

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 17.17 DENALI STATE PARK SPECIAL LAND USE DISTRICT BY ELIMINATING A PROVISION THAT ALLOWS THE SPUD BOUNDARY TO CHANGE AUTOMATICALLY WHEN THE BOUNDARY OF THE DENALI STATE PARK CHANGES.

**AGENDA OF:** August 5, 2025

**ASSEMBLY ACTION:**

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

Route To	Signatures
Originator	<div>7 / 22 / 2025</div> <div>X      A l e x   S t r a w n</div> <div>Signed by: Alex Strawn</div>
Department Director	<div>7 / 22 / 2025</div> <div>X      A l e x   S t r a w n</div> <div>Signed by: Alex Strawn</div>
Finance Director	<div>RECOVERABLE SIGNATURE</div> <div>X      C h e y e n n e   H e i n d e l</div> <div>Signed by: Cheyenne Heindel</div>
Borough Attorney	<div>7 / 23 / 2025</div> <div>X      J o h n   A s c h e n b r e n n e r</div> <div>Signed by: John Aschenbrenner</div>
Borough Manager	<div>7 / 23 / 2025</div> <div>X      M i c h a e l   B r o w n</div> <div>Signed by: Mike Brown</div>
Borough Clerk	<div>7 / 23 / 2025</div> <div>X      L o n n i e   M c K e c h n i e</div> <div>Signed by: Lonnie McKechnie</div>

**ATTACHMENT (S) :** Ordinance Serial No. 25-089 (2 pp)  
 MSB 17.17 Denali State Park Special Land Use  
 District (15 pp)  
 Planning Commission Resolution No. 25-\_\_ ( pp)

**SUMMARY STATEMENT:**

This ordinance repeals MSB 17.17.010(B), which automatically amends the boundaries of the Denali State Park Special Land Use District when the boundary of Denali State Park changes. The repeal is necessary to comply with the Alaska Supreme Court's decision in Homer v. Griswold, which clarified that all changes to land use regulations must be reviewed by the Planning Commission prior to adoption. Automatic boundary changes without such review are inconsistent with this legal requirement.

**RECOMMENDATION OF ADMINISTRATION:** Staff respectfully recommends adoption of this ordinance.

## **CHAPTER 17.17: DENALI STATE PARK SPECIAL LAND USE DISTRICT**

### Section

#### Article I. General Provisions

**17.17.010 Established; map adopted**

**17.17.020 Purpose**

**17.17.030 Definitions**

#### Article II. Application of Regulations

**17.17.040 Conformance required**

**17.17.050 Permitted uses**

**17.17.060 Conditional uses**

**17.17.070 Prohibited uses**

**17.17.080 Compliance**

**17.17.090 Building height limits**

**17.17.100 Lot area**

**17.17.110 Setback requirements**

**17.17.120 Vegetation buffer**

**17.17.130 Signs**

#### Article III. Conditional Use Permits

**17.17.140 Intent**

**17.17.150 Application and fee**

**17.17.160 Public hearing**

**17.17.170 Planning commission action**

**IM 25-168  
OR 25-089**

**17.17.180 General standards**

## Article IV. Variances

**17.17.190 Applications and procedures**

## Article V. Appeals

**17.17.200 Appeals**

## Article VI. Amendments

**17.17.210 Report****17.17.220 Public hearings**

## Article VII. Enforcement and Penalties

**17.17.230 Violations and enforcement****ARTICLE I. GENERAL PROVISIONS****17.17.010 ESTABLISHED; MAP ADOPTED.**

(A) There is established a special land use district, which shall include all territory lying within the area designated as Denali State Park by the state of Alaska and further described as Township 29 North, Range 6 West, Range 5 West, and that portion of Range 4 West lying north and west of the Alaska Railroad right-of-way; Township 30 North, Range 5 West and that portion of Range 3 West and Range 2 West lying north and west of the Alaska Railroad right-of-way; Township 31 North, Range 5 West, Range 4 West and that portion of Range 3 West and Range 2 West lying north and west of the Alaska Railroad right-of-way; and Township 33 North, Range 4 West, Range 3 West and that portion of Range 2 West lying west of the Alaska Railroad right-of-way; all in the Seward Meridian.

