

CHAPTER 17.20: LAZY MOUNTAIN SPECIAL LAND USE DISTRICT

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ARTICLE I – GENERAL PROVISIONS

17.20.010 DEFINITIONS

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

- “Actual construction” means 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.
- “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. Does not include an individual living in a household under a voluntary or supervised mandatory restitution, rehabilitation, or recovery process.
- “Grade, natural” means the elevation of the ground surface in its natural state, before man-made alterations.
- “Hazardous substance” means a substance subject to SARA Title III reporting requirements established by federal or state community right-to-know regulations (40 CFR 370, AS 29.35.500) and substances present in sufficient quantity to produce an explosion or combustion hazard.

- “Hazardous waste” means a waste that meets the definition of a hazardous waste under federal regulation: 40 CFR 261. This includes wastes specifically named (listed) and wastes that exhibit a characteristic of ignitability, corrosivity, reactivity, or toxicity.
- “Maximum security facility” means a correctional facility designed and operated to provide the maximum security of incarcerated prisoners.

17.20.020 ESTABLISHED.

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

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

Township 18 North, Range 2 East, Seward Meridian, Alaska

Section 1	That portion lying southerly of the thread of the Matanuska River	
Section 10	That portion lying southeasterly of the thread of the Matanuska River	
Section 11	That portion lying southerly of the thread of the Matanuska River	
Section 12	That portion lying southerly of the thread of the Matanuska River	
Sections 13 and 14		All
Section 15	That portion lying easterly of the thread of the Matanuska River	
Section 16	That portion lying easterly of the thread of the Matanuska River	
Sections 21	That portion lying easterly of the thread of the Matanuska River	
Sections 22, 23, 24, 25, 26, and 27		All
Section 28	That portion lying easterly of the thread of the Matanuska River	
Section 34	That portion lying northeasterly of the thread of the Matanuska River	
Sections 35 and 36		All

Township 18 North, Range 3 East, Seward Meridian, Alaska

Section 5	That portion lying southerly of the thread of the Matanuska River	
Section 6	That portion lying southerly of the thread of the Matanuska River	
Sections 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32		All

17.20.030 PURPOSE.

The purpose of this special land use district is to provide for the planned and orderly growth of Lazy Mountain, and to protect the public health, safety, and general welfare of the residents of Lazy Mountain.

17.20.040 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.

17.20.050 PERMITTED USES.

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

17.20.060 CONDITIONAL USES.

Because of their inherent nature and potential external effects certain uses may be allowed by the planning commission only after a public hearing and review and may be subject to certain prescribed or imposed conditions. The following uses are permitted only upon the issuance of a conditional use permit, as provided in this chapter:

- (1) all borough wide conditionally permitted uses, unless otherwise noted in this chapter.
- (2) man-made structures exceeding the maximum allowable height of 50 feet or more above natural grade for the structure, including but not limited to 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, non commercial wind generators or other similar incidental building features are exempt from the requirement for a conditional use permit under the provisions of this section.
 - (e) towers must be set back from the property line a distance equal to the height of the tower.
- (3) Outdoor public or commercial shooting ranges;
- (4) commercial or industrial uses that create sound in such a manner as to create a sound level that exceeds the limits set forth for the adjacent land use category in Table I when measured at or within the property line of the receiving land use without first obtaining a conditional use permit. The use of the adjacent parcel shall be determined at the time of conditional use permit application. If there are mixed uses on adjacent parcels the most restrictive sound category shall apply.

Table 1: Maximum Permissible A-weighted Sound levels

Land Use of Sound Source	Land Use of Adjacent Property				
	Residential			Commercial	Industrial
	Day	Night			
	M-F, 7 am to 10 pm or weekends, 9 am to 10 pm	M-F, 10 pm to 7 am	Weekends 10 pm to 9 am		
Commercial	60 dB (A)	50 dB (A)	50 dB (A)	70 dB (A)	75 dB (A)
Industrial	60 dB (A)	50 dB (A)	50 dB (A)	70 dB (A)	80 dB (A)

(a) For any sound which is of short duration, between the hours of 7 a.m. and 7 p.m. the levels established in Table 1 may be increased by:

- (1) Five (5) dB(A) for a total of fifteen minutes in any one hour, or
- (2) Ten (10) dB(A) for a total of five minutes in any hour, or
- (3) Fifteen (15) dB(A) for a total of one and one half minutes in any one hour period.

