of sound pressure waves, relative to the standard reference level of 20 micropascals.
- “One-time annual race” means a race which occurs annually, but only once per year.
- “Owner, operator or manager” means any natural person responsible for the actual operation and management of a race track.
- “Permanent facility” means a site where physical structures related to the race track remain on site year round.
- “Race track” means a prepared route traveled by contestants to achieve goals of skill, duration, or speed, including practice for such events, also known as raceway or race course.
- “Site” means all lots and parcels, any part of a lot, parcel, or water body which is occupied or used by a race track, or by uses that directly support or are ancillary to the use of the race track.
- “Sound level” is that quantity measured by a sound level meter using A-weighting (dBA) and the “slow” setting. Lmax is the maximum instantaneous sound level occurring during a noise event, as displayed on a sound meter showing the Lmax parameter or by direct continuous observation of sound levels. Leq is a time-integrated summation of all sound levels as measured during the lesser of the period of the noise event or a three-minute period during the noise event. Leq is often referred to as an average sound level.

(Ord. 13-144, § 2, 2014; Ord. 06-228(AM), § 2, 2006; Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.007 PURPOSE AND INTENT.

(A) It is the intent of this section to allow commercial motorized race tracks to operate within the borough while minimizing negative impacts to the public.

(B) This section is not intended to regulate non-commercial race tracks, or race tracks that are solely for personal use.

(Ord. 13-144, § 3, 2014)

17.63.010 APPLICATION OF CHAPTER.

(A) This chapter applies in all areas of the borough except where the use is prohibited by ordinance within a special land use district. Where a special land use district regulates race tracks as a conditional use, the granting of a conditional use permit shall require compliance with the conditions of this section. Where this section is in conflict with the conditional use permit conditions of the special land use district, the most restrictive conditions shall apply.

(B) This chapter does not apply within the cities of Houston, Palmer, or Wasilla.

(C) This chapter applies only to commercial race tracks on permanent facilities.

(Ord. 13-144, § 4, 2014; Ord. 06-215, § 3, 2006; Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.015 CONDITIONAL USE PERMIT REQUIRED.

(A) No commercial race track used by motorized vehicles carrying people on land, ice, or snow may be operated or maintained in those areas of the borough described in MSB 17.63.010 unless a conditional use permit has been approved for that use by the commission.

(B) A permit may be issued only for one race track business located at a fixed and certain place. Any person who desires to operate more than one race track business must have a separate conditional use permit for each race track business.

(C) A permit issued under this chapter cannot be transferred to another location.

(D) Amusement tracks which solely operate vehicles commonly referred to as "go carts" are exempt from the provisions of this chapter provided:

- (1) the vehicles are owned by the track business;
- (2) are speed governed, four cycle, muffled engines;
- (3) are rated at less than seven hp;
- (4) that off-street parking is provided, equal to one and one-half times the number of go carts.

(E) One-time annual races are exempt from the provisions of this chapter, but may be subject to a special events permit as outlined in MSB 8.55, Special Events.

(F) Race tracks/courses that are used for more than three days for motorized vehicle races within any 12-consecutive-month period must be authorized by a conditional use permit in accordance with this chapter.

(G) Race tracks/courses that are used by motorized vehicles for more than seven days within any 12-consecutive-month period for practice for motorized vehicle races must be authorized by a conditional use permit in accordance with this chapter.

(H) Races which are not conducted on a permanent facility are exempt from the provisions of this chapter.

(Ord. 13-144, § 5, 2014; Ord. 06-228(AM), § 3, 2006; Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.020 APPLICATIONS FOR CONDITIONAL USE PERMITS.

(A) Applications for conditional use permits under this chapter shall be made on a form provided by the planning and land use department. Applications shall be dated by and filed with the planning clerk.

(B) Applications for conditional use permits shall contain:

- (1) the name of the race track business and its address, the name of the owner, and legal description of the property upon which the business will be located;
- (2) the written authorization of the owner of the property, including land and buildings, for the applicant to use that property as proposed;
- (3) the application shall also identify a natural person as the contact person for purposes of the application and official communications from the borough;
- (4) the name, and current mailing address of the person or persons who will operate or manage the business;
- (5) if the applicant is a corporation, the name of the corporation, the date and state of incorporation, the name and address of its registered agent, and all officers and directors of the corporation;
- (6) a detailed site plan or as-built drawing prepared to scale by a qualified registered surveyor or professional engineer which shows the location and dimensions of the real property used for the business, the exterior dimensions of the building or structure to be used for the race track business, the height and bulk of the building or structure, exterior signage detail, all points of pedestrian and vehicle access, buffering and landscaping, drainage, traffic circulation patterns, exterior illumination, location of employee and customer parking, location and orientation of public address system and loud speakers, and the race track itself.
- (7) a non-refundable application fee, established by the assembly, and made payable to the Matanuska-Susitna Borough.
- (8) a plan of operations describing the proposed use in detail sufficient to demonstrate compliance with all applicable borough ordinances, standards, and conditions. At a minimum this submittal shall also include:
 - (a) evidence of compliance with applicable local, state, and federal laws regarding the proposed use;
 - (b) a detailed description of all major activity proposed to occur on-site, including motorized race track activity;
 - (c) a generalized schedule of events indicating the days and time of days specific types of races and other uses of the property will occur;
 - (d) a description of the security and safety measures proposed to protect spectators, participants, and the public;
 - (e) such other documents, information, and materials as may be required by the planning commission or director of planning; and
 - (f) a detailed description of the methods to be used to limit, mitigate, and manage the amount of noise generated by race track and other activities. The description shall discuss both vehicular and non-vehicular noise.

(C) The applicant should demonstrate that the appearance, scale of operation, size, and types of activities proposed are reasonably compatible with the surrounding neighborhood and the requirements of the district in which the facility is located.

(D) The applicant for a race track must demonstrate that the existing road service to the site is sufficient to facilitate access by patrons and participants without creating an unreasonable negative traffic load or a safety impact to the public rights-of-way and the neighborhoods affected by access to the site. As a condition of approval, the planning commission may require a traffic impact analysis be prepared by an engineer registered in the state of Alaska and mitigation of negative impact as reported in the traffic impact analysis and may require upgrades and other improvements necessary to minimize negative impact to traffic circulation in the vicinity of the permit site.

(E) The property owner and the permittee shall be responsible for maintaining all aspects of the operation, improvements, development, and site in compliance with the terms and conditions of the permit and all applicable local, state, and federal requirements. Failure to correct any violation of any permit condition is a violation of borough code. In addition to other applicable penalties, failure to correct the violation of code after reasonable notice may result in revocation of the permit.

(F) *[Repealed by Ord. 13-144, § 6, 2014]*

(G) *[Repealed by Ord. 13-144, § 6, 2014]*

(H) *[Repealed by Ord. 13-144, § 6, 2014]*

(I) In addition to all other applicable laws, rules, permit conditions, and standards, race tracks shall meet the following standards:

(1) Race tracks may not generate traffic, light, glare, noise, odor, smoke, electrical interference, vibration, or dust that causes a nuisance off the permitted site.

(2) All other related and unrelated facilities and land uses on the site of a race track are subject to the approval of the borough in accordance with this section and chapter for the purpose of regulating land use impacts.

(3) The race track facility shall control adequate, convenient, and appropriate facilities, including parking and restrooms, necessary to provide for the needs of the participants, employees, and spectators.

(4) Drainage must meet the following criteria:

(a) Surface water, storm water, and other drainage must be managed to avoid pollution and damage in accordance with an approved plan.

(5) Lighting sufficient to enhance public safety shall be provided as required and deemed appropriate for the season by the planning commission.

(6) The planning commission may require the race track and associated facilities that are not located within a building to be contained within a continuous solid fence no less than eight feet in height, if such requirement is necessary to prevent the unsightly display of the yard or for public safety purposes. Fences may be of one or a combination of the following:

(a) conventional solid wood or metal fencing;

(b) evergreen or other natural planting sufficient to provide year-round screening; or

(c) earthen berm for topography;

(d) In all cases of subsections (1)(6)(a) through (c) of this section, the visual buffer provided shall be continuous and of sufficient density and height to provide visual screening required by this chapter during times in which the race track is in operation.

(7) All race tracks and associated facilities shall be maintained in a safe, clean condition. Except as specifically authorized under this section, the storage, keeping, or disposal of junk or trash or hazardous material at a race track site is prohibited except for incidental amounts kept for no more than 30 consecutive days to facilitate recycling and proper disposal at an approved disposal site.

(8) Motorized race activities may, on permanent tracks, be permitted within hours of operations between 10 a.m. and 10 p.m.