(B) Where the boundaries of the Denali State Park change, the boundaries of the Denali State Park special land use district shall continue to be identical to those of the Denali State Park.

(Ord. 90-125, § 3 (part), 1991)

**17.17.020 PURPOSE.**

**IM 25-168  
OR 25-089**

The area within the boundaries of this special land use district is zoned for recreational uses.

(Ord. 90-125, § 3 (part), 1991)

## **17.17.030 DEFINITIONS.**

(A) *General provisions.*

- (1) Words used in the present tense include the past tense.
- (2) The singular number includes the plural.
- (3) The masculine gender includes the feminine.
- (4) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

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

- (1) "Access" means a legal way or means of approach to provide physical entrance or egress to a property.
- (2) "Accessory" as applied to a use or a building or a structure, means customarily subordinate or incidental to, and located on the same lot with a principal use, building or structure.
- (3) "Alteration" means any change, addition, or modification in the construction, location, or use classification of any building, structure or use.
- (4) "Area, lot" means the total area within the property line, including easements, but excluding dedicated rights-of-way.
- (5) "Automobile wrecking" means the dismantling or wrecking of automobiles or other motor vehicles, and the storage or keeping for commercial sale of dismantled or partially dismantled, obsolete or wrecked motor vehicles, or the parts resulting from such activity.
- (6) "Automobile wrecking yard" means the location of automobile wrecking activities, as defined above See also "junkyard."
- (7) "Buffer" is a means of protection against negative impacts which provides a physical separation or barrier.

**IM 25-168  
OR 25-089**

- (8) "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.
- (9) "Building height" for the purposes of determining the maximum height of a building, means the vertical distance from the average finished grade adjacent to the building to the highest point on the roof, but not including radio antennas, water towers, church spires, penthouses constructed primarily for mechanical equipment or similar incidental building features.
- (10) "Campground" means a plot of ground upon which two or more campsites are located, established or maintained for occupancy as temporary living quarters for recreation, education or vacation purposes.
- (11) "Church" means a building or structure, or a group of buildings or structures, which by design and construction are primarily intended for the conduct of organized religious services and accessory uses associated therewith. A single-family dwelling (parsonage) for use by the pastor or caretaker is included in this definition. Additional on-site quarters for clergy or nuns, facilities for training of religious orders, or for daily educational purposes are excluded from this definition.
- (12) "Commercial use" means any activity other than a home occupation where goods or services are offered or provided for sale or for profit.
- (13) "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.
- (14) "Conditional use permit" means a written document which may specify additional controls and safeguards to ensure compatibility with permitted principal uses.
- (15) "Dwelling" means a building designed or used as the living quarters for one or more families.
- (16) "Dwelling, multi-family" means a detached building designated for or occupied exclusively by three or more families and constituting three or more dwelling units.
- (17) "Dwelling, single-family" means a detached building designed for or occupied by and providing housekeeping facilities for one family, including factory-built and prefabricated dwellings, but not mobile homes.
- (18) "Dwelling, two-family" means a detached building designed for or occupied exclusively by two families and constituting two dwelling units.

(19) "Dwelling unit" means a structure or portion thereof providing independent and complete cooking, living, sleeping and toilet facilities for one family.

(20) "Family" means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a group home, rooming house, club, fraternity house or hotel.

(21) "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.

(22) "Grade, natural" means the elevation of the ground surface in its natural state, before manmade alterations.

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

(24) "Group home" means a legally licensed residential use which is a home for the elderly, or which serves as a dwelling for persons seeking care, rehabilitation, or recovery from any physical, mental or emotional infirmity, for rehabilitation of criminals, or any combination thereof, in a family setting.