(b) Exemptions. The following sounds are exempt from the provisions of this chapter at all times:

- (1) Sounds originating from aircraft in flight or during take-off, landing, taxiing, or run-up, or by routine maintenance as required by the Federal Aviation Administration. See A.S. 34.75.030;
- (2) Sound created by emergency equipment and emergency work necessary in the interest of health, safety, or welfare of the community;
- (3) Sound created by safety or protective devices, such as relief valves, where noise suppression would defeat the safety effect of the device;
- (4) Sounds produced by the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or other similar device;
- (5) Sounds created by fire alarms, security alarms, or warning devices;
- (6) Sounds created by natural phenomena or the unamplified human voice;
- (7) Sounds originating from agricultural or forest harvesting activities;
- (8) Sounds created by surface carriers engaged in intrastate and interstate commerce;
- (9) Sounds created by the discharge of firearms except in or at a commercial shooting range that is regulated by this chapter;
- (10) Sounds created from equipment used for construction or maintenance;
- (11) Sounds originating from organized athletic events, or events occurring on athletic fields, playgrounds, parks, or other public recreational facility owned and operated by a government entity.
- (12) The restrictions set forth in Table 1 do not apply to emergency work of public utilities or to emergency repair work necessary to protect or shelter persons, animals, or property from the weather.

(5) Commercial or industrial uses that generates traffic in excess of 100 vehicles during the morning or afternoon peak hour or more than 750 vehicles per day, unless roadway improvements are funded, scheduled for construction, and expected to mitigate any impacts associated with the proposed project and the existing level of service along the roadway is not expected to drop below Level of Service "D" due to the proposed project.

(a) The minimum acceptable LOS at intersections and on road segments both on the development's opening date and ten years from the opening date for land uses generating 250 or more vehicle trips during the peak traffic hour of an adjacent highway, is:

- (1) LOS C, if the existing LOS on the date of the application is C or better; or
- (2) LOS D, if the existing LOS on the date of application is LOS D or poorer; however, if the LOS is poorer than LOS D, a lower minimum LOS is acceptable if the operation of the highway does not deteriorate more than ten percent in terms of delay time or other appropriate measure of effectiveness from the LOS before the development's opening date.

(b) Commercial and industrial uses requiring a conditional use permit must provide sufficient off-street parking to prevent use of public rights-of-way for parking;

(c) A Traffic Impact Analysis (TIA) shall be submitted with the conditional use permit application if the trip generation rates estimated on the Traffic Impact Worksheet exceed the volumes described in MSB 17.61.020(A)(2).

- (1) For the purpose of completing a TIA, Level of Service (LOS) A through F shall apply. Trip generation shall be based on the proposed land use and density and

will be calculated utilizing the Trip Generation Manual, Institute of Transportation Engineers, 6th Edition or most current revision, or if necessary, utilizing the Quick-Response Urban Travel Estimation Techniques and Transferable Parameters, NCHRP Report 187, Transportation Research Board. If neither reference contains appropriate trip rates for the proposed land use, other sources may be used at the discretion of the director.

(6) Any commercial or industrial use involving processing, manufacturing, or storage of hazardous substances over thresholds established by federal or state community right-to-know laws and regulations (40 CFR 370, AS 29.35.500), any use which generates combustible dust produced in sufficient quantity to produce an explosion or combustion hazard, any use involving the storage and handling of combustible fiber in quantities greater than 100 cubic feet (2.8 m³), and any use which involves generation or management of more than 2,200 pounds of hazardous waste per month as defined by federal regulations (40 CFR 261, 262). Note that these facilities would also be subject to significant federal/state regulatory requirements. Among other obligations, facilities that exceed community right-to-know thresholds are required to submit annual reports to the state and to the local emergency planning committee (LEPC), and facilities that exceed hazardous waste limits are required to notify the environmental protection agency and comply with requirements for waste storage and disposal.

