Introduced by: City Manager
Date: July28, 2009
Public Hearing: August 11, 2009
Action: Passed
Vote: 6-0

CITY OF BETHEL, ALASKA

Ordinance #09-19

AN ORDINANCE

AN ORDINANCE AMENDING ORDINANCE CHAPTER 15.08, CHAPTER 15.12, CHAPTER 16.04, CHAPTER 16.08, CHAPTER 16.12 OF THE BETHEL MUNICIPAL CODE GOVERNING SITE PLAN AND DEVELOPMENT, FLOOD PROTECTION, THE COMPREHENSIVE PLAN, SUBDIVISIONS, LAND USE REGULATIONS; AND AMENDING OTHER RELATED CODE PROVISIONS

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that:

SECTION 1. Classification. Sections 2 through 6 of this ordinance are permanent in nature and shall be incorporated into the Bethel Municipal Code.

SECTION 2. Repeal and Reenactment of Chapter. Bethel Municipal Code Chapter 15.08 is repealed and reenacted to read:

Chapter 15.08
FLOOD CONTROL

Sections:

15.08.010 Findings.
15.08.020 Purpose.
15.08.025 Deference to federal regulations.
15.08.030 Definitions.
15.08.035 Records to be obtained and maintained.
15.08.040 Permit – Required for floodplain construction.
15.08.050 Permit – Application.
15.08.060 Permit – Requirements.
15.08.070 Flotation, collapse or lateral movement.
15.08.080 Construction materials and practices.
15.08.090 Water and sewer systems.
15.08.100 Elevation – Residential structures.
15.08.110 Elevation – Nonresidential structures.
15.08.120 Critical facilities.
15.08.130 Floodproofing.
15.08.140 Increase of flood height.
15.08.150 Mobile homes moving into parks.
15.08.160 Flood damage control measures.
15.08.170 Subdivisions and utilities – Requirements.

Introduced by: City Manager
Date: July28, 2009
Public Hearing: August 11, 2009
Action: Passed
Vote: 6-0

15.08.180 Subdivisions and utilities – Application of requirements.
15.08.190 Conflicting provisions.
15.08.200 Liability denied.
15.08.210 Preexisting structures.
15.08.220 Contracts authorized.
15.08.230 Complaint.
15.08.235 Correction of violations.
15.08.240 Enforcement.
15.08.250 Costs.
15.08.260 Variance procedures and appeals.

15.08.010 Findings.

A. Areas within the city are periodically subject to inundation which can potentially result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of tax base, all of which adversely affect the public health, safety and general welfare.

B. Areas within the city have been designated as flood-prone pursuant to Section 201 of the Flood Disaster Protection Act of 1973 and the city is required to join the National Flood Insurance Program to make flood insurance and federal and federally regulated financial assistance available to the residents within the flood hazard areas. [Ord.]

15.08.011 Statutory Authority.

The Legislature of the State of Alaska has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Bethel, does ordain as follows:

"Statutory Authority" will be the the planning director. This framework of administering the ordinance (including permit system, establishment of the office for adminstering the ordinance).

15.08.020 Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare and to minimize those losses described in BMC 15.08.010 and to meet the requirements for participation in the National Flood Insurance Program. To accomplish this purpose, it is the purpose of this chapter to:

A. Establish a land use permit system within the special flood hazard area as identified by the Federal Insurance Administration. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report

entitled "The Flood Insurance Study for City of Bethel, Alaska, Bethel Census Area," dated September 25, 2009, with accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study (FIS) and the FIRM are on file at the City of Bethel Planning Department, P.O. Box 1388, Bethel, Alaska 99559.

B. Require that land uses vulnerable to floods, including public facilities and utilities which serve such uses, shall be protected against flood damages at the time of initial construction or substantial improvement as required by applicable law and regulations;

C. Restrict or prohibit land uses and structures which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocity;

D. Ensure that subdivision and development of land within Bethel are consistent with the need to minimize flooding and damage done by flooding. [Ord.]

15.08.025 Deference to federal regulations.

To the extent that the minimum standards and requirements of the provisions of the chapter fail to meet the applicable minimum standards or requirements of 44 CFR Parts 59 and 60 and such other standards or requirements as must be met for federal flood insurance to be sold and renewed within the city, the minimum standards and requirements of the federal regulations shall apply. [Ord.]

15.08.030 Definitions.

Certain words and phrases used in this chapter are defined in Chapter 16.12 BMC. [Ord.]

4.2 DESIGNATION OF THE *local administrator*

The *local administrator* is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE local administrator

Duties of the *local administrator* shall include, but not be limited to:

4.3-1 Permit Review

(1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
(2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

15.08.031 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided (A and V Zones) in accordance with section 15.08.050 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the (land use administrator) shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 15.08.091, SPECIFIC STANDARDS, and 15.08.050(F) FLOODWAYS.

15.08.035 Records to be obtained and maintained.

A. Where base flood elevation data has not been provided (A and V Zones) in accordance with section 15.08.050(F), BASE FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the land use administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data avaible from federal, State, or other sources, in order to administer obtain and record the actual, as-built elevation in relation of mean sea level of the lowest floor, including the basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

B. For all new or substantially improved floodproofed structures where elevation data is provided through the Flood Insurance Study, FIRM, or as required under BMC 15.08.050(F):

1. Obtain and record the actual elevation in relation to mean sea level to which the structure was floodproofed; and
2. Maintain the floodproofing certifications required by BMC 15.08.110.

C. Maintain for public inspection all records pertaining to the provisions of this chapter. [Ord.]

15.08.040 Permit – Required for floodplain development.

A site plan permit shall be obtained before construction or development begins within any area of special flood hazard Section 18.16.10 The permit shall be for all structure including manufactured homes, as set forth in the "DEFINITION", and for all development including fill and all other activities, also set forth in the "DEFINITIONS". [Ord.]

15.08.050 Permit – Application.

Application for a floodplain land use permit shall be filed with the city planning department and be made on a form furnished by the planning department. The

applicant should be informed that elevating the structure one (1) foot or more above the base flood elevation may result in substantial reduction of flood insurance premiums, but that they should verify the reduction with their insurer. The information furnished in that application shall include, but is not limited to:

A. The name and address of the owner or builder of the structure on the parcel;

B. The name and address of the owners of the parcel;

C. A legal description of the parcel;

D. Flood hazard area status as shown on the Flood Insurance Rate Map (FIRM);

E. A copy of all state, federal and other local government permits required for the work;

F. If the structure or substantial improvement is located in a special flood hazard area, a description of the protective measures that will be taken to meet the applicable requirements set out in BMC 15.08.070 through 15.08.150 and other information which demonstrates that the structure will be adequately protected against flood damage and that the structure or site preparation will not adversely affect flood elevations or velocities.

G. Where elevation data is not available either through the Flood Insurance Study (FIS) or from another authoritative source, applications for permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above the highest adjacent grade in these zones may result in higher flood insurance premiums.

H. Prior to any alteration or relocation of a water course, the land use administrator shall notify adjacent communities and the Alaska Department of Community and Regional Affairs, and submit evidence of such notification to the Federal Insurance Administration, and require that maintenance will be provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. [Ord.]

I. INTERPRETATION OF FIRM BOUNDARIES: Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapping boundary and actual field conditions). The person constesting the location of the boundary shall given a reasonable opportunity to appeal the interpretation as provided in Section 15.08.260.

15.08.060 Permit – Requirements.

Within special flood hazard areas, no floodplain land use permit shall be approved unless all of the applicable requirements set out in BMC 15.08.070 through 15.08.150 are satisfied. [Ord. 09-0 § .]

15.08.070 Flotation, collapse or lateral movement.

Any new or substantially improved structure shall be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure. All mobile and manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top-of-frame-to-ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques) [Ord. 09-0 § .]

15.08.080 Construction materials and practices.

Construction materials and utility equipment that are resistant to flood damage and construction practices and methods that will minimize flood damages shall be utilized. [Ord. 0-0 § .]

15.08.090 Water and sewer systems.

Construction or substantial improvement shall not occur unless the applicant demonstrates that any associated new or replacement water supply system and sanitary sewage system, including on-site systems, will be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters. All systems shall be floodproofed at least to the regulatory floodwater surface elevation. Electrical, heating ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. On-site sewage disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. [Ord. 09-0 § .]

15.08.091 Specific Standards.

In all areas of special flood hazards where base flood evevations data has been provided (Zoned A1-30, AH, and AE on the community FIRM) as set forth in Section 3.2, BASE FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, or Section 4.3-2, Use of other Base Flood Data (In A and V Zones), the following provisions are required:

15.08.100 Elevation – Residential structures.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall

be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

A. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than one (1) foot above grade.

C. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters. [Ord. 09-0 § .]

