ORDINANCE NO. 145

AN ORDINANCE ESTABLISHING ZONING DISTRICTS WITHIN THE CITY OF BETHEL, ALASKA; SETTING FORTH THE PROCEDURE TO BE FOLLOWED BY THE PLANNING COMMISSION IN APPLYING THESE RULES, REGULATION, AND STANDARDS; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

WHEREAS, Section 29.43.040, Alaska Statutes, provides that a second class city may provide for the planning, platting and zoning as provided by Alaska Statute 29.33.070 - 29.33. 245, and

WHEREAS, City of Bethel Ordinance 55 establishes a Planning Commission for the City of Bethel, and

WHEREAS, Section 29.33.080, Alaska Statutes, requires the Planning Commission to recommend to the Council Land Use Ordinances to implement the City Comprehensive Plan.

Now therefore be it ordained that:

CHAPTER 5. GENERAL PROVISIONS

145.05.010 Title

A. For the purpose of brevity the ordinance codified in this title shall hereafter be known and be cited as the "Zoning Ordinance of the City of Bethel, Alaska."

B. This ordinance shall remain in force until repealed.

145.05.030 Application

The regulations codified in this title within each district shall be minimum regulations and shall apply uniformly to each district, except as hereinafter provided:

A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations specified in this chapter for the district in which it is located.

145.05.020 Purpose

The districts and regulations pertaining thereto as set forth in this title are made for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City of Bethel: by encouraging the most appropriate use of land and water, of conservation and development of natural resources, securing safety from flood, windstorm, panic and other dangers, facilitation of adequate water flow, water supply and drainage, and the protection of urban development. They are made with reasonable consideration, among other things, as to the character of the City of Bethel, each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land within each District. This title is based on a comprehensive study of the area and becomes one part of the implementation of the Comprehensive Plan.

145.05.040 Authority

The City of Bethel zoning ordinance and map is authorized by Section 29.33.080-- 29.33.090 of the Alaska Statutes, and is hereby declared to be in accordance with all provisions of these statutes.

145.05.050 Jurisdiction

The territorial jurisdiction under this title shall include all lands located within the corporate limits of the City of Bethel, except as provided by law.

245.05.060 Interpretation

The provisions of this title shall be interpreted and applied to be the minimum required for the proper protection of the public health and morals, and the promotion of safety and general welfare. Where uncertainty exists as to the boundaries of districts as shown on the official district map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerline of the streets, highways, or alleys shall be construed to follow such lines;

B. Boundaries indicates as approximately following the platted lot lines shall be construed as to follow such lines;

C. Boundaries indicated as approximately following city limits or section lines shall be construed as following city limits or section lines;

D. Boundaries indicated as following shore lines shall be construed to follow such shore lines. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

E. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;

F. The district regulations shall apply equally to private and public property;

G. Property which has not been specifically included within a district shall be classified by amendment to this ordinance as provided by law.

H. Where physical or cultural features existing on the ground are at variance with those shown on the official district map, or in other questions of map interpretation not covered by subsections 1 through 7, the Planning Commission shall interpret the district boundaries.

145.05.070 Establishment of districts and provision for official zoning map.

A. Adoption of districts and zoning map. For the purpose of this ordinance the following districts within the City of Bethel are hereby specified.

Preservation.....	P District
Public Land and Institution..	C District
Unrestricted.....	U District

These Districts shall be bounded and defined as shown on the official zoning map, which shall be kept on file in the City office of planning. This official zoning map, together with all explanatory matter thereon, as exhibited at the time of public hearing, is hereby adopted by reference and declared to be a part of this chapter.

B. Adoption of Regulations. Regulations applying to each district as set forth in the following section of this chapter and all other requirements of this ordinance are hereby adopted.

C. Map Changes. No changes of any nature shall be made in the official map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under Section ___.05.170D of this chapter.

Regardless of the existence of purported copies of the official map, which may from time to time be made or published, the official map, located in the office of the city planning commission, shall be the final authority as to the current districting status of land and water areas, buildings, and other structures in the city.

D. Map Replacement. In the event that the official map becomes damaged, destroyed or difficult to interpret because of the nature or number of changes and additions, the city planning commission may by resolution adopt a new official map which shall supersede the prior official map. The new official map may correct drafting or other errors or omissions in the prior official map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new official map shall be identified by the signature of the mayor attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Map adopted _____ (date) as part of the City of Bethel, Alaska."

145.05.080. Conflict

A. Whenever these requirements are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions, or ordinances, the one which is the most restrictive, or which requires the higher standard, shall apply.

145.05.090 Existing uses and structures (nonconforming uses)

A. Explanation. When a lot, structure or use legally exists prior to the adoption of the ordinance codified in this chapter but does not meet the requirements of this chapter, it shall be permitted to continue within the limits set forth in this section. Under such circumstances it is said to have "non-conforming" status.