(25) "Home occupation" means an activity carried out as a dwelling unit or detached appurtenance, provided that:

(a) no more than one other person in addition to members of the family who reside on the premises may engage in such occupation;

(b) the use of the dwelling unit or detached appurtenance for the home occupation is clearly incidental and subordinate to its use for residential purposes;

(c) there is no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated and mounted flat against the wall of the principal building;

(d) traffic is not generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;

(e) equipment or process is not used in the home occupation which creates noise, vibration, glare, fumes, odors, or commercial electrical interference. In violation of applicable government rules and regulations. In the case of electrical interference,

**IM 25-168  
OR 25-089**

no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;

(f) outdoor storage of materials or equipment is not required.

(26) "Industrial use" means any activity which includes manufacturing, processing, warehousing, storage, distribution, shipping and/or other related uses.

(27) "Junk" means any worn out, wrecked, scrapped, partially or fully dismantled discarded tangible material, combination of materials or items, including motor vehicles which are inoperable, machinery, metal, rags, rubber, paper, plastics, and building materials. 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.

(28) "Junkyard" means an outdoor location where junk is gathered together and stored for a commercial or public purpose.

(29) "Landfill, sanitary." See "sanitary landfill." Also see MSB 8.04, Sanitary Fill Sites.

(30) "Landfill site" means a dumpsite where only natural, organic materials such as tree stumps, brush and/or topsoil resulting from land development efforts, can be disposed of or dumped.

(31) "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 MSB Title 43)

(32) "Mobile home" means a detached single-family dwelling designed for long-term human habitation and having complete living facilities; capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer, and designed primarily for placement on a non-permanent foundation. "Travel trailers," as defined herein, are not to be construed as mobile homes.

(33) "Park" means a tract of land, designated and used by the public for active and/or passive recreation.

(34) "Parking space" means a space for the parking of a motor vehicle within a public or private parking area.

(35) "Parsonage" means the house provided by a church for use by its pastor.



- (36) "Permitted use" means a use of land or a structure which is allowed within a certain zoning district according to the regulations in this code and subject to the restrictions applicable.
- (37) "Principal use" means the primary or predominant use of any lot, building or structure.
- (38) "Recreational use" means any formal or informal leisure time activity.
- (39) "Recreational vehicle park." See "travel trailer park."
- (40) "Refuse area." See "Junkyard."
- (41) "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.
- (42) "Salvage yard." See "Junkyard."
- (43) "Sanitary landfill" means a legally permitted site which has been designed, constructed, and approved, to accommodate the disposal of solid waste. (See MSB 8.04, Sanitary Fill Sites)
- (44) "Setback" means the area of a lot adjacent to a lot line within which structures as herein defined may not be erected.
- (45) "Sign" means a structure or device for advertising intended to direct attention to a business, which is placed upon or within a building, structure or parcel of land and which can be read from a public right-of-way excluding:
- (a) signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants or premises, or other identification of premises not having commercial connotations;
  - (b) flags and insignia of any governmental agency except when displayed in connection with commercial promotion;
  - (c) regulatory, identification, informational, or directional signs erected or required by governmental bodies or reasonably necessary to regulate parking and traffic flow on private property where such signs have no commercial connotation;
  - (d) integral decorative or architectural features of buildings;
  - (e) holiday or special event banners.

- (46) "Sign, animated" means any sign or part of a sign which uses movement or change of lighting to depict action or to create a special effect or scene.
- (47) "Sign, flashing" means any directly or indirectly illuminated sign which exhibits changing natural or artificial light or color effects by any means whatsoever.
- (48) "Sign, portable" means a sign that is not permanent, affixed to a building, structure, the ground, set on wheels or otherwise designed to be moved from one location to another.
- (49) "Structure" means anything that is constructed or erected and located on or under the ground, or attached to something fixed to the ground, or an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. 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 awnings; a temporary building when used for 30 days or less; utility poles and lines; guy wires; clothes lines; flag poles; planters; incidental yard furnishings; water wells; monitoring wells and/or tubes; patios, decks or steps less than 18 inches above the average grade.
- (50) "Temporary structure" means a structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
- (51) "Travel trailer" means a vehicular-type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreational, camping and travel use, identified by a model number, serial number, or vehicle registration number.
- (52) "Travel trailer park" means any parcel, tract or lot or portion thereof where space for two or more travel trailers is leased, rented or held for rent for occupancy for less than 30 days, excluding automobile or travel trailer sales lots on which unoccupied travel trailers are parked for inspection and sale.
- (53) "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.
- (54) "Variance" means a grant of relief from one or more of the requirements in MSB title 17 as provided for by state law.