15.08.110 Elevation – Nonresidential structures.

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, elevated to or above the level of the base flood elevation; or together with attendant utility and sanitary facilities shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development or review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in BMC 15.08.050.

B. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level, (e.g. a building floodproofed to the base flood level will be rated as one foot below the base flood level).

C. Nonresidential structures that are elevated, but not floodproofed, must meet the same standards for space below the lowest floor as described in BMC 15.08.100. [Ord. 09-0 § .]

15.08.120 Critical facilities.

Construction of new critical facilities shall be, to the maximum extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above **highest adjacent** grade or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also

be protected to the height **utilized above**. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. [Ord. 09-0 § .]

15.08.130 Floodproofing.

If floodproofing is utilized pursuant to BMC 15.08.110, it shall be in accordance with the standards for completely floodproofed structures contained within Sections 210.2.1 FPL or 210.2.2. FP2 of the U.S. Army Corps of Engineers Publication entitled "Flood-Proofing Regulations," May 1986 edition or any subsequent edition thereof or any replacement standard. A registered professional engineer or architect shall certify that the floodproofing measures taken are reasonably adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one-hundred- (100-) year flood and a record of certification shall be part of the floodplain land use permit records.. [Ord. 09-0 § .]

15.08.140 Increase of flood height. .

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood than one foot at any point within the community. [Ord. 09-0 § .]

15.08.150 Mobile homes moving into parks.

(1) All manufactured homes to be placed or substantially improved on sites:

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of (1) above, be elevated so that either:

(i) The lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. [Ord. 09-0 § .]

15.08.151 Recreational Vehicles.

Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days,

2. Be fully licensed and ready for highyway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meeting the requirements of 15.08.150 above and the elevation and anchoring requirements for manufactured homes.

15.08.160 Flood damage control measures.

Where floodproofing is required, the following shall be accomplished:

A. Installation of watertight doors, bulkheads, shutters or similar methods of closure;

B. Reinforcement of walls to resist water pressures;

C. Use of paints, membranes or mortars to reduce seepage of water through walls;

D. Addition of mass or weight to structures to resist flotation;

E. Installation of pumps to lower water levels in structures;

F. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;

G. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;

H. Location and installation of all electrical equipment, circuits, appliances and heating systems so that they are protected from inundation by the regulatory flood;

I. Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare; or design of such facilities to prevent flotation of storage containers which could result in the escape of toxic materials into floodwaters;

J. Use of materials such as sheathing, siding, subflooring and underlayment that are not subject to water damage due to prolonged submersion below regulatory flood level;

K. Use of closed cell insulation to prevent water logging and consequent loss of insulating ability below the regulatory flood level;

L. Location of oil storage tanks outside the structure and anchoring to prevent disturbance by floodwater. Tanks should be placed upon and secured to a concrete slab of sufficient volume to prevent flotation. In the calculation of required anchorage, little recognition should be given to shear or friction values of the soils as they will be substantially reduced due to saturation. Both fill and vent pipes should extend above the expected high water level;

M. Installation of a backwater valve in sewer lines in an accessible location immediately adjacent to the exterior foundation wall. [Ord. 09-0 § .]

15.08.170 Subdivisions and utilities – Requirements.

A. The planning commission shall deny permission to subdivide land within flood hazard areas unless the following requirements have been fulfilled:

1. The land subdivision and associated developments are consistent with the requirement to minimize flooding and flood damages;
2. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located, elevated or constructed to minimize or eliminate flood damage;
3. Adequate drainage shall be provided to reduce the exposure of structures, utilities and facilities to flood hazards;
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated at the expense of the applicant for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less;
5. The preliminary and final plat shall include the ground elevation and the regulatory flood elevation at convenient reference points;
6. The special flood hazard area shall be labeled "Special Flood Hazard Area" on preliminary and final plats. The fact that a lot is in the flood hazard area shall be disclosed in any contract to purchase or lease of the lot.

B. All new or replacement water supply systems and sanitary sewage systems, including on-site systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

C. All new or replacement public utilities such as gas, electric and telephone systems shall be designed or constructed to eliminate disruptions due to flooding and associated hazards. [Ord. 09-0 § .]

15.08.180 Subdivisions and utilities – Application of requirements.

In determining if the requirements of BMC 15.08.170 are fulfilled and when considering applications for conditional uses and planned unit developments or other developments, the planning commission shall consider the purpose of this chapter and at least:

A. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;

B. The danger that intended uses may be swept on to other lands or downstream causing injury or damage to other persons or property;

C. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

E. The importance of the services provided by the proposed facility to the community;

F. The requirements of the subdivision for a flood hazard location;

G. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;

H. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;

I. The relationship of the proposed subdivision or development to the comprehensive plan and floodplain management program for the area;

J. The safety of access to the property for emergency vehicles in times of flood;

K. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges;

M. The installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures. [Ord. 09-0 § .]

15.08.190 Conflicting provisions.

Permits issued pursuant to this chapter shall conform to all laws or regulations as are from time to time established or amended; however, this chapter shall control in the event of any conflict unless specifically stated otherwise or unless the conflicting section is more restrictive. [Ord. 09-0 § .]

15.08.200 Liability denied.

The grant of a floodplain land use permit or approval of a subdivision plan or approval of a use or development in the flood hazard area shall not constitute a representation, guarantee or warranty of any kind by the city, or any official or employee thereof of the practicability or safety of the proposed use or structure, and shall create no liability upon the city, its officials or employees. [Ord. 09-0 § .]

15.08.210 Preexisting structures.

Nothing in this chapter shall be construed as applying to a structure existing prior to April 21, 1975, or to a structure in existence and in full compliance with this chapter on the effective date of an amendment to this chapter, that causes the structure to be out of compliance with this chapter unless the structure is to be substantially improved after that date. Nothing in an amendment to this chapter shall be construed as applying to any structure for which fifty (50) percent or more of the date of construction, prior to the effective date of the amendment. Any structure that will be substantially improved is subject to the provisions of this chapter in the same manner as new construction and the entire structure shall meet the requirements of this chapter. [Ord. 09-0 § .]

15.08.220 Contracts authorized.

The city is authorized to enter into contracts and agreements with other government entities for the purpose of enforcing this chapter or developing a floodplain management program. [Ord. 09-0 § .]

15.08.230 Complaint.

A. Any person aggrieved by a violation or apparent violation of the provisions of this chapter may file a written complaint with the land use administrator who shall immediately investigate said complaint and take action to have the violation corrected if such a violation is found to exist.

B. The land use administrator may also investigate violations or apparent violations of the provisions of this chapter on his/her own initiative. [Ord. 09-0 § .]

15.08.235 Correction of violations.

A. When the land use administrator finds a violation of any of the provisions of this chapter, he/she shall notify the person responsible for the violation in writing and shall order the necessary correction within a period of ninety (90) days or such earlier time as may be reasonable. The land use administrator may order remedial action immediately upon a determination by the public works director, the police chief or the fire chief that there is an immediate and significant endangerment to life, limb or property. Failure to comply with an order of correction within the time provided in the notice given under this section is a violation of this chapter.

B. The land use administrator may order:

1. The discontinuation of unlawful uses of land or structures;
2. The removal or abatement of unlawful structures or any unlawful additions or alterations thereto;
3. The discontinuation of construction or other preparatory activity leading to an unlawful structure or an unlawful use of the land or a structure;
4. When appropriate to ensure compliance with this chapter, the suspension or revocation of a floodplain land use permit, site plan permit or other city land use entitlement;
5. That new city utility connections and utility services not be provided to the land or structure. [Ord. 09-0 § .]

15.08.240 Enforcement.

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this chapter. [Ord. 09-0 § .]

15.08.250 Costs.

All costs incurred in conforming to application procedures and standards set forth in this chapter shall be the responsibility of the applicant. [Ord. 09-0 § .]

15.08.260 Variance procedures and appeals.

A. A person who is aggrieved by a decision of the planning department in the interpretation or enforcement of this chapter may appeal the decision to the planning commission as provided in BMC 18.72.020.

B. General conditions under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection L of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

C. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places, without regard to this procedures and requirements set forth in this section.

D. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

F. Variances shall only be issued upon:

1. A showing of good and sufficient cause in accordance with general zoning law principles;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection L of this section or conflict with existing city codes or regulations.

G. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they are justified by peculiarities of a physical piece of property, they are not personal in nature and are not justified by the condition, location or use of the structure, the personal situation, desires, or other circumstances of the inhabitants, economic or financial circumstances. Under this chapter, they primarily address small lots in densely populated residential neighborhoods. Variances from the flood elevation standards should be quite rare.

H. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all variance criteria, and otherwise complies with BMC 15.08.070 and 15.08.080.