It is the intent of this chapter to permit these non-conformities to continue until they are removed. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded nor extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

1) Construction Begun Prior to passage of the Ordinance Codified Herein. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified in this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination, and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently carried on until the completion of the building involved.

2) Conditional Uses. Any use for which a conditional use permit is granted as provided in Section _____ shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

CHAPTER 6 DISTRICT REGULATIONS GENERALLY

145.06.010 Compliance

Except as provided in this chapter and Chapters ____ through _____, or by a variance granted by the planning commission, no building, structure, or land shall hereinafter be occupied or used, and no building or structure, or part thereof, shall be erected, moved, or structurally altered unless in conformity with all of the regulations specified in this title for the district in which it is located.

145.06.020 Construction or alteration standards

No building or structure shall hereafter be erected or altered, as follows:

A. To impede or displace natural drainage patterns and areas, unless the drainage is properly accommodated as determined by the standards set forth in this title;

B. To encroach upon drainageways, watercourses and significant wetlands or other open spaces than is permitted in this title in the district in which the building or structure is located.

CHAPTER 7 PRESERVATION DISTRICT -- P DISTRICT

145.07.010

The P District is intended to apply to significant wetlands and drainageways and should be preserved exclusively as open areas. It is intended that this district shall apply to river, streams, drainages, sloughs, significant wetlands, and lakes and ponds of at least onehalf (0.5) acre in size. It is intended, 1) that any use of land fill within this district be required to obtain a Corps of Engineers 404 Permit prior to development pursuant to General Permit 83-4, 2) any development not listed as a permitted use shall be subject to Planning Commission review.

145.07.020 Definition of P District

The P district shall consist of all land determined to be significant wetlands, and a twenty five (25) foot setback from the mean high water mark of major drainage ways and lakes.

145.07.030 Permitted uses

1) Greenbelts;
2) Trails and boardwalks that do not use fill material;
3) Subsistence and recreational uses that do not require the use of fill material.

145.07.040 Conditional uses

1) Subsistence and recreational uses that require fill;
2) Trails, walkways, boardwalks, and roads that require the use of fill;

3) Agricultural;
4) Residential;
5) Commercial;
6) Public;
7) Institutional, and
8) Light industrial uses.

145.07.050 Procedures and Standards for Conditional Uses.

The following procedures and standards must be met and a Planning Commission public hearing held, before a conditional use permit is issued:

1) Any proposed use of fill must obtain an Army Corps of Engineers 404 Wetlands permit;

2) A formal plan must be submitted to Planning Commision at least one month prior to Planning Commission action on the Conditional Use Permit. The plan must show immediate and long range plans of the development and must include plans for the type of use, the size of any structures, access, ingress-egress, parking, drainage, culverting, and surrounding uses. The proposal will be limited to developing only the approved plan.

3) The Zoning Administrator will evaluate any proposed use according to the tables and provisions of this ordinance, and prepare a consistency review with the Bethel Coastal Management Plan, and the Bethel Comprehensive Plan. The Zoning Administrator will distribute the consistency review and the evaluation to the Planning Commission at least one week before the public hearing.

4) The Planning Commission will approve or disapprove issuance of a conditional use permit at the public hearing based on the consistency review of the Zoning Administrator and on the tables and standards referred to in this ordinance.

A rezone of the preservation district must be approved by the Army Corps of Engineers, pursuant to General Permit 83-4.

CHAPTER 8. PUBLIC LANDS AND INSTITUTIONAL DISTRICT - PLI DISTRICT

145.08.010

The following statement of intent and use regulations shall apply in the PLI District:

The PLI District is intended to include major open lands and major public and quasi-public institutional uses, including government office buildings and existing land reserves for public and institutional use.

145.08.020 Permitted Principal Uses and Structures

1. Parks, parkways, greenbelts, land reserves and related facilities.
2. Playgrounds, playfields and the like.
3. Museums, historic and cultural exhibits and the like.
4. Water conservation and flood control installations.
5. Educational institutions, including public, private or parochial academic schools, colleges and universities.
6. Hospitals, sanitariums, children's homes, nursing homes, convalescent homes, homes for the aged, and the like; provided that hospitals or sanitariums for the treatment of drug addicts or alcoholic patients shall be permitted only by special exception.
7. Cemeteries.
8. Sewer installations and water supply installations.
9. Utilities installations.
10. Churches and synagogues, along with the customary accessory uses, including parsonages, day nurseries, kindergartens and meeting rooms, subject to the approval of a site plan by the Planning Commission.
11. Convents, monasteries and administrative offices of religious organizations.
12. Headquarters or administrative offices for such charitable organizations and similar quasi-public organizations of a non-commercial nature.
13. Governmental office buildings.

148.08.030 Permitted Accessory Uses and Structures

1. Crematoriums and mausoleums as accessory uses to permitted cemeteries.
2. Uses and structures which are necessary or desirable adjuncts to permitted principal uses and structures, where such accessory uses and struc-

tures are under the management or control of the organization or agency responsible for the permitted principal use or structure.