## ARTICLE II. APPLICATION OF REGULATIONS

### 17.17.040 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 created except in conformity with the regulations specified in this chapter.

(Ord. 90-125, § 3 (part), 1991)

### 17.17.050 PERMITTED USES.

(A) The following uses shall be permitted within the Denali State Park Special Land Use District:

- (1) public campgrounds, playgrounds, play and sports fields, trails, boat channels, public buildings, public visitor centers and other public facilities and uses in keeping with public recreation;
- (2) one single-family dwelling per lot;
- (3) the raising of vegetables, produce and fruit crops;
- (4) storing, repairing or using farm equipment;
- (5) home occupations;
- (6) temporary living quarters on the same premises with a dwelling under construction, provided the temporary living quarters are removed from the premises within six months after the new dwelling is completed;
- (7) customary accessory uses and buildings, provided such uses are clearly incidental to public recreation and do not include any activity which is inconsistent with such recreation. Any accessory building or use shall be located on the same lot with the principal building.

(Ord. 90-125, § 3 (part), 1991)

### 17.17.060 CONDITIONAL USES.

(A) The following uses may be permitted by obtaining a conditional use permit issued in accordance with MSB 17.17.140 through 17.17.180:

- (1) two-family dwellings;
- (2) multiple-family dwellings with three or more units;
- (3) group homes;
- (4) churches and related buildings;
- (5) commercial uses;
- (6) private campgrounds;
- (7) recreational vehicle parks;
- (8) utility substations;
- (9) highway maintenance yards;
- (10) public gravel pits;
- (11) group camps. (Ord. 90-125, § 3 (part), 1991)

### **17.17.070 PROHIBITED USES.**

(A) Prohibited uses and structures within the Denali State Park Special Land Use District are all uses and structures not specified as permitted or conditional uses, including:

- (1) mobile homes, except as permitted under MSB 17.17.050(A)(6);
- (2) mobile home parks;
- (3) industrial uses not listed as permitted or conditional uses;
- (4) junkyards, salvage yards, and automobile wrecking yards;
- (5) landfills and refuse areas.

(IM 96-040, page 1, presented 9-17-96; Ord. 90125, § 3 (part), 1991)

### **17.17.080 COMPLIANCE.**

**IM 25-168  
OR 25-089**

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, constructed, reconstructed, moved, repaired or structurally altered except in conformity with the regulations specified in this chapter.

(Ord. 90-125, § 3 (part), 1991)

### **17.17.090 BUILDING HEIGHT LIMITS.**

The maximum building height shall be 35 feet above finished grade.

(Ord. 90-125, § 3 (part), 1991)

### **17.17.100 LOT AREA.**

The minimum lot area for any use shall be 4.75 acres, except that if a ten-acre aliquot part parent parcel when surveyed is less than ten acres, the parcel may be divided into two equal size parcels. The lot length-width ratio shall be a maximum of 1:3 and a minimum of 1:1.

(Ord. 17-097, § 2, 2017; Ord. 90-125, § 3 (part), 1991)

### **17.17.110 SETBACK REQUIREMENTS.**

Except for signs, no structure shall be erected within 75 feet of the right-of-way of the George Parks Highway. In all other cases, the setback requirements specified in MSB 17.55 shall apply. (Ord. 90-125, § 3 (part), 1991)

### **17.17.120 VEGETATION BUFFER.**

A natural vegetation buffer shall be maintained for a minimum of 50 feet from the right-of-way of the George Parks Highway.