I. An applicant who applied for an Variance and is granted through the Planning Commission shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

J. The planning commission shall hear and decide requests for variances from the requirements of this chapter. The hearing on the request shall be conducted substantially as provided in BMC 18.60.050(A) through (C).

K. A person aggrieved by the decision of the planning commission may appeal such decision to the Bethel board of adjustment as provided under BMC 18.72.020.

L. In passing upon variance applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this code, and:

1. The danger that materials may be swept onto other lands causing injury or damage to persons or other property;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood condition, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

M. Upon consideration of the factors of subsection L of this section and the purpose of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. [Ord. 09-0 § .]

N. The planning department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

SECTION 3. Repeal and Reenactment of Chapter. Bethel Municipal Code Chapter 15.12 is repealed and reenacted to read:

Chapter 15.12
SITE PLAN PERMITS

Sections:

15.12.010 Administration.
15.12.020 Permit required.
15.12.030 Application.

15.12.040 Evaluation of application.
15.12.050 Required permit conditions.
15.12.060 Action on an application.
15.12.065 Appeal.
15.12.070 Modifications.
15.12.080 Lapse of permit.
15.12.090 Complaint.
15.12.100 Correction of violations.
15.12.110 Suspension of permits.
15.12.120 Permit runs with land.
15.12.130 Display of site plan permit required.
15.12.140 Enforcement.

15.12.010 Administration.

The city planning department shall administer and enforce the site plan permit procedure under this chapter. [Ord. 09-0 § .]

15.12.020 Permit required.

A. A person shall not make an improvement to land or a structure, initiate a new use or change the use of land or a structure unless a site plan permit has first (1st) been issued for the improvement or use.

B. For purposes of this chapter, an improvement requiring a site plan permit includes activities that:

1. Involve a land disturbance through grading, excavation, or paving on lands with slopes in excess of ten (10) percent;
2. Involve a land disturbance through grading, excavation, or paving of an area that might reasonably be expected to impact drainages, significant wetlands, or nonsignificant wetlands;
3. Involve a proposal that will create impervious surfaces of such extent that might reasonably be expected to impact drainages, significant wetlands, or nonsignificant wetlands;
4. Involve land subject to local ponding due to soil or topographic conditions;
5. Involve land located in an area with a history of flooding, or that may be subject to flooding;
6. Involve the placement or relocation of a nontemporary structure or change to the dimensions of a nontemporary structure that increases or decreases the ground footprint of the structure.

C. For purposes of this chapter, a change of use includes the expansion of the area occupied by a use, the relocation of a use, as well as a change in the nature or type of use.

D. For purposes of this chapter, an improvement to a structure does not include changes which do not affect the location of the structure or any of its outside dimensions if the structure is not located within a flood hazard area of the city.

E. If any work on a structure or land within a flood hazard area requires a floodplain land use permit under Chapter 15.08 BMC and a site plan permit under this chapter, the application for the floodplain land use permit and the site plan permit may be combined for purposes of the information required to be submitted.

F. Any person proposing to dredge or to place or move fill within an area designated as a significant wetland by the Army Corps of Engineers shall obtain an individual permit from the Corps of Engineers prior to final approval by the city of a site plan permit unless the Corps of Engineers has waived the requirement for an individual permit for the proposed development. [Ord. 09-0 § .]

15.12.030 Application.

Application for a site plan permit shall be filed with the planning department by the property owner or an agent who is authorized in writing by the owner to file the application and to accept and agree to the terms of the permit. The application shall include the following except such matters required under subsection F of this section that the land use administrator determines are not necessary for review of a particular proposed improvement use or change of use:

A. Name, address, and phone number of the owner and applicant;

B. Address and legal description of the property;

C. Signature of the owner and the signature of the applicant if other than the owner;

D. The land use district(s) in which the property is located and the flood hazard zone status;

E. A brief description of the proposed improvements and the principal use, including information required to evaluate the application according to the standards described in BMC 15.12.040;

F. A site plan, drawn to scale and dimensioned as required, showing the following:

1. The date, scale, north point, title, name of owner and name of the person preparing the site plan;
2. The location and dimensions of boundary lines, easements, and required yards and setbacks;

3. The location, height and intended use of existing and proposed buildings on the site, and the approximate location on abutting parcels of existing buildings and improvements within fifty (50) feet of the property line;

4. The location and dimensions of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, drainage, landscaped areas, utility or service areas including water and sewer tanks, fencing and screening, signs, and lighting;

5. The location of water areas, watercourses and drainage features and, if any part of the site is within a flood hazard area, the information required under Chapter 15.08 BMC;

6. A plan showing existing and proposed drainage and topography and, if using fill, a cross-section of the fill;

7. If an activity described in BMC 15.12.020(B) will occur, a drainage plan containing the following shall be included:

a. Flow lines of surface waters onto and off the site;

b. Existing and proposed contours at two- (2-) foot intervals;

c. Location and amount of cuts, fills, or contouring;

d. Existing and proposed drainages, wetlands, and water bodies;

e. Building corner and street elevations for existing and proposed improvements;

f. Existing and proposed retaining walls;

g. The location and design of facilities for storage or conveyance of surface water runoff;

h. Estimates of existing and proposed runoff from and to adjacent properties and existing and proposed drainages, wetlands, and water bodies; and

8. Location of the city- or state-maintained street that will access the property either directly or via a privately maintained driveway or access lane.

G. An elevation certificate if required under Chapter 15.08 BMC.

H. Fees as determined by resolution of the city council. [Ord. 09-0 § .]

15.12.040 Evaluation of application.

A. The application shall be reviewed by the planning department for conformance with the applicable regulations and standards of BMC Titles 15, 16, 17 and 18, minimum water and sewage holding tank requirements and other applicable regulations.

B. Drainage plans required under BMC 15.12.030(F)(6) shall be reviewed by the city engineer who shall recommend appropriate measures to the land use administrator. Drainageways shall meet the requirements of this subsection.

1. Drainages that have been designated as significant wetlands by the Bethel Wetlands Study are subject to the standards listed in subsection (B)(2) of this section and to such additional standards as are required under the National Flood Insurance Program;

2. Drainages that have been designated as significant wetlands by the Bethel Wetlands Study and those drainages that are not designated as significant wetlands in the Bethel Wetlands Study but are determined by the land use administrator to be active drainages must be maintained or accommodated as follows:

a. In order to be considered maintained, a drainage shall have a channel preserved on the natural drainage with a width at every point of at least twenty (20) feet plus the width of the surface water drainage at that point during periods of high water with the twenty (20) feet allocated to each side of the drainage as approved by the land use administrator;

b. In order to be considered accommodated, a drainage channel shall be preserved with a width of at least twenty (20) feet plus the width of the surface water drainage during periods of high water as required in subsection (B)(2)(a) of this section, except that the location of the channel may be altered. If the location of the channel is altered, it must be designed and constructed so as to allow for unobstructed downhill flow of drainage and the location and design must be approved by the city engineer;

3. All road and driveway crossings of a drainage shall be properly culverted with a culvert at least twenty-four (24) inches in diameter to accommodate any drainage, unless the land use administrator determines that a lesser diameter would be adequate or that a greater diameter is required. The culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area;

4. The land use administrator may require the installation or construction of certain improvements as required to prevent adverse runoff, and maintain appropriate drainage to protect property and the life, health, and safety of Bethel residents. The applicant may be required to carry away by pipe or open ditch any spring or surface water that may exist previously to or as a result of the development. Such drainage facilities shall be located in a street right-of-way where feasible, or in a perpetual, unobstructed easement of appropriate width, and shall be constructed in accordance with the construction standards and specifications of the city;

5. The land use administrator shall not approve any development that does not make adequate provision for stormwater or floodwater runoff. The stormwater drainage system shall be separate and independent of any sanitary sewer system.

6. Where it is anticipated that the additional runoff incident to the development may overload an existing downstream drainage facility, the land use administrator may not approve the development until provision has been made for the elimination of the potentially adverse downstream effects.

C. If design or construction standards, including standards for structural, fire, electrical, plumbing, heating, ventilation and similar matters, have been approved as a part of this chapter, the site plan permit application shall include such design drawings and information as necessary or reasonably required by the city engineer to evaluate the proposed improvement, use or change of use. [Ord. 01-45 § 2; Ord. 09-0 § .]