145.08.040 Special Exceptions

Subject to the requirements of the special exception provisions of this ordinance, the following uses may be permitted.

1. Radio and television transmission towers.
2. Recreation uses, including commercial recreation uses for a period of time to be determined by the Planning Commission.
3. Governmental service shops, maintenance and repair center and equipment storage yards.

145.08.050 Conditional Uses

1. Roads and parking areas.
2. Other public buildings.

145.08.060 Prohibited Uses and Structures

Any use or structure not of a character indicated under Permitted Uses and Structures or permitted as a Special Exception.

145.08.070 Minimum Lot Requirements

All proposed uses subject to site review.

145.08.080 Minimum Yard Requirements

1. Front yard: 15 ft.
2. Side yard: 10 ft.
3. Read yard: 10 ft.

145.08.090 Maximum Height of Structures

Unrestricted; except that structures shall not interfere with Federal Aviation Administration Regulations on airport approaches.

145.08.100 Parking

Adequate off-street parking shall be provided in connection with any permitted use, the minimum for each use to be as provided in Sec. _____.

145.08.110 Approval of Permitted Uses

If applicable, the proposed use must submit a plan for accommodating drainage including proper placement of culverts or other effective means, and submit the plan to the Planning Commission at least one month prior to Commission action on the proposal.

The Zoning Administrator will evaluate the proposed use according to the tables and provisions of this title, and conduct a consistency review with the Coastal Management Plan and the Comprehensive Plan. The findings of the Administrator will be presented to the Commission at least one week prior to anticipated action on the proposal.

145.08.120 Conditional Uses

145.08.130 Procedures and Standards for Conditional Uses

The following procedures and standards must be met and a Planning Commission public hearing held before a conditional use permit is issued.

1) A formal plan must be submitted to the Planning commission at least one month prior to the public hearing. The plan must show immediate and long range development plans and include plans for the type of use, the size of any structure, access, ingress-egress, parking, drainage, culverting, and surrounding land uses. The proposal will be limited to developing only the approved plan.

2) The Zoning Administrator will evaluate the plan according to the standards, tables and provisions of this ordinance and prepare a consistency review with the Bethel Coastal Management Plan, and the Bethel Comprehensive Plan. The findings of the Administrator will be distributed to the Planning Commission at least one week before the public hearing.

3) If the above requirements are met, the Planning Commission will approve or disapprove issuance of a conditional use permit at the public hearing based on the consistency review of the Zoning Administrator and on the tables and standards referred to in this ordinance.

CHAPTER 9 U: UNRESTRICTED DISTRICT

145.09.010

This district is intended to include developed areas of the City and areas, that because of location in relationship to other development, topography or soil conditions, are expected to develop in the immediate future along definitive land use lines. The permitted uses in this district are intended to be as flexible and liberal as possible consistent with protection from noxious, injurious, hazardous or grossly incompatible uses.

As development patterns emerge within this district and the sophistication of their protection becomes more critical to the general public interest, it is anticipated that such lands within the U District will be proposed for more restrictive zoning classifications. Any proposed land use at variance with the predominant land use in any neighborhood shall require a public hearing on the proposed use.

145.09.020 Permitted Principal Uses and Structures

Residential, business, commercial, industrial, public or quasi-public uses.

145.09.040 Permitted Accessory Uses and Structures

Accessory uses and structures customarily incidental to any Permitted Principal Use.

145.09.050 Special Exceptions

Subject to the requirements of the Special Exception procedures of this ordinance, the following uses may be permitted:

1. Mobile home parks, subject to Planning Commission review.
   A. Manufactured Housing or Mobile Homes.

A manufactured home is defined as: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the

building site, and fabricated on or after June 15, 1976, the effective date of the Mobile Home Construction and Safety Act of 1974, and bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (42 U.S.C. 5401 et seq).

A mobile home is defined as: A transportable structure constructed to be towed on its own chassis, larger than 320 square feet, designed to be used as a year-round residential dwelling, and built prior to June 15, 1976, the effective date for the Federal Mobile Home Construction and Safety Act.

B. Performance Standards for Manufactured Homes or Mobile Homes:

1) One home per lot, or 2, 3, or 4 per lot with a maximum overall density of one home per 7000 square feet;

2) A space of at least 20 feet between homes, including arctic entries or any attached additions including porches or decks;

3) Provisions for at least one and a half parking spaces per home out of any right-of-ways, ingress-egress lanes, or interior access lanes;

4) If more than one home per lot, an ingress-egress lane and interior access lane at least twenty (20) feet wide.

C. Freezer Vans. A freezeer van is defined as a metal structure that was originally designed as a container shipping van but has been converted to a living unit.

D. Performance standards for freezer vans. All standards the same as for manufactured homes and mobile homes except standards number one (1); if 2, 3, or 4 per lot, a maximum overall density of one unit per 6000 square feet.