(9) *[Repealed by Ord. 13-144, § 6, 2014]*

(10) Sound originating on the site may not exceed either of the applicable following limits when measured anywhere along the boundaries of the site:

(a) when the site is within 2,000 feet of a residential district or a residential neighborhood containing one or more lots developed for or restricted to residential use at the time the application is made, 60 dBA Leq and 70 dBA Lmax;

(b) when the site is within 2,000 feet of a commercial district or three or more lots developed for commercial use at the time the application is made, and none of the conditions of subsection (I)(10)(a) of this section exist, 65 dBA Leq and 75 dBA Lmax; and

(c) when none of the conditions of subsections (I)(10)(a) or (b) of this section exist at the time the application is made, 70 dBA Leq and 75 dBA Lmax.

(d) For any sound which is of short duration, between the hours of 10 a.m. and 10 p.m. the levels established in subsections (I)(10)(a) through (c) of this section may be increased by:

(i) Five dB(A) for a total of 15 minutes in any one hour; or

(ii) Ten dB(A) for a total of five minutes in any hour; or

(iii) Fifteen dB(A) for a total of one and one-half minutes in any one-hour period.

(J) *[Repealed by Ord. 13-144, § 6, 2014]*

(K) The applicant shall pay the costs of postage for all mailings to property owners, community councils, and other parties required for action on the permit applications.

(Ord. 13-144, § 6, 2014; Ord. 06-228(AM), § 4, 2006; Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.025 ACTION ON PERMIT APPLICATIONS.

(A) The planning and land use director shall determine whether an application for a conditional use permit under this chapter is complete and meets the requirements of MSB 17.63.020. If the application meets the requirements of MSB 17.63.020, the planning and land use director shall forward the application and the director's analysis and recommendations to the commission for public hearing under this section.

(B) An application which conforms to MSB 17.63.020 shall be heard by the commission at a public hearing. Notice of the public hearing shall be provided under MSB 17.03, except that notice shall be published and mailed at least 30 days before the date of the public hearing to all property owners within at least one mile of the exterior boundary of the property described in the application.

(C) After a public hearing, and upon review of the planning and land use director's analysis and recommendations, the commission shall consider:

- (1) whether the proposed use, even with mitigation, would be incompatible with and adversely affect surrounding residential neighborhoods;
- (2) whether the proposed use would adversely affect property values of surrounding areas;
- (3) whether the proposed use would create unreasonable noise, visual blight, glare, obtrusive advertising, or dust;
- (4) whether the proposed use would adversely affect the safe and efficient flow of traffic on any highway, arterial, collector, or street from which access to and from the business;
- (5) whether there are adequate parking facilities to accommodate a reasonably expected increased demand for parking generated by the business;
- (6) the effectiveness of any measures proposed by the applicant or any other person to reduce any negative effect upon adjacent neighborhoods by property line buffers and roadway buffers, planted berms, landscaping, lowered building elevation, clustering with other commercial establishments, and use of frontage roads to reduce the number of entries and exits onto highways, arterials, and collectors, and, where surrounding area is predominantly residential in character, site, and building design features that contribute to the residential character of surrounding development; and
- (7) whether the proposed site plans and plan of operations, together with any amendments thereto, are consistent with the purposes of this chapter.

(D) Within 30 days of the public hearing on an application made under this chapter the commission shall render a decision on the application, make specific findings required by law, and grant or deny the application.

(E) The commission may grant a conditional use permit under this chapter only if the applicant shows, and the commission finds:

- (1) that the proposed use is compatible with or will not materially detract from the value, character, and integrity of the surrounding area; and
- (2) that granting the conditional use permit will not be harmful to the public health, safety, convenience, and welfare.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.030 OPERATIONAL REQUIREMENTS.

(A) Amplified sound shall be directed away from surrounding neighborhoods and shall be focused within the confines of the race track facility.

(B) Conditional use permits and the terms and conditions imposed by the commission shall be displayed on the premises for which the permit is issued and in a location readily seen by patrons.

(C) Every race track business shall require its operator or manager to ensure that no bottles, litter, trash, garbage, junk, or other refuse is stored or abandoned by any person on site except in sanitary, closed receptacles.

(D) Every race track business shall ensure that the documents and information supplied to the borough in connection with approval of a conditional use permit remain current and are periodically updated where necessary.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.035 AMENDMENT OR MODIFICATION TO PERMIT.

(A) Upon the request of the planning and land use director and with the same notice to the applicant and public as required under MSB 17.63.025 for consideration of new applications, the commission shall conduct a public hearing over whether a conditional use permit issued under this chapter shall be amended or modified.