15.12.050 Required permit conditions.

A. The following are mandatory conditions of a permit and must be included as part of the approved site plan permit:

1. All fill and excavation activity shall be protected in such a manner as to reduce any and all forms of erosions to the maximum extent practicable. The adequacy of the protection shall be determined by the land use administrator;

2. A sewage holding tank of adequate size shall be installed where piped sewage collection is not available;

3. A water storage tank of adequate size shall be installed where piped water supply is not available;

4. No sewage or greywater shall be discharged other than to a sewage holding tank or piped sewage collection system;

5. Setbacks and yards as required by BMC Title 18;

6. Off-street parking area as required by BMC Title 18;

7. Drainageway improvement and maintenance required under BMC 15.12.040(B) or by BMC Titles 17 and 18;

8. Height, noise, density and other requirements of BMC Title 18;

9. All facilities for the supply of water and the disposal of waste, whether individual on-lot or serving more than one (1) lot, including hookups to the city system or to existing community systems, are subject to city ordinances and state standards. All such facilities must receive approval of a sanitarian prior to construction, installation and/or operation;

10. No permanent structure may be placed within the area designated on the plat of a lot as a sewer, water, utility or similar easement. No permanent structure may be placed within an area of a lot that has been designated for the installation of a public sewer or water system on a sewer or water master plan, engineering plans or in the specifications for a sewer or water construction project, that have been approved by the appropriate city authority;

11. Thaw pipes meeting city specifications shall be installed in all culverts that are forty (40) feet or longer. Upon the recommendation of the director of public works, the land use administrator may require the installation of thaw pipes in other culverts. Prior to the installation of each culvert required or authorized under the permit, the director of public works must inspect and approve the ditch and compacted bed excavated and prepared for the culvert. Failure to obtain the inspection and approval is a violation of the site permit;

12. Any other improvement or condition required by this code or which the land use administrator deems necessary to protect the health, safety, or welfare of persons on surrounding property or the safety and integrity of abutting or affected land.

B. The improvements and uses shall meet the applicable requirements of the general permit, and BMC Titles 15, 16, 17 and 18. Failure to include a required condition or other requirement on a site plan permit does not waive or lessen the applicability of the condition or requirement. [Ord. 09-0 § .]

15.12.060 Action on an application.

A. Within ten (10) working days of receipt of a complete application, the planning department shall review the application. If the application is subject to city engineer review, an additional seven (7) working days shall be permitted for review of the application. Plans approved and conditions required by the city engineer become a part of the site plan permit. An application may be approved, approved subject to modifications, tentatively approved subject to receipt of required city engineer, state or federal approval, or disapproved.

B. If approved subject to modification, the applicant shall be notified in writing of the modifications required. The permit will be issued after the applicant has agreed, in writing, to the modifications. If the applicant refuses to agree to a required modification, condition or other requirement, the application shall be denied.

C. If approved subject to receipt of required state or federal approval, the applicant shall be notified in writing that the site permit has been tentatively approved and will be issued upon receipt by the land use administrator of proof that specified state or federal approval has been given. State and federal agencies that may require approval of improvements or uses include, but are not limited to, U.S. Army Corps of Engineers, the Alaska Department of Environmental Conservation, and the State Fire Marshal. If state or federal approval required modifications to plans, structures, improvements or uses that have been tentatively approved by the land use administrator, the land use administrator shall review the modifications to determine whether the improvement, structure or use, as modified, still meets the requirements of this code.

D. If the application is denied, the applicant shall be notified in writing of the denial and the reasons therefor.

E. If the application is approved, the applicant shall be mailed or hand-delivered a site plan permit dated and signed by the land use administrator and a site plan drawing revised to show changes required by the land use administrator and city engineer. The land use administrator may require the applicant to provide the revised drawing before issuance of the permit.

F. The site plan permit shall include:

1. The address and legal description of the property;
2. A description of the improvements approved and required by the site plan permit;
3. The approved use of the site and improvements;
4. Any other information, including diagrams, drawings, specifications and standards the land use administrator believes are necessary to inform the public and the applicant of the exact nature of the approved uses and the nature and location of the improvements;

5. Conditions of the permit required by the land use administrator and city engineer; and

6. A signature block with spaces for the date and time the site plan permit was posted and the signature of the person who posted the permit.

G. A summary of the times within which an appeal of the land use administrator's decision on the permit may be filed shall be set out on the permit. If the permit is denied, the summary shall be stated in the written notice to the applicant of the denial. [Ord. 01-45 § 3; Ord. 09-0 § .]

15.12.065 Appeal.

The grant or denial of a site plan permit may be appealed to the planning commission under the procedures in Chapter 18.72 BMC by the applicant or any person adversely affected by the improvement or use authorized under the permit. The time within which a member of the public may file an appeal of the permit issuance is the later of the time permitted under Chapter 18.72 BMC and until the close of business on the fifteenth (15th) consecutive day following the first (1st) day of the ten (10) consecutive days the permit is continuously displayed in conformance to the requirements of BMC 15.12.130. The applicant may appeal to the planning commission a determination by the land use administrator under BMC 15.12.100 that a violation has occurred, an order to correct a violation, or a suspension of a permit under BMC 15.12.110. [Ord. 09-0 § .]

15.12.070 Modifications.

Once the site plan permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator. The applicant may submit a request for modification of the approved site plan permit. Minor modifications may be approved by the land use administrator if it is determined that the circumstances or conditions applicable at the time of original approval remain valid, and the modifications would not affect the required conditions prescribed under BMC 15.12.050. If the modification requested is not granted under this section, a full application must be filed and processed as provided in BMC 15.12.030 through 15.12.060. [Ord. 09-0 § .]

15.12.080 Lapse of permit.

A. If not exercised within one (1) year from the date of issuance, the site plan permit shall expire, unless otherwise stated as a condition of the approval. A permit shall be considered "exercised" upon completion of fifty (50) percent or more of the authorized improvements, as measured by cost; provided, if the site plan permit is issued solely for a change of use, it is exercised when the authorized use commences.

B. A site plan permit subject to lapse may be renewed by the land use administrator for an additional period of up to one (1) year; provided, that thirty (30) days prior to the expiration date, a written request for renewal is filed with the planning department and the applicant shows good cause for failure to timely exercise the permit. [Ord. 09-0 § .]

15.12.090 Complaint.

A. Any person aggrieved by a violation or apparent violation of the provisions of this chapter, may file a written complaint with the land use administrator, who shall immediately investigate such complaint and take appropriate action to have violations found corrected. [Ord. 09-0 § .]

B. The land use administrator may also investigate violations or apparent violations of the provisions of this chapter or a site plan permit on his/her own initiative.

15.12.100 Correction of violations.

A. When the land use administrator finds a violation of any of the provisions of this chapter or a site plan permit, he shall notify in writing the person responsible for correcting the violation and shall order the necessary correction be accomplished within a reasonable period specified in the order, not exceeding ninety (90) days, and may suspend the permit pursuant to BMC 15.12.110. If there is an immediate and significant danger to life, limb or property, the land use administrator may order immediate remedial action.

B. The owner and the person to whom the order is directed, if other than the owner, shall comply with the order and each such person is liable for failure to comply. Failure to comply is a violation of this section. [Ord. 09-0 § .]

15.12.110 Suspension of permits.

A. The site plan permit may be suspended by the land use administrator upon violation of any applicable provision of BMC Titles 15, 16, 17 or 18, or a condition, provision or requirement of the permit. Suspension shall take effect upon written notification to the owner or the owner's authorized agent. The land use administrator may post a notice of the suspension on the posted site plan permit or at some other place where the notice can be seen from the nearest public right-of-way; provided, the failure to post the notice of suspension does not affect the validity or effectiveness of the written notification provided to the owner or the owner's agents personally, by mail, or by facsimile.

B. Upon the issuance and posting of the suspension or receipt of the notice of suspension by the owner or other person to whom directed, no construction or other activity covered by the permit may occur except as provided in subsection (D) of this section.

C. The applicant may appeal the decision to suspend the site plan permit to the planning commission under the procedures in Chapter 18.72 BMC.

D. Suspension of the site plan permit shall remain in effect during the appeals process; provided, with the written approval of the land use administrator, the appellant may make such changes or improvements as are specifically approved by the land use

administrator that are necessary to protect the land or improvement or other property. A person shall not make any other improvements or changes in the use while a suspension is in effect. [Ord. 09-0 § .]

15.12.120 Permit runs with land.

A. The issuance of a site plan permit pursuant to this chapter shall run with the land and shall continue to be valid upon a change of ownership of the land or structure which was the subject of the application.

B. Required improvements shall be maintained in a good state of repair and shall be in a condition to ensure that the required improvement functions as intended when the site plan permit was issued.

C. It is the duty of the owner of the land and of any person who has management authority over the land, including a lessee, to ensure that the land, improvements and uses of the land meet the requirements and conditions of BMC Titles 15, 16, 17 and 18, all conditions and requirements of the site plan permit, and other applicable requirements of this code, and state and federal laws and regulations. This duty falls jointly and severally on the present owner and the persons with management authority without regard to when the use, land or improvement first (1st) failed to meet requirements or conditions. [Ord. 09-0 § .]