E. Mobile Home Parks. Five (5) or more manufactured homes or mobile homes per lot is considered a mobile home park. Five or more freezer vans per lot is prohibited.

F. Performance standards for mobile home parks:

1) The same standards listed in ___.09.040;

2) At least one parking spot per home;

3) A space of at least 20 feet between homes, including arctic entries or any attached additions including porches or decks;

4) A maximum overall density of one unit per 6000 square feet;

5) If the mobile home park is two acres or larger, 10% of the area must be preserved for recreation.

2. Junk yards, automobile wrecking yards and salvage yards; subject to Planning Commission review.

3. Noxious, injurious, or hazardous uses, as defined in this ordinance; provided, however, that the Planning Commission may grant a Special Exception for such uses when it finds that the public health, safety, welfare and convenience will be adequately protected by location, topography, fencing, buffering, or by observation of protective performance standards that effectively remove the proposed use from classification as a nuisance.

4. Planned unit development - site plan review and public hearing required to insure that open space, frontage, and yard requirements are met.

5. Zero lot line - site plan review and public hearing required to insure that yard requirement, lot size in accordance with the provisions of Ordinance 135 are met and safety requirements of adjacent land uses are met.

145.09.060 Prohibited Uses

(1) Noxious, injurious or hazardous uses; which are defined as any use that may be noxious, injurious, or hazardous to surrounding property or persons by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar substances or conditions, or the produc- [illegible] explosive materials.

(2) Any use or structure not of a character indicated under Permitted Uses and Structures or permitted as a Special Exception.

145.09.070 Minimum Lot Requirements

Area: 7,000 square feet.

145.09.080 Minimum Yard Requirements

Front yard	15 ft
Side yard	10 ft
Rear yard	10 ft

145.09.090 Maximum Height of Structures

Unrestricted; except that structures shall not interfere with Federal Aviation Administration Regulations on airport approaches.

145.09.100 Parking

Adequate off-street parking facilities shall be provided in connection with any permitted use.

145.09.110 Loading

Unrestricted; except that commercial and industrial uses shall provide off-street loading facilities.

CHAPTER 10

145.10.020 Application Approval Procedure

A. All requests for a use permitted by special review shall be submitted in writing to the chairman of the planning commission at least thirty (30) days before a regular planning commission meeting.

B. The application shall contain a site plan showing, when applicable, the location of the building(s), off-street parking areas, off-street loading areas, service and refuse areas, ingress and egress to the property, major landscaping or other screening proposals, signs, pedestrian areas, a time schedule for development and any other items which may help the planning commission to make a reasonable recommendation.

C. The planning commission shall review the request in relation to the character of the surrounding neighborhood and desirability and need for such a use in the specific area of the community, adverse environmental influence that might result from its location and, in general, compliance with the intent of this title. The planning commission shall determine that the following conditions, or others which it deems appropriate, shall be met:

1. The use should be compatible with all existing uses on land adjacent thereto.

2. The use should not unnecessarily scar the land and soil upon which such use is to be placed, leaving deleterious effects such as denuded slopes, uncovered soil piles to be blown away, scars upon areas of natural beauty, unguarded holes or pits.

3. Uses with unsightly aspects, odors, or noise must be set back a sufficient distance from adjacent property boundaries so the adjacent property is not adversely affected.

4. Poles, antennae, or towers shall not be permitted where they would interfere with airfield approach zones, or project into glidepaths.

5. The use shall not adversely affect the natural drainage of the area.

D. Within thirty (30) days of the planning commission's meeting or hearing, whichever is longer, on the application, a decision shall be rendered in a written report to the city council. The recommendation shall either be a recommendation to approve, to approve with conditions, or to deny the request. If the recommendation is to approve with conditions, the recommendations shall set forth the conditions and those requirements as deemed necessary to protect the health, safety and welfare of the community.

E. The city council shall within thirty days of receipt of the recommendations then consider the request and shall make a final decision of approval, of approval with conditions, or of denial, and the reasons thereof shall be stated in the official minutes of the board of trustees.

F. Any decision of the planning commission or city council on "special reviews" shall state in the official minutes the reasons for such decision.

G. All special review uses previously approved, but where permanent construction has not been diligently pursued within one year after the date of adoption of the ordinance codified in this title, shall be deemed void and no building or other construction permits shall be issued until and if the special review use is reapproved by the city council.

145.10.030 Public Hearing - Notice

If the planning commission or the city council feel that a public hearing on the use permitted by special review is desirable, they shall cause notice of such hearing to be posed in a newspaper of general circulation in the community at least thirty (30) days before the meeting at which the review is to take place.

CHAPTER 11 CONDITIONAL USE PERMITS

145.11.010 Uses Permitted by Planning Commission Approval

The city planning commission may, after proper notice and public hearing, permit exceptions in any district, where such uses are deemed essential or desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the comprehensive city plan and this ordinance. In approving the uses referred to in this chapter, the city planning commission shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood and the comprehensive city plan and this ordinance.