(A) Activities regulated under this chapter include but are not limited to:

(1) Operation of a plant pulverizing aluminum, coal, magnesium, or other operations producing combustible dust.

(a) A permit is not required for agricultural related activities.

(2) Storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8 m³).

(a) A permit is not required for agricultural storage.

(3) Storage, use or handling at normal temperature and pressure (NTP) of compressed gases regulated under AS 29.35.500 in quantities equal to or more than 1,000 cubic feet at standard temperature and pressure.

(a) A permit is not required for compressed gases used in medical facilities, or compressed gas intended for medical purposes such as inhalation, sedation, or analgesia; portable compressed gas containers, tanks, and cylinders for cutting and welding; propane for retail sales; compressed natural gas (CNG) as a fuel for propelling vehicles; or compressed air or inert gases used for inflation of equipment or other devices.

(4) Manufacturing, storage, or sale of any quantity of explosives, or explosive material.

(a) A permit is not required for the storage, use or handling of model and high-powered model rockets; use of explosives by the federal, state and local regulatory, law enforcement and fire agencies; the possession, storage, or use of small arms ammunition, commercially manufactured sporting black powder, smokeless propellant, small arms primers; special industrial explosive devices which in aggregate contain less than 50 pounds of explosive material, such as but not limited to explosive bolts, cartridges for explosive-actuated power tools, and charges used for air bag inflation, jet perforation of oil well casings; and items preempted by federal regulations.

(5) Storage, handling or use of more than 10,000 pounds in any one day of hazardous substances, including solvents, paints, and ignitable liquids such as fuels.

(a) A permit is not required for the storage or use of standard fuels (diesel, gasoline, heating oil, natural gas, propane) at retail fuel stations or in the tanks/engines of motor vehicles, aircraft, motorboats, mobile power plants, mobile heating plants, or heating furnaces.

(6) Operation of plants, terminals, refineries, distilleries, chemical manufacturing, and other commercial or industrial operations where more than 2,200 pounds (approximately 5, 55-gallon drums) of hazardous waste is generated monthly. Examples of waste that would meet the definition of hazardous waste includes (but is not limited to) waste methanol, methyl ethyl ketone, sulfuric acid, hydrochloric acid, lead-contaminated sludges, cyanide and sulfide gases, and wastes high in arsenic, cadmium, and benzene.

(B) Activities excluded from conditional use permit requirements under this sub section include:

- (1) households;
- (2) medical and dental facilities;
- (3) school laboratories;
- (4) pharmacies;
- (5) retail gasoline stations;
- (6) application and release of pesticides and other agricultural products or materials intended for use in weed abatement, erosion control, soil amendment or similar applications;
- (7) building materials;
- (8) distilled spirits and wines; and
- (9) other specific exemptions noted in MSB 17.61.020 (B) and MSB 17.61.100 (C) through MSB 17.61.100 (E)

(C) Hazardous substances and hazardous wastes in amounts greater than threshold limits established in 17.61.020:

- (1) May not be located in a designated flood hazard area;
- (2) May not be discharged in such concentration as to endanger neighboring residents or the public across the boundaries of the lot or through runoff or percolation into the subsoil beyond the boundaries of the lot;
- (3) May not be disposed of on-site without first obtaining any approval or permit required by the Environmental Protection Agency (EPA) or Alaska Department of Environmental Conservation (ADEC) ; and
- (4) Hazardous waste, medical waste, or industrial waste incinerators must be located on a lot that is no smaller than five acres in size and must be located at least 200 feet from any lot line. No outside storage of hazardous material is permitted in conjunction with a hazardous waste incinerator.

(D) Conditions. In addition to the conditions listed in 17.61.060, the Commission may impose conditions necessary to ensure the compatibility of proposed hazardous substance and hazardous waste processing, manufacture, or storage with the surrounding property. These conditions may include but are not limited to preparation and approval of an emergency response plan, security for guarantee of performance, method of disposal of waste, and compliance with state and federal laws and regulations.