15.12.130 Display of site plan permit required.

A. Within three (3) days of receipt of a site plan permit or at the time construction starts, whichever is sooner, the site plan permit and site plan shall be posted for display on the property to be improved or that is subject to a change of use in a manner so as to be plainly visible from the nearest public access or right-of-way that provides the primary actual access to the property. The person who posts the site plan permit shall enter on the permit the date and time of posting of the permit and site plan and shall sign the notice of the date and time of posting, verifying its accuracy.

B. The permit holder shall allow public access to and on the property to be developed in order to permit the public to read the site plan permit and inspect the site plan.

C. The site plan permit shall initially be displayed for a minimum of ten (10) consecutive days following the start of construction.

D. The site plan and the permit shall also be displayed during the construction of the project until such time as the project is fifty (50) percent completed, but in no case for less than ten (10) consecutive days after the start of the construction or change in use. [Ord. 09-0 § .]

15.12.140 Enforcement.

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this chapter.
[Ord. 09-0 § .]

SECTION 4. Repeal and Reenactment of Chapter. Bethel Municipal Code Chapter 16.04 is repealed and reenacted to read:

Chapter 16.04
PURPOSES AND GENERAL PROVISIONS

Sections:

16.04.010 Purposes.
16.04.020 Application.
16.04.030 Design and construction standards.
16.04.040 Fee schedule.
16.04.050 Enforcement, violations and penalties.

16.04.010 Purposes.

A. In addition to the purposes set out in each title, the purposes of BMC Titles 15, 16, 17, and 18 together are to:

1. Promote a logical growth pattern within the city and the economic extension of public services and facilities;
2. Encourage the most appropriate use of land throughout the city;
3. Reduce congestion in the streets;
4. Enhance safety from fire, flooding and other dangers;
5. Provide adequate light, air and open space;
6. Preserve property values;
7. Prevent the overcrowding of the land;
8. Avoid undue concentration of population;
9. Facilitate adequate provisions for transportation, water, sewage, drainage, schools, parks and other facilities;
10. Assure that development does not adversely affect either the ability of the city to deliver public services or the safety of property and the health, safety and welfare of persons;
11. Assure that the burdens placed on public facilities by development are borne by the development;
12. Promote the public health, safety and welfare.

B. BMC Titles 15, 16, 17 and 18 shall be interpreted and administered to complement each other and so as to implement the purposes set out in subsection A of this section.
[Ord. 09-0 § .]

16.04.020 Application.

The provisions of this chapter apply to BMC Titles 15, 16, 17 and 18 as if set out in each title. [Ord. 09-0 § 6.]

16.04.030 Design and construction standards.

A. The city engineer shall issue and may amend design and construction standards to be applied in the review and approval of subdivision plat, site plan permit, and other applications submitted under BMC Titles 15, 16, 17 and 18, and shall review for approval plans for improvements that are proposed or required under the application. If unusual conditions exist in a particular case or if a matter arises that is not addressed or is inadequately addressed in the issued standards, the city engineer may establish standards or other requirements that address the special conditions or matters. The authority to issue and establish standards and requirements under this section is not limited to those matters or applications where specific mention is made of city or city engineer standards in BMC Titles 15, 16, 17 and 18.

B. In the absence of the city engineer, the director of public works shall assume the duties and authority of the city engineer unless the manager has designated some other appropriate professional person or position to assume specified or all the duties and authority of the city engineer under this section. [Ord. 09-0 .]

16.04.040 Fee schedule.

A fee schedule for actions requested under BMC Titles 15 through 18 shall be established by the city council by resolution upon the recommendation of the land use administrator or platting officer. The fee schedule shall be reviewed annually for possible revisions. Fees shall be paid upon the submission or application for preliminary plat, vacation, platting waiver, abbreviated plat, final plat waiver, final plat, inspection of improvements, floodplain land use permit, site plan permit, conditional use permit, planned unit development, variance, renewals, extensions, appeals, or other actions. An application or submission is incomplete and may not be acted upon until the required fee and any applicable notice, filing and other reimbursable costs have been paid. [Ord. 09-0 .]

16.04.050 Enforcement, violations and penalties.

A. If there is a violation or a threatened violation of the terms of any provision of BMC Titles 15, 16, 17 or 18, the city manager, land use administrator, platting officer or any aggrieved citizen may institute or cause to be instituted an appropriate civil action to enjoin the violation, and to have a civil penalty not exceeding one thousand dollars ($1,000) imposed for each violation, and may proceed to obtain damages for any injury the plaintiff suffered as a result of the violation. Each day that a violation continues is a separate violation. An action to enjoin a violation of BMC Titles 15, 16, 17 or 18 may be brought notwithstanding the availability of any other remedy. Upon application for

injunctive relief and a finding of a violation or a threatened violation, the Superior Court shall grant the injunction.

B. A person who violates any provision of BMC Title 15, 16, 17 or 18 is guilty of an infraction and upon the first (1st) conviction for the violation is punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day that a violation continues is a separate violation.

C. A contractor or other person who engages in, directs, or supervises the work on land or a structure, or a use of property, or an activity or action, may be held liable for any violation of BMC Titles 15, 16, 17 or 18 resulting from the work performed, the use of the property, or the activity or action, and is subject to the penalty and remedy provisions of this section.

D. A person who fails or refuses to comply with an order of correction, suspension, discontinuation, removal, demolition or other enforcement order issued under BMC Titles 15, 16, 17 or 18 is guilty of a violation of the code section under which the order was issued in addition to any underlying or other violation of a provision of BMC Titles 15, 16, 17 or 18.

E. An action authorized under this section may be brought without a notice of violation or an order of correction having first (1st) been issued or disobeyed. [Ord. 07-28 § 2; Ord. 09-0 .]

SECTION 5. Repeal and Reenactment of Chapter. Bethel Municipal Code Chapter 16.08 is repealed and reenacted to read:

Chapter 16.08
COMPREHENSIVE PLAN

Sections:

16.08.010 Comprehensive plan description and purpose.
16.08.020 Planning commission review and recommendations.
16.08.030 City council action.
16.08.040 Adoption and contents of the comprehensive plan.

16.08.010 Comprehensive plan description and purpose.

The comprehensive plan is a guide for the systematic and organized physical, social and economic development, both public and private, of the city and serves as a long-range policy guide for the development of the city as a whole. The comprehensive plan shall be implemented through the application of existing and adoption and application of future land use regulations, including zoning, platting, site development and other land use and related regulations. [Ord. 09-0 .]

16.08.020 Planning commission review and recommendations.

The planning commission shall regularly review the comprehensive plan and recommend additions, deletions and revisions to the city council. [Ord. 09-0 .]

16.08.030 City council action.

The comprehensive plan may be revised by the city council by the addition of documents to the plan, or by deletion or revision of documents in the plan. [Ord. 09-0 .]

16.08.040 Adoption and contents of the comprehensive plan.

There is adopted the City of Bethel Comprehensive Plan consisting of the following plans, reports, policies, recommendations, goals, standards, maps and other documents:

A. City of Bethel Comprehensive Plan, dated August 1997, including maps prepared by HDR Alaska, Inc., except Map 1, "Future Land Use," is amended as revised September 2000, and Figure 11, "Development Phasing," is amended as revised September 2000.

B. Port of Bethel Development Plan, dated January 12, 1994, prepared and submitted by Bartz Englishoe and Associates, B&B Environmental, Inc., Phukan Consulting Engineers & Associates, Inc. and ResourcEcon.

C. City of Bethel Coastal Management Plan 2006 Amendment, prepared by Bethel Coastal District, Bethel planning commission and Bechtol Planning and Development.

D. City of Bethel Water and Sewer Facilities Master Plan, dated April 2005, prepared by CRW Engineering Group, LLC.

E. The Flood Insurance Study for the City of Bethel, dated February 15, 1985, including accompanying flood insurance maps.

F. The June 1998 transportation element of the Bethel Comprehensive Plan prepared by HDR Alaska, Inc. [Ord. 07-05 § 2; Ord. 06-04 § 2; Ord. 09-0 .]