CHAPTER 12 EXCEPTIONS, VARIANCES AND APPEALS

145.12.010 Exceptions

A. The planning commission shall administer this title and in so doing may grant exceptions for additional uses in the various districts as specifically provided; shall hear and decide appeals where it is alleged there is an error in provision interpretation; and may vary the strict application of these regulations in the case of an exceptionally irregular, narrow, shallow or sloping lot or other exceptional physical condition where strict application would result in practical difficult or unnecessary hardship that would deprive the property concerned of rights possessed by other properties in the same district, but in no other case.

B. An application for exceptions from the regulations of this title whenever the approval of the planning commission is required may be filed by any taxpayer, property owner, or party affected. The application must fully state any and all reason as justifying the granting of the exception.

C. The planning commission shall cause to be made by its own members, or by its authorized representative, an investigation to determine that such uses will not be injurious to public health, safety or welfare or detrimental to other properties or uses in the vicinity.

D. Within forty (40) days after the receipt of an application, the planning commission shall render its decision. If it is the opinion of the commission, after consideration of the report of such investigation, that the use as proposed in the application, or under appropriate restrictions

or conditions, will not endanger the public health, safety or general welfare, or be inconsistent with the general purposes and intent of this title, the commission shall approve the application either with or without conditions. If the proposed use will tend, in the opinion of the commission, to endanger in any way the public health, safety or general welfare or produce results inconsistent with the general purposes and intent of this title, the commission shall deny the application.

E. When deemed necessary, the commission may hold a public hearing upon any application for an exception and if such public hearing is to be held, notice thereof shall be given in the manner prescribed in Section 137.80.030, except that such procedure shall specifically refer to an exception.

145.12.020 Variances

A. An application for a variance shall be filed in writing and verified by the owner of the property concerned.

1. The application shall contain the following data with respect to the property and the applicant:

a. A legal description of the property involved;

b. Plot plans showing the location of all existing and proposed buildings or alterations, elevations of such buildings or alterations, and such other data as may be required;

c. Evidence of the ability and intention of the applicant to proceed in accordance with the plans within six (6) months after the effective date of the variance.

2. The application shall contain a statement and adequate evidence showing the following conditions, all four of which must exist before a variance may be granted.

a. That there are exceptional physical circumstances or conditions applicable to the property or to its intended use or development which do not apply generally to the other properties in the same land use district;

b. That the strict application of the provisions of this title would result in practical difficulties or unnecessary hardship;

c. That the granting of the variance will not result in material damage or prejudice to other properties in the vicinity nor be detrimental to the public health, safety or welfare;

d. That the granting of the variance will not be contrary to the objectives of the comprehensive plan.

B. The planning commission shall hold a public hearing upon each properly submitted application. Such hearing shall be held not less than ten (10) days nor later than thirty (30) days following the date of filing of such application and the applicant shall be notified of the date of such hearing. The commission shall cause to be sent to each owner of property within a distance of three hundred (300) feet of the exterior boundary of the lot or parcel of land described in such application notice of the time and place of the hearing, a description of the property involved and the provisions of this title from which a variance is sought.

C. From the time of filing such application until the time of such hearing, the application, together with all plans and data submitted, shall be available for public inspection in the office of the city clerk.

D. The commission shall cause to be made by its own members, or its authorized agent, an investigation of facts bearing on any application sufficient to assure that the action taken is consistent with the intent and purpose of this title.

E. The planning commission shall hear and consider evidence and facts from any person at the public hearing or written communication from any person relative to the matter. The right of any person to present evidence shall not be denied for the reason that any such person was not required to be informed of such public hearing.

F. Within thirty (30) days from the conclusion of the public hearing, the planning commission shall render its decision unless such time limit be extended by common consent and agreement signed by both applicant and the commission. If, in the opinion of the commission, the necessary facts and conditions set forth in this section apply in fact to the property referred to, and that the same comes within the purview of the planning commission, it may grant the variance. If, however, such facts and conditions do not prevail nor apply, or if the granting of the variance will adversely affect the property of persons in the vicinity of the applicant's property, or for any other valid reason, the commission shall deny the application.

G. The commission in granting, the variance, may establish conditions under which a lot or parcel of land may be used or a building constructed or altered; make requirements as to architecture, height of building, or structure, open spaces or parking areas; require conditions of operation of any enterprise; or may make any other conditions, requirements or safeguards that it may consider necessary to prevent damage or prejudice to adjacent properties or detriment to the city. When necessary, the commission may require guarantees in such form as deemed proper under the circumstances to insure that the conditions designated will be complied with.

H. The decision of the planning commission, either for the granting, with or without conditions, or the denial of an application for variance, shall become final and effective ten (10) days following such decision.

I. Any variance approved by the planning commission shall be conditional upon the privilege granted being utilized within nine (9) months after the effective date of the variance. In the event some construction work is involved, it must actually commence with the stated period and must be diligently prosecuted to completion, otherwise, the variance is automatically voided. In such cases, the planning commission may extend the time of the construction start if satisfactory evidence of planning progress is presented.