(B) No permit may be amended or modified by the commission unless the person or entity to whom the permit was originally issued and the legal owner of the real property upon which the business is conducted has been given at least 30 days' notice prior to the hearing scheduled under this section, an explanation prepared by the planning and land use director of the reasons for the proposed action, and an opportunity to be heard before the commission.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.040 SUSPENSION & REVOCATION OF PERMITS.

(A) A conditional use permit may be suspended or revoked for either of the following reasons:

(1) any violation of this chapter or the terms and conditions of a permit issued under this chapter by the owner, operator or manager of a race track business; and

(2) a material misrepresentation of fact by the owner, operator or manager of a race track business in connection with the original application for a conditional use permit.

(B) Upon the request of the planning and land use director and with the same notice to the applicant and public as required under MSB 17.63.025 for consideration of new applications, the commission shall conduct a public hearing over whether a conditional use permit issued under this chapter shall be suspended or revoked.

(C) No permit may be suspended or revoked by the commission unless the person or entity to whom the permit was originally issued and the legal owner of the real property upon which the business is conducted has been given at least 30 days' notice prior to the hearing scheduled under this section, an explanation prepared by the planning and land use director of the reasons for the proposed action, and an opportunity to be heard before the commission.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.045 APPEALS.

An appeal from a decision of the commission granting, denying, suspending, revoking, or modifying a conditional use permit under this chapter may be filed by any aggrieved party under MSB 15.39.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.050 PENALTIES AND REMEDIES.

(A) This chapter and the terms and conditions of any conditional use permit issued under this chapter may be enforced under MSB 17.56.

(B) In addition to the penalties provided under MSB 17.56, violations of this chapter or the conditions of any permit issued under this chapter may result in suspension or revocation of the permit in accordance with MSB 17.63.040.

(Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

17.63.200 NONCONFORMING USES.

(A) At the date of adoption of the ordinance codified in this chapter, or amendments thereto, uses and structures which were lawful before the effective date of applicable regulations, but which would otherwise be prohibited, regulated, or restricted under this chapter. Such existing nonconforming uses are regulated under this chapter.

(B) Except as specifically provided for by code, this chapter does not require the relocation or removal of a nonconforming use existing or under construction at the time of adoption of the ordinance codified in this chapter if

such use was lawful at the time of its construction. No nonconforming use shall be constructed or operated except in accordance with these regulations, except to the extent it was in existence or under actual construction as of the effective date of the ordinance codified herein or amendment thereto. "Actual construction" is defined as the substantial placement of construction materials and performance of labor for construction of facilities which cannot reasonably be used except in a manner which does not conform with these regulations.

(C) Nonconforming uses under construction or in existence as of the date of the ordinance codified in this chapter shall apply for approval of their use within 90 days of the effective date of such ordinance or of a later amendment which makes the use nonconforming. The planning director shall grant approval of the nonconforming use if it complies with the requirements of this chapter excepting only those facilities and improvement which were under construction or in existence prior to the effective date of the respective regulations. The nonconforming use shall meet all other requirements of this chapter within 12 months which are not in conflict with the pre-existing use or construction.

(D) No existing nonconforming use shall be expanded to include an adjacent parcel or parcels unless the area of 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 April 17, 1984, and containing a nonconforming use permitted under subsection (C) of this section shall be considered one parcel. No nonconforming use which is abandoned shall be used until it meets the requirements of this chapter. "Abandonment" is defined as a discontinuation of use of a nonconforming use, or a discrete portion or parcel thereof, or the failure to complete construction and begin use, for a continuous period of more than one year. If abandoned, the land shall not thereafter be used except in conformity with the requirements of this chapter.

(E) A nonconforming use or structure may be modified upon a determination by the director of planning that the proposed modification renders the nonconforming use or structure more compatible with the surrounding land uses or reduces or eliminates noise, smoke, or dust.

(F) A nonconforming use may be extended throughout the building or structure, or lot in or on which located, and the building in which it is located may be increased in size; provided, however, that any such increase in size of the building or of the use will not increase the lot area covered beyond 75 percent of the area covered by the use at the time the use became nonconforming and further provided that any such extension will conform to applicable height, side, front, and rear yard setbacks.

(Ord. 13-144, § 7, 2014; Ord. 01-118 (AM by SUB 2), § 3 (part), 2001)

The Matanuska-Susitna Borough Code is current through Ordinance 18-005, passed February 6, 2018, and other legislation passed January 2, 2018.

Disclaimer: The Borough Clerk's Office has the official version of the Matanuska-Susitna Borough Code. Users should contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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