SECTION 6. Repeal and Reenactment of Chapter. Bethel Municipal Code Chapter 16.12 is repealed and reenacted to read:

Chapter 16.12
DEFINITIONS

Sections:

16.12.010 Titles applicable.
16.12.020 General rules of interpretation.
16.12.030 Definitions.

16.12.010 Titles applicable.

The definitions of words, terms and phrases set out in this chapter apply to such words and phrases when used in BMC Titles 15, 16, 17 and 18, unless specifically defined in the title where used, and except where the context clearly indicates a different meaning was intended. [Ord. 09-0]

16.12.020 General rules of interpretation.

For the purpose of BMC Titles 15, 16, 17 and 18, unless otherwise indicated by the context, words, terms and phrases used in such titles shall be interpreted as follows:

A. Words used in the present tense include the future tense;

B. The singular number includes the plural, and the plural includes the singular;

C. Words of any gender may, when the sense so indicates, refer to any other gender;

D. The word "person" includes a corporation and any other entity or form of association as well as an individual;

E. The words "must" and "shall" are always mandatory and the terms "must not," "shall not" and "may not" are prohibitory;

F. The word "used" or "occupied," as applied to any land or structure, shall be construed to include the phrase "intended, arranged or designed to be used or occupied." [Ord. 09-0]

16.12.030 Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this section:

"Abbreviated plat" means a representation of a subdivision in which the subdivision does not create more than four (4) lots; each lot created has legal and physical access to a public highway or street; the subdivision does not involve or require a dedication of a street, right-of-way, or other area; and the subdivision does not require a vacation of a public dedication of land or a variance from the requirements of any ordinance, including, but not limited to, requirements related to subdivision, land use, and building and construction, including flood hazard and drainage regulations.

"Access" means a means of vehicular or pedestrian approach, entry to or exit from property.

"Accessory building, structure or use" means uses and structures customarily accessory and clearly subordinate and incidental to the principal use or structure on a lot. This may include a structure or use for storage, coverage or similar uses incidental

to the principle use which contributes to the comfort, convenience, or necessity of occupants of the principal structure or use and is located on the same lot as the principal structure or use.

"Addition" means a parcel of land which is platted adjacent to an existing subdivision and which has the same name.

"Adequate" means sufficient in terms of actual or anticipated capacity or demand, satisfactory in terms of public safety requirements or as may be required by this code, or other law, regulations, or standards.

"Adjacent lot" means a lot or parcel of land which shares all or part of a common property line with another lot or parcel of land.

"Aliquot part" means the division of a surveyed section of land, described without reference to bearing or distance, into square or rectilinear parcels, the area of each parcel comprising a fractional portion of the total area of the section and of the parcel from which it is being divided.

"Alley" means a public right-of-way shown on a plat which provides only a secondary means of access to a lot, block, tract or other parcel of land.

"Alteration" means any change, addition or modification in the construction, location or use of a structure or lot.

"Apartment" means any building or portion thereof which is used, designed, built, rented or leased which contains dwelling units for four (4) or more families living independently of each other.

"Appeal" means a request to a higher body for a review of the decision of an administrative officer, the planning commission or the city council.

"Arterial" means a street used to carry high volumes of traffic to and from major traffic generators or into or out of the community.

"As-built plans" means construction plans that have been revised in accordance with all field changes reflecting the improvements on the site as they actually exist.

"Automotive repair" means replacement of parts, tune-up, lubrication, and washing and polishing of passenger trucks and cars.

"Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year; also referred to as the one-hundred- (100) year flood. Areas subject to the base flood are special flood hazard areas and the designation of these areas on the FIRM always includes the letters A or V.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Bedroom" means a room marketed or designed to function primarily for sleeping.

"Block" means an area of land within a subdivision that is entirely bounded by rights-of-way, physical barriers, and exterior boundaries of the subdivision, except alleys, and which is usually divided into lots.

"Block length" means the distance between intersections of through streets, such distance being measured along the longest street bounding the block and from right-of-way line of the two (2) intersecting streets.

"Building" means a structure of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity. Temporary structures such as tents, fish-drying racks, dog houses, and shipping vans placed on a lot only for the reasonable duration of construction are not buildings for purposes of street and yard setbacks. Permanent structures such as houses, stores, mobile homes, manufactured homes, garages, storage sheds, shops, steambaths, and smokehouses are buildings. For setback purposes, a building includes such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans, water, sewage, and oil tanks, and windows. Where independent buildings with separate entrances are not joined by a common wall and/or ceiling or floor, each building is a separate building.

"Bunk house" means a building consisting of individual sleeping rooms for one (1) or more individuals working for the same employer, provided, the rooms are not for rent or lease to persons other than employees of the same employer.

"Certificate to plat" means a certificate prepared by a title company authorized by the laws of the state to write the same, showing the names of all persons having any record title interest in the land to be platted together with the nature of their respective interests therein.

"Certified mobile home" means a transportable structure constructed to be towed on its own chassis, larger than three hundred twenty (320) square feet, designed to be used as a year-round residential dwelling, built after June 15, 1976, and bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (42 USC Section 5401 et seq.) (see also "mobile home").

"Child care facility" means a home or structure used and maintained to provide, for compensation, care for five (5) or more children unrelated to the care provider.

"City" means the city of Bethel.

"Collector street" means a street that carries traffic between local streets and other collectors and arterials.

"Commercial use" means a retail or wholesale business enterprise.

"Comprehensive plan" means a document of text, charts, graphics and maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses which is intended primarily to guide government policy towards achieving orderly and coordinated development of the entire community.

"Conditional use" means a use not permitted as a principal use within a district but which may be permitted if approved by the planning commission subject to conditions imposed by the planning commission that eliminate or substantially reduce the adverse effects the use would have on principal uses in the neighborhood and district and as may be necessary to preserve the integrity and character of the district and neighborhood in which the use is conditionally permitted.

"Construction" means and includes design, engineering, contract administration and work, labor and materials furnished for an improvement.

"Control valve" means the shut-off valve required by the city water utility to be placed on the water extension line on the customer's property.

"Corner lot" means a lot located at the intersection of two (2) or more streets where the angle of intersection of the lot lines abutting those streets does not exceed one hundred thirty-five (135) degrees.

"Cul-de-sac" means a road having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

"Dedication" means the intentional appropriation of land by the owners to public use.

"Development" means any manmade change to improved or unimproved land, including but not limited to buildings or other structures, the excavation or relocation of material or depositing of fill on a parcel of land; mining, dredging, filling, grading, paving, or drilling operations, construction, reconstruction, conversion, structural alteration, relocation, or enlargement or any structure; for purposes of Chapter 15.08 BMC, it also includes any storage of equipment or materials; for purposes of BMC Title 18, it also includes any use or change in use of any structure or land.

"Development phasing district" means an area shown on Figure 11 as corrected under BMC 16.08.040(A), entitled "Development Phasing" in the 1997 Comprehensive Plan of the city of Bethel. Each district is identified by a number and letter as, for example, 3B. The district designations are used separately or in combinations to identify specific areas in which certain infrastructure requirements exist with respect to subdivision or other development activities.

"District" means a land use district established by BMC Title 18.

"Driveway" means a driving surface that connects the parking area of a property to a city, state, or privately maintained road (also see "interior access lane").

"Duplex" means a structure or use on one (1) lot involving two (2) attached common wall dwelling units, each unit designed for occupancy by one (1) family.

"Dwelling" means a building designed or used as the living quarters for one (1) or more families.

"Dwelling unit" means a room or group of rooms constituting all or part of a dwelling which are arranged, designed and used or intended for use exclusively as living quarters for one (1) family which may include washing, sleeping, and eating facilities, but no more than one (1) kitchen.

"Easement" means an interest in land owned by another that entitles the easement holder to a specified limited use, right or enjoyment. A public easement is an area legally reserved by plat or conveyed or reserved by deed for the purpose of allowing use by vehicles, pedestrians, utilities, drainage or for other purposes.

"Egress" means an area where a vehicle may leave a parcel and enter the public right-of-way or alley.

"Elevated building" means, for flood insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

"Engineer" means a registered professional civil engineer authorized to practice engineering in the state.

"Excessive" means a degree of use causing effects exceeding those generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

"Family" means one (1) or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a roominghouse, club, fraternity house or hotel.

"Federal Insurance Administration (FIA)" means the division of the Federal Emergency Management Agency which is responsible for administration of the National Flood Insurance Program as set out in 44 CFR Part 2.

"Federal Insurance Administrator" means the administrator of the FIA as established in 42 USC Section 4129.

"Fence" means an artificially structured barrier of any material or combination of materials erected to enclose or screen areas of land.

"Final acceptance" means acceptance by the city, at the completion of construction and upon the posting of all required warranties, of a public improvement constructed as a condition of approval of a subdivision plat or other development permit.

"Final plat" means the final map, drawing, or chart on which the subdivision or resubdivision of land is presented to the planning commission or platting officer for approval, and which, when approved as meeting all preliminary plat conditions, will be submitted to the district recorder for recording.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Special Flood Hazard Area" and "area of special flood hazard" mean the area within the city subject to the one-hundred- (100) year flood as delineated on the flood insurance rate map for Bethel published by the Federal Insurance Administration. Designation of an area on the FIRM will always include the letter A or V.

"Flood Insurance Rate Map" or "FIRM" means the official map of the city on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the city.

"Floodplain" or "flood-prone area" means any area of land susceptible to being inundated by water from any source. See definition of "flooding".

"Food and beverage sales" means retail sales of groceries, beverages, and household items. Typical uses include grocery stores, convenience stores and bakeries.