J. In order to defray the expenses of making maps, sending out notices and incidental administration costs involved in any application for a variance, the person filing such application shall pay to the city clerk a fee established by city council resolution. One copy of the receipt for such fee shall be attached to the application. Regardless of the action taken on the application, the required fee shall not be returned.

145.12.030 Appeal from Actions of the Planning Commission

A. An appeal from any action or decision of the planning commission may be taken by any person or party aggrieved. Such appeal shall be taken within ten (10) days of the date of such action or decision by filing with the board of adjustment through the city clerk a written notice of appeal specifying the grounds thereof.

B. A report concerning each case appealed to the board of adjustment shall be prepared by the planning commission and filed with the city clerk. Such report shall state the decision and recommendations of the

commission together with the reasons for each decision and recommendation. All data pertaining to the case shall accompany the report.

C. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the planning commission.

145.12.040 Appeals from Interpretation of Provisions

A. An appeal from any action of the Zoning Administrator, or designee, in the enforcement of the regulations established by this ordinance may be taken by any person aggrieved or by any other officer, department, commission or board of the city. Such appeal shall be filed within ten (10) days of such action by a notice in writing specifying the grounds thereof.

B. The filing of an appeal shall stay all proceedings in the matter until ten (10) days after a decision has been rendered by the planning commission.

C. When an appeal has been filed, the building official or city clerk shall forthwith transmit to the planning commission all data pertaining to the application or action appealed from.

D. The commission shall render a decision on the appeal within forty (40) days after the filing thereof.

CHAPTER 13 BOARD OF ADJUSTMENT

145.13.010 Organization

A. The city council shall constitute a board of adjustment pursuant to A.S. 29.33.110.

B. The chairman, or in his absence the acting chairman, may administer oaths and compel attendance of witnesses by subpoena.

C. All meetings of the board shall be open to the public.

145.13.020 Powers and Duties

A. The board shall have the power to interpret this title, including any uncertainty as to boundary location, or meaning or wording, so long as this interpretation is not contrary to the purpose and intent of the title.

B. The board of adjustment shall hear and decide appeals taken from the planning commission when it is alleged there is error in any order,

145.17.050 Alteration

"Alteration" means any change, addition or modification in the construction, location or use classification.

145.17.070 Board of Adjustment (Board of Appeals)

The Bethel City Council, whose responsibility is to hear appeals from decisions of the local zoning administrative official and to consider requests for variances and exceptions (special use permits, conditional use permits) permissible under terms of the land use district ordinance.

145.17.090 Building

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 are not buildings, but houses, garages, factories, barns, etc., are. Mobile homes are also defined as buildings.

145.17.120 District

Land use district.

145.17.130 Excessive

A degree exceeding that 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.

145.17.140 Interior Access Lane

A non-dedicated small road with a driving surface at least twenty (20) feet wide that is totally within the boundaries of a lot, and provides direct access to parking spaces or provides interior circulation on the lot.

145.17.150 Lot

A parcel of land/the basic development unit, with fixed boundaries, designed to be occupied by one or more buildings, structures or uses.

145.17.160 Nonconformities

Lots, structures, uses of land and structures, and characteristics of uses, which are prohibited under the terms of the land use district ordinance but were lawful at the date of the ordinance's enactment.

145.17.190 Parking Space

A surface (gravel, sand, concrete, or asphalt) that is accessible from a road or lane and has dimensions of at least ten (10) feet wide and twenty (20) feet long.

145.17.200 Planned Unit Development (PUD)

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 in determining the nature of the development.

145.17.210 Planning Commission

The City of Bethel Planning Commission.

145.17.220 Preapplication Conference

Discussions held between developers and public officials, or members of the planning staff, before formal submission of an application for a permit or for subdivision plat approval. This meeting allows the staff to: (1) acquaint the applicant with the comprehensive area or precise plans that apply to his tract, as well as the zoning and other codes that affect the proposed development; (2) suggest improvements to the proposed design on the basis of the sketch plan; (3) advise the applicant on ways to reduce unnecessary costs and encourage the applicant to get financial advice early; (4) encourage the applicant to consult appropriate authorities on the character and placement of public utility services; (5) help the applicant to understand the steps to be taken to receive approval; and (6) give the applicant a reading on the likelihood of acceptance of his plans based on appropriate laws and ordinances.

145.17.230 Principal Use

The main use of land or structures as distinguished from a secondary or accessory use. A house is a principal use in a residential area; a garage is an accessory use.

145.17.240 Reclassification

A form of rezoning in which the zone designation of an area or particular property is changed by changing the zoning map.

145.17.250 Residential Structure

A single structured used primarily as a residence and may have one or more units.

Residential Unit

A common living area housing one or more persons.