17.20.070 PROHIBITED USES.

Prohibited uses and structures within the Lazy Mountain district include:

- (1) maximum security facilities; and
- (2) correctional community residential centers; and
- (3) race tracks used by motorized vehicles, carrying people on land or other surfaces, such as mud, ice, or snow, on a prepared route traveled by contestants to achieve goals of skill, duration, or speed, including practice for such events, also known as a raceway or race course; and
- (4) Any manmade structure over 105 feet in height

ARTICLE II – CONDITIONAL USE PERMITS

17.20.080 PERMIT REQUIRED.

As provided under this Title, a conditional use permit is required to control and safeguard certain land uses as to their location, design and methods of operation to ensure their compatibility with permitted uses.

17.20.090 APPLICATION AND FEE.

As set forth in 17.60.040

17.20.100 PUBLIC NOTIFICATION.

As set forth in 17.03 PUBLIC NOTIFICATION

17.20.110 PLANNING COMMISSION PUBLIC HEARING AND ACTION.

As set forth in 17.60.040, except when state or federal time constraints are more stringent, those shall be observed.

17.20.120 CONDITIONS FOR APPROVAL.

(A) In granting approval of a conditional use permit, the commission, may impose conditions and safeguards, which may include, but are not limited to:

- (1) Ensuring that structures and areas proposed are arranged and screened in such a manner that they are not detrimental to an existing neighborhood; i.e., view obscuring fencing or landscaping;
- (2) Increasing setback or yard dimensions;
- (3) Limiting height of buildings or structures;
- (4) Controlling the number and location of vehicular access points;
- (5) Increasing or decreasing the number of parking spaces as well as designating the location, screening, drainage, surfacing or other improvements of the proposed parking area;
- (6) Limiting hours of operation;
- (7) Construction and or funding of traffic management controls or other mitigation measures identified by traffic impact analysis.
- (8) Providing additional containment and contingency planning for safe management of hazardous substances, hazardous wastes, and explosion/combustion hazards; and
- (9) Providing for additional control of runoff from the facility to ensure water quality is maintained in lakes, streams, wetlands, and groundwater

17.20.130 GENERAL STANDARDS.

(A) A conditional use may be granted only if it meets the requirements of this chapter. In granting a conditional use permit, the commission must make the following findings:

- (1) the use, with conditions, will not detract from the value, character and integrity of the surrounding area;
- (2) that granting the conditional use permit will not be harmful to the health, safety, convenience or general welfare of the public; and
- (3) that sufficient setback, lot area, buffers, or other safeguards are being provided to meet the conditions listed in this section.

ARTICLE III – ADDITIONAL PROVISIONS

17.20.130 NONCONFORMING USES.

(A) There may exist nonconforming uses within the Lazy Mt. 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 Lazy Mt. Special Land Use District. 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 if such use 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 the date of adoption or amendments thereto.

(C) 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, and containing a nonconforming use shall be considered one parcel.

(D) No nonconforming use which is abandoned, shall be used until meets the requirements of this chapter. "Abandonment" is defined as discontinuance of the use for a period of more than 24 consecutive months.

17.20.140 FLOOD DAMAGE PREVENTION AND COASTAL MANAGEMENT PLAN.

As set forth in 17.29, and the most recently adopted Matanuska-Susitna Borough Coastal Management Plan.

17.20.150 APPEALS.

As set forth in 15.39

17.20.160 AMENDMENTS.

(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 Lazy Mountain 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 be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- (6) will constitute a grant of special privilege to an individual owner as contrasted with the public welfare; and
- (7) 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 Lazy Mountain Community Council shall 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.

17.20.170 ASSEMBLY PUBLIC HEARING.

Amendments to this chapter shall be brought to the assembly by ordinance pursuant to MSB 2.12.

17.20.180 VIOLATIONS AND ENFORCEMENT.

As set forth in 17.56.

17.20.190 TERM

All provisions of this document are to cease after 5 years, unless reinstated by the assembly with input from the Lazy Mountain Community Council,