"Food and beverage services" means establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premises consumption. Typical uses include restaurants, cafes, fast food outlets, including drive-through or drive-in establishments, and taverns.

"Freezer van" means a containerized shipping van usually about eight (8) feet wide by eight (8) feet high and either twenty (20) or forty (40) feet long and which have sometimes been converted to dwellings or storage and other nonshipping uses.

"Front lot line" means that boundary of a lot measured along the edge of the right-of-way of a dedicated street, private street or public road easement but not an alley, which abuts that line. In the case of a corner lot, either line which meets this description may be designated by the land use administrator as the "front lot line" and the other shall be treated as a side lot line.

"Front yard" means the distance between the front lot line and the part of the permanent structure nearest the front lot line. It also includes that portion of a yard between the front lot line and the required front yard setback line extended to the two (2) side lot lines, the depth of which is the least distance between the front lot line and the nearest permanent structure. In the case of a corner lot, the front lot line is the lot line so designated by the land use administrator.

"General permit" means general permit No. 83-4, as amended, extended or reauthorized, and issued by the Corps of Engineers which places conditions on land development.

"Greenbelt or buffer park" means a strip or parcel of land privately restricted or publicly dedicated as open space for the purpose of protecting and enhancing the environment.

"Gross usable area" means the area within a lot or parcel of land that can be developed after subtracting areas of drainages, water areas, significant wetlands, setbacks, easements and areas that cannot be developed as a practical matter because of topography, soil or other physical conditions.

"Group home" means a facility located in a residential structure, the principal use of which is to serve as a place for persons seeking rehabilitation or recovery from any physical, mental, or emotional infirmity in a family setting as part of a group rehabilitation or recovery program involving counseling, self-help or other treatment or assistance.

"Home occupation" means an occupation carried on by the occupants of a dwelling as an accessory use in connection with which there is no exterior display of the activity except as noted in this definition, no persons are employed and no trucks or mechanical equipment is used or stored except trucks that are normally associated with a single-family residence. Home occupations include knitting, making of clothing, basketmaking, skinsewing, jewelrymaking, fish smoking, dance or music instructions in classes of five (5) pupils or less, and child care involving three (3) or fewer children who are not

members of the household. Home occupation does not include use by an electrician, plumber, doctor, dentist, repair or fix-it shop.

"Improvement" means any construction incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, construction of driveway approaches, sidewalks, street signs, street lights, water lines, sanitary sewers and treatment systems, storm sewers, culverts, bridges, utilities, waterways, lakes and other items; the construction of any building or permanent structure or any external addition to a structure that constitutes a betterment of real property. The relocation of a structure within a lot or the relocation of a structure to another lot, the addition or relocation of fill or native material, the addition of a floor or room that changes the exterior dimensions of the building and the change to or addition to the sewer or water system serving the building are improvements; painting, siding, reroofing or other cosmetic changes are not considered to be improvements.

"Industrial use" means the use of a building or land where a primary use or activity is the warehousing, storage, movement, shipment or sale of cargo, petroleum products, gravel, sand, lumber, timber, fish, fish or material processing, port activities, or use of heavy equipment. The manufacturing of goods that emits obnoxious noise or fumes, requires the use of chemicals or materials that present a threat to the public health or safety, or requires the use of heavy equipment on the premises are industrial uses.

"Ingress" means the area where a vehicle may enter a private lot from the public right-of-way or public or private easement or other way.

"Institutional" means a structure where the primary use is for educational, governmental, or hospital activities.

"Interceptors" means all trunk, main and lateral sewer lines of every kind which are connected to and used for the collection of sewage from the customer service lines and its delivery to the sewage treatment plant.

"Interior access lane" means a nondedicated small vehicular way that is totally within the boundaries of a lot and provides direct access to parking spaces and/or provides interior circulation on the lot (see "driveway").

"Land use administrator" means the manager of the city planning department or such other person as the city manager appoints to administer BMC Titles 15, 16 and 18.

"Legal access" means the right of access to an abutting public, dedicated street, highway or road which is connected to and a part of the public system of streets of the city.

"Local street" means a street, generally within a subdivision, designed primarily to provide direct access to individual abutting properties.

"Lot" means the smallest portion of a subdivision being a measured portion of a parcel of land which is described, identified by a lot number, and fixed on an approved plat filed for record; also, when used in a more general sense, including parcel, tract, plat and property.

"Lot depth" means the distance between straight lines connecting side lot lines, measured between the midpoint of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

"Lot frontage" means the length of the front lot line.

"Lot improvement" means any building, structure, water or sewer facility, work of art or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

"Lot line" means a fixed boundary of a lot described by survey located on an approved plat filed for record.

"Lot width" means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest flood; *Provided,* that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 15.08.100.

"Manufactured home" means a structure, including a mobile home, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; it also includes any structure which meets all the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the U.S. Secretary of Housing and Urban Development and complies with the standards established under 42 USC Sections 5401 through 5426; and except that such term shall not include any self-propelled recreational vehicle.

"Marginal street access" means a frontage road which separates properties from arterials and collectors and eliminates the need for unlimited access to such streets.

"Minor structure" means, for purposes of yard setback requirements, a structure such as a doghouse, small storage box or other small structure, not exceeding three (3) feet in height and not occupying more that twenty-five (25) square feet; except, a fence that does not exceed six (6) feet in height is treated as a minor structure.

"Mobile home" means a transportable structure constructed to be towed on its own chassis and designed to be used as a year-round residential dwelling (see also "certified mobile home").

"Mobile home park" means any parcel of land, including separate parcels under common ownership, which is occupied by four (4) or more mobile homes but not including a mobile home sales lot if none of the mobile homes are used as dwellings.

"Nonconforming use, lot, or structure" means lots, structures, buildings, or uses of land that were lawful prior to the effective date of a provision of BMC Title 15, 16, 17 or 18, an amendment thereto, the removal of federal or state protections on land, or the annexation of land into the city, but which fail by reason of such new or revised provision, removal of government restriction, or annexation to conform to the present requirements of the provision.

"Nonconformity" means a nonconforming lot, structure, or use of land or structures.

"Nuisance" means an activity which arises from unreasonable, unwarranted or unlawful use by a person of property, which interferes with, obstructs or injures the right of another, or the public, in the use or enjoyment of property, endangers personal health or safety or produces material annoyance, inconvenience and discomfort.

"Official map" or "official land use map" means the map adopted by ordinance showing the boundaries of the land use districts to which the regulations of this code apply.

"One-hundred- (100) year flood" ~ see base flood.

"One-hundred- (100-) year floodplain" see Special Flood Hazard Area.

"Ordinance" means any legislative action of the city council which has the force of law, including any amendment or repeal of any ordinance or Bethel Municipal Code provision.

"Owner" means any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient property interest in a parcel that is subject to the provisions of BMC Title 15, 16, 17 or 18.

"Parcel" means an area of land, legally created and described, not containing any smaller legally created area of land. A lot, tract, outlot, and area of land described by aliquot parts may be referred to as a "parcel."

"Parking space" means a driveable surface of gravel, sand, concrete or asphalt that is accessible from a street, interior access lane or aisle.

"Party wall" means a wall shared as a common support between two (2) contiguous structures, buildings, or dwelling units under different ownerships.

Person. The word "person" includes corporations and other entities and forms of association as well as individuals.

"Personal services" means commercial establishments primarily engaged in the provision of support services to other business, or services of a personal, professional or nonprofessional nature. Business activity may be conducted on the premises or off-premises. Typical uses include barber and beauty shops, shoe repair, office maintenance services, health fitness studios, photographers, film processing shops, funeral and mortuary services, travel agencies, laundry and dry cleaning establishments, pharmacy, veterinary services, and secretarial services (see also "professional office").

"Plan" means the city comprehensive plan.

"Planned development" means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis. It also refers to a process, mainly revolving around site plan review, in which public officials have considerable involvement and discretion in determining the nature and arrangement of and special restrictions on the development.

"Planning commission" means the city of Bethel planning commission.

"Plat" means a map or representation on paper of a parcel of land. A "preliminary plat" is a map showing the salient features of a proposed subdivision of land submitted to the planning commission for purposes of preliminary consideration and approval. A "final plat" is a map of a subdivision of land made up in final form ready for approval and filing.

"Platting authority" means the planning commission.

"Platting officer" means the manager of the city of Bethel planning department or such other person as the city manager appoints to administer BMC Title 17.

"Preliminary consultation" means a voluntary meeting between the subdivider or developer and the land use administrator or platting officer for the purpose of informing the subdivider or developer of subdivision and development procedures and standards as prescribed by BMC Titles 15 through 18.

"Preliminary plat" means the conceptual maps, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission.