145.17.260 Rezoning

An amendment to or a change in the zoning ordinance. Rezonings can take three forms: (1) a comprehensive review or modification of the zoning text and map; (2) a text change in zone requirements; and (3) a change in the map, i.e., the zoning designation fo a particular parcel or parcels.

145.17.300 Setback

"Setback" means the distance required by this title between the face of a building and the lot line opposite that building face, measured perpendicularly from such lot line to the nearest face or point of the building.

145.17.310 Site

A plot of land intended or suitable for development; also the ground or area on which a building or town has been built.

145.17.320 Site Plan

A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features - both natural and man-made - and, depending on requirements, the locations of proposed utility lines.

145.17.330 Site Plan Review

The process whereby the planning commission and staff, review the site plans and maps of a developer to assure that they meet the stated purposes and standards of the zone, provide for the necessary public facilities such as roads and schools, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

145.17.340 Sketch (concept; outline) plan or plat

A generalized map that is prepared by a developer, usually before the pre-application conference, to let the developer/subdivider save time and expense in reaching agreement with the planning commission as to the form of the plat and the purposes of the regulations. Its purpose is simply to serve as a basis for discussion without either side making commitments.

145.17.350 Structure

Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, radio and TV towers, sheds, and permanent signs. It excludes vehicles, sidewalkks, and paving, although for the purpose of this title mobile homes are considered structures.

145.17.360 Structural Alteration

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

145.17.370 Use

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

145.17.380 Variance

A device which grants a property owner relief from certain provisions of this title when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience

or a desire to make more money. Authority to decide variances is vested in the board of adjustment.

145.17.390 Zero Lot Line

A development approach in which a building is sited on one or more lot lines with no yard. Conceivably, three of the four sides of the building could be on the lot lines. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

This Ordinance Shall become effective upon ratification by a majority of the electorate at the regularly scheduled election, October 2, 1984.

PASSED AND APPROVED THIS 12th DAY OF March, 1984.

John Guinn, Mayor

ATTEST:

Wayne Maiers, City Clerk

AMENDMENT 1
ORDINANCE # 145

AN ORDINANCE AMENDING ORDINANCE 145 (AN ORDINANCE ESTABLISHING ZONING DISTRICTS WITHIN THE CITY OF BETHEL, ALASKA; SETTING FORTH THE PROCEDURE TO BE FOLLOWED BY THE PLANNING COMMISSION IN APPLYING THESE RULES, REGULATIONS, AND STANDARDS; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS) TO ADD MATERIAL INADVERTENTLY DELETED BY CLERICAL ERROR.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF BETHEL, ALASKA THAT ORDINANCE # 145 IS AMENDED TO INCLUDE THE FOLLOWING MATERIAL:

CHAPTER 13 BOARD OF ADJUSTMENT

Sections

145.13.010 Organization
145.13.020 Powers and Duties
145.13.030 Appeals-Procedure
145.13.040 Appeals-District Court

145.13.010 ORGANIZATION

A. The City council shall constitute a board of adjustment pursuant to AS 29.33.010.
B. The chairman, or in his absence the acting chairman, may administer oaths and compel attendance of witnesses by subpoena.
C. All meetings of the board shall be open to the public.

145.13.020 POWERS AND DUTIES

A. The board shall have the power to interpret this title including any uncertainty as to boundary location, or meaning or wording, so as this interpretation is not contrary to the purpose and intent of the title.
B. The board of adjustment shall hear and decide appeals taken from the planning commission when it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the regulations established by title.
C. In exercising the above mentioned powers, the board of adjustment may, in conformity with the provision of AS 29.33.110, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; provided, however, that the concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the planning commission.

145.13.030 APPEALS PROCEDURE

A. The board of adjustment shall fix a reasonable time for hearing on any appeal taken from the planning commission if a public hearing is required or desirable.
B. Upon the hearing, any party may appear in person or by agent or by attorney.
C. The board of adjustment shall decide appeals within a reasonable amount of time and shall give due consideration the findings and recommendations of the planning commission.

145.13.040 APPEALS-DISTRICT COURT

An appeal from any action. decision. ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally aggrieved, any taxpayer or any officer. department, board or bureau of the city to the district court by filing with the city clerk and with the board of adjustment, within thirty (30) days from the action appealed from. a notice of appeal which shall specifythe grounds of such appeal. Failure to file said notice of appeal in the manner and time specified shall forfeit any right to appeal.

CHAPTER 14 AMENDMENT PROCEDURE

Sections

145.14.010 Application-Initiation
145.14.020 Application-Form-Content
145.14.060 Board of Adjustment Hearing-Notice to be Advertised
145.14.090 Ordinance Numbering and Filing

145.14.010 APPLICATION-INITIATION

Amendments, supplements, changes or repeal of the ordinance codified in this title or any section thereof, or to the official map, may be initiated by application from any of the following:

A. Any citizen, group of citizens, firm, or corporation residing, owning, or leasing property in town;
B. The planning commission;
C. The board of adjustment.