(Ord. 90-125, § 3 (part), 1991)

### **17.17.130 SIGNS.**

The following types of signs are prohibited: portable signs; signs mounted on top of buildings; and flashing, rotating, animated or intermittent lighted signs. In no case shall any sign exceed **IM 25-168**  
**OR 25-089**

32 square feet in area. Signs within 660 feet of the right-of-way of the Parks Highway are regulated by the Code of Federal Regulations.

(Ord. 90-125, § 3 (part), 1991)

### **ARTICLE III. CONDITIONAL USE PERMITS**

#### **17.17.140 INTENT.**

It is recognized that there are certain uses which are generally considered appropriate in this district, provided that controls and safeguards are applied to ensure their compatibility with permitted principal uses. The conditional use permit procedure is intended to allow planning commission consideration of the impact of the proposed conditional use on surrounding property and the application of controls and safeguards to assure that the conditional use will be compatible with the surrounding area and in keeping with the character and integrity of the Denali State Park.

(Ord. 90-125, § 3 (part), 1991)

#### **17.17.150 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;
- (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, 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 this chapter.

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

(Ord. 90-125, § 3 (part), 1991)

#### **17.17.160 PUBLIC HEARING.**

**IM 25-168  
OR 25-089**

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

(1) Notice of any public hearing required under this code shall be given in accordance with MSB 17.03. Notice shall also be given to the Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation.

(2) The form of the notice shall be as described in MSB 17.03.

(Ord. 90-125, § 3 (part), 1991)

### **17.17.170 PLANNING COMMISSION ACTION.**

(A) 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. 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 Denali State Park.

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

(Ord. 90-125, § 3 (part), 1991)

### **17.17.180 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.

(1) the conditional use will not detract from the value, character or integrity of Denali State Park;

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

**IM 25-168  
OR 25-089**

- (3) that granting the conditional use permit will not be harmful to the public health, safety, convenience and welfare;
- (4) that sufficient access, setbacks, lot area, parking space, buffers, and other safeguards are being provided to meet the conditions; and
- (5) 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.

(Ord. 90-125, § 3 (part), 1991)

#### Article IV. VARIANCES

### **17.17.190 APPLICATIONS AND PROCEDURES.**

Applications and procedures for variances under MSB 17.17 shall be as prescribed in MSB 17.65. (Ord. 90-125, § 3 (part), 1991)

#### ARTICLE V. APPEALS

### **17.17.200 APPEALS.**

Appeals from decisions of the planning commission may be made under the provisions of MSB 15.39. (IM 96-013, page 1 (part), presented 3-19-96; Ord. 90-125, § 3 (part), 1991)

#### ARTICLE VI. AMENDMENTS

### **17.17.210 REPORT.**

(A) Before any proposed zoning changes may be acted upon by the assembly, the planning commission shall study the proposed change and make a report in writing to the assembly.

(B) The report shall give consideration as to the effect the proposed change would have on the public health, safety, convenience and welfare. It shall also state whether the proposed change:

- (1) will adversely affect the character and integrity of the Denali State Park;
- (2) is contrary to the established land use pattern;

**IM 25-168  
OR 25-089**



- (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.
- (C) The report shall incorporate comments heard at the public hearing held by the planning commission and shall recommend as to approval and disapproval of the proposed change.
- (D) The report shall be forwarded to the assembly.
- (E) Amendments to this chapter shall be made by an ordinance adopted by the assembly.

(Ord. 90-125, § 3 (part), 1991)

### **17.17.220 PUBLIC HEARINGS.**

Before the assembly may act on a proposal for amendment to this chapter, the clerk shall cause an ordinance to be prepared setting forth the details of the proposed amendment. Such ordinance shall be introduced at a regular or special meeting of the assembly and a date for a public hearing established. The clerk shall give notice of the public hearing in the manner prescribed in this title.

(Ord. 90-125, § 3 (part), 1991)

## **ARTICLE VII. ENFORCEMENT AND PENALTIES**

### **17.17.230 VIOLATIONS AND ENFORCEMENT.**

Violations and enforcement of this chapter shall be consistent with the terms and conditions of MSB 17.56.

(Ord. 90-125, § 3 (part), 1991)

**IM 25-168  
OR 25-089**