"Principal structure" means a building within which a principal use takes place, such as a residence or a business. Principal structure is a concept similar to principal use, except that it is specific to the use of a building.

"Principal use" means the major or predominant use of land or a structure, as distinguished from a secondary or accessory use.

"Professional office" means an office for the conduct of any one (1) of the following uses: accountant, advertising agency, architect, attorney, chiropractor, civil engineer or surveyor's drafting office, photographer, private detective, real estate office, social work, doctor, dentist, insurance sales or similar use, but not including barber shop, beauty parlor, contractor, pest control, pharmacy, veterinary. (Also see "personal service").

"Property line" means the perimeter of the lot.

"Public improvement" means any drainage ditch, roadway, park, pedestrian way, street, off-street parking area, lot improvement, street light, sewer, water or other facility for which the city may ultimately assume the responsibility of maintenance and operation, or which may affect an improvement for which city responsibility is established.

"Public improvement guarantee" means a performance bond, deposit in escrow, letter of credit or a note from the applicant secured by a first (1st) deed of trust upon land given to the city to secure the timely performance of the applicant in the construction of required improvements.

"Public open space" means land dedicated or reserved for the use by the general public, including, but not limited to, parks, parkways, recreation areas, and school sites.

"Public utility" means all persons, firms, corporations, or municipal or public authorities which are certified as public utilities by the state and which provide gas, electricity, water, telephone, cable, storm sewers, sanitary sewers or other services of a similar nature.

"Rear lot line" means that boundary of a lot which is most parallel to the front lot line and does not intersect the front lot line. In the case of a triangular lot, "rear lot line"

means a line twenty (20) feet in length within the lot parallel to and at the maximum distance from the front lot line.

"Rear yard" means the distance between the property line that parallels or generally parallels the rear lot line and the part of a structure, other than a minor structure, nearest the rear lot line.

"Regulatory flood" means the one-hundred- (100-) year flood. The water surface elevation of the regulatory flood is the water surface elevation delineated on the flood insurance rate map.

"Replat" means an alteration to an original recorded plat; a resubdivision.

"Reserve strip" means land reserved adjacent to a proposed street for the purpose of denying access from adjacent property to such street.

"Residential" means a structure where the primary use is for human habitation.

"Residential structure" means a single structure used primarily as a residence which may have one (1) or more dwelling units.

"Residential unit" means a common living area designed or advertised to house one (1) family.

"Resubdivision" means the redelineation of an existing lot, block, or tract of a previously recorded subdivision involving the change of property lines, after vacation, the altering of dedicated streets, easements or public areas.

"Right-of-way" means land reserved, used or to be used for the use of supporting city services.

"Road" means a way for vehicular traffic, dedicated to public use.

"Setback" means the minimum distance required between a lot line and structures other than minor structures.

"Sewer facilities" means all interceptors, pressure pumps, valves, sumps, heating and electrical facilities, manholes, guards and other features required for an operating, piped sewage collection system.

"Shopping center" means a group of commercial establishments planned, constructed, developed, and managed as a unit with off-street parking provided on site.

"Side lot line" means that boundary of a lot which is neither a front or rear lot line and which is perpendicular or generally perpendicular to the front lot property line.

"Side yard" means the distance between the side lot line and the part of a structure, other than a minor structure, nearest the side lot line.

"Significant wetlands" means (1) those areas of the floodplain that have not been developed; rivers, lakes, streams, sloughs, drainages, and ponds at least one-half acre in size; and (2) a twenty-five (25-) foot wide area upland from the mean high water mark of major drainageways, lakes and ponds.

"Single-family dwelling" means a site-built dwelling unit designed for occupancy by one (1) family for individual ownership, lease, or rental.

"Site plan" means a plan, drawn to scale, which depicts and describes uses and structures proposed for a parcel of land as required by the regulations in BMC Title 15. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape and drainage features, proposed fill activity, plans for accommodating drainage, access location and dimensions and plans for the water and sewer system.

"Special Flood Hazard Area" and "area of special flood hazard" mean the area within the city subject to the one-hundred- (100) year flood as delineated on the flood insurance rate map for Bethel published by the Federal Insurance Administration. Designation of an area on the FIRM will always include the letter A or V.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State" means the state of Alaska.

"Street" means a right-of-way which provides for vehicular and pedestrian travel access to abutting properties and includes arterials, collectors, roads, avenues, highways, ways and other rights-of-way for transportation, and other street uses such as placement of utilities.

"Street right-of-way width" means the distance between property lines measured at right angles to the centerline of the street.

"Street width" means the shortest distance between the lines delineating the right-of-way of street.

"Structural alteration" means any addition to, or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

"Structure" means anything constructed or erected on the ground or attached to something located on the ground. Structures include walled or roofed buildings, radio and T.V. towers, storage vans, sheds, water tanks, sewage tanks, oil tanks, gas or liquid storage tanks that are principally above ground, fences and signs. Operable vehicles, sidewalks and boardwalks, and pavement are not considered structures for yard setback purposes (see also, "minor structure" and "temporary structure"). For floodplain management purposes a structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Stub street" means a dead-end local street which provides for eventual expansion of the street onto unplatted land.

"Subdivider, owner or developer" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any legal or equitable ownership interest in land being subdivided. The terms shall also include heirs, assigns, or successors in interest, or representatives of the subdivider, owner, proprietor or developer.

"Subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites or other divisions by the landowner for the purpose, whether immediate or future, of sale, lease, conveyance or building development, or by the creation of public access other than common carrier and public utility access, including any resubdivision, and when appropriate to the context, the process of subdividing the land subdivided.

"Substandard lot" means a lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one (1) or more of the applicable standards of BMC Title 17 or 18.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means, as applied to an existing structure, any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value of the structure either: (1) as such value exists before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, as such value existed before the damage occurred. Substantial improvement commences when the first (1st) alteration of any wall, ceiling, floor, or other structural part of a structure begins, whether or not that alteration affects the external dimensions of the structure. The term does not include either a project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the appropriate code enforcement official and which are the minimum necessary to assure safe living conditions or to any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Surveyor" means a land surveyor who is registered in the state.

"Temporary structure" means a structure that can easily be dismantled by one (1) person in one (1) day, or could be moved with human labor without the aid of mechanical lifting equipment. Examples of temporary structures are tents, fish-drying racks, dog houses, and small storage boxes.

"Through or double-frontage lot" means a lot other than a corner lot with frontage on more than one (1) street.

"Topographic map" means a map showing the land form by the use of contour lines.

"Tract" means an area of land which has been defined on a subdivision plat, but has not been designated by lot and block numbers.

"Tract" means an area within a subdivision that has been identified as a tract, but which is not a lot located within a numbered or lettered block and is not identified as a block.

"Triplex" means a structure involving three (3) attached common wall dwelling units, each unit designed for occupancy by one (1) family, for ownership, lease or rental.

"Use" means the purpose for which any land, structure, or building is arranged, designed, intended, occupied, or maintained.

"Used" or "occupied" as applied to any land or structure shall be construed to include the phrase "intended, arranged or designed to be used or occupied."

"Vacation" means the act of making legally void the public interest or rights in a dedicated right-of-way, easement, public area or other dedicated public interest.

Introduced by: City Manager
Date: July28, 2009
Public Hearing: August 11, 2009
Action: Passed
Vote: 6-0

"Variance" means permission to depart from the literal standards or requirements of certain provisions of BMC Titles 15 through 18 granted pursuant to Chapter 18.64 BMC or, when applicable, BMC 15.08.260.

"Vehicle" means any mechanical device for carrying passengers, goods or equipment usually moving on wheels or runners, such as a car, bicycle, sled or snow machine.

"Walkway" means a right-of-way, dedicated to public use, which crosses within a block to facilitate pedestrian access to adjacent streets and properties.

"Warranty" means a guarantee by the subdivider that the completed public improvement, accepted by the city, is free of defects in materials and workmanship and shall remain in good condition during the warranty period.

"Water area" means an area that is regularly or always occupied by water, whether standing, flowing or frozen.

"Water connection" means that part of the water distribution system connecting a water main with the lot line of the property to be furnished water service.

"Water-dependent" means a use or structure for commerce or industry that is dependent on the water by reason of the intrinsic nature of its operations and which cannot exist in any other locations.

"Water facilities" means all water mains, water connections, pumps, valves, fire hydrants, heating and electrical facilities, storage tanks and other parts of the city or a community water system.

"Water main" means that part of the water distribution system intended to, directly or indirectly, serve more than one (1) water connection.

"Zero lot line" means a development approach in which a building is sited on one (1) or more lot lines with no yard on at least one (1) side. [Ord. 09-0]

ENACTED THIS 11th DAY OF AUGUST 2009, BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.

Joseph Klejka, Mayor

ATTEST:

Lori Strickler, City Clerk