145.14.020 APPLICATION-FORM-CONTENT

Application for an amendment to the ordinance codified in this title shall be made on such a form as the planning commission shall prescribe, and shall be filed with the city clerk. Applications for an amendment to the official map shall contain all of the following information:

A. Description of land area to be redesignated, and requested new class ification. along with a sketch to scale showing boundaries of area requested to be redesignated with the existing land use designation on all adjacent sides of the area.

B. A statement of justification for the redesignation, including one of the following conditions:
   1. Changing area conditions;
   2. Error in original land use designation;
   3. Conformance to the city plan for the area;
   4. Peculiar suitability of the site to a certain use.

C. Description and sketches, if available, of building or uses proposed if redesignation is granted, along with a description of uses within three hundred (300) feet of the boundary of the proposed area of change, in all directions, and the effects of the proposed use upon the adjacent areas.

145.14.060 BOARD OF ADJUSTMENT HEARING-NOTICE TO BE ADVERTISED

Before any amend ment to the map or written text is certified by the board of adjustment, a public hearing shall be held, notice of which shall be published at least thirty (30) days prior thereto in at least one newspaper with general circulation in the area and describing any areas requesting change or zoning. In addition, any changes to the map shall be advertised in the following manner:

A. At least fifteen (15) days prior to the date of hearing, notice by a letter to all property owners, both within the boundaries of the proposed change, and to all property owners within three hundred (300) feet of the boundaries thereof, indicating date of hearing boundaries of proposed amendment and details of proposed amendment including full titles of existing and proposed districts.

145.14.090 ORDINANCE NUMBERING AND FILING

All ordinances changing district boundaries shall be numbered consecutively. All such changes of district boundaries shall be filed with and indexed in the office of the city clerk and shall be noted on the official map.

CHAPTER 15 ENFORCEMENT, PENALTIES AND REMEDIES

Sections

145.15.010
145.15.020
145.15.030

145.15.010 ADMINISTRATIVE ENFORCEMENT ACTION

A. The zoning 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 a land or structure:
   4. When necessary to insure compliance with this title, the suspension or revocation if site plan permits, variances or other city land use entitlements.

B. Upon complaint by a citizen, or upon his own initiative, the zoning administrator may, after investigation, initiate criminal proceedings against any person for the violation of this title. Except for prosecutions for failing to comply with an order issued under subsection A of this section, the zoning administrator shall give at least ten days written notice of intent to prosecute, and may initiate criminal proceedings only if the violation is not cured, and the person who is the subject of the notice fails to seek a variance of other appropriate administrative relief, within the notice period.

145.15.020 ADMINISTRATIVE INSPECTIONS

In accordance with this section, the zoning administrator may make inspections necessary to enforce the provisions of this title. When the building on or any premises there exists any violation of this title, he may enter such building or premises at any reasonable times to inspect the same or perform any of his duties under this title; provided, that where the constitution of the United States or the state of Alaska requires that the Zoning Administrator obtain a search warrant before making an inspection, he shall not make the inspection until authorized to do so by a search warrant issued by a court of competent jurisdiction.

145.15.030 PENALTIES AND REMEDIES

A. A person who violates any provision of this title, any order issued under Section 145.15.010 or any term or condition of a conditional use, variance or other entitlement issued under this title is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than five hundred dollars.

B. The city or any aggrieved person may bring a civil action to enjoin any violation of this title, any order issued under Section 145.15.010 or any term or condition of a conditional use, variance or other entitlement issued under this title; and to obtain damages for any injury the plaintiff suffered as a result of the violation. An action for injunction under the section may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing or threatened violation, the Superior Court shall enjoin the violation.

C. Each act or condition violating this title, any order issued under section 145.15.010, or any term or condition of a conditional use, variance or other entitlement issued under this title, and every day during which the act or condition occurs, constitutes a separate violation under the section.

CHAPTER 17 DEFINITIONS

145.17.010 GENERALLY

For the purpose of this title, the words and terms set forth in this chapter shall have the following meanings.

145.15.020 INTERPRETATION

A. Words used in the present tense include the future tense.
B. The singular number includes the plural.
C. The work "person" includes a corporation as well as an individual.
D. The word "lot" includes the "plot" or "parcel."
E. The term "shall" is always mandatory
F. The word "used" or "occupied" as applied to any land or building shall be construed to include the words"intended, arranged or designed to be used or occupied."

145.17.040 ALLEY

"Alley" means a public way designed and intended to provide only a secondary means of access to any property abutting thereon.

PASSED AND APPROVED THIS 13th DAY OF May, 1985.

Joe Sullivan by WJM
JOE SULLIVAN, MAYOR

ATTEST:

Wayne Maiers
WAYNE MAIERS,
CITY CLERK

AMENDMENT #2
ORDINANCE #145

AN ORDINANCE OF THE CITY OF BETHEL ESTABLISHING RIVERFRONT USE DISTRICTS.

WHEREAS, the City of Bethel is a second class city outside of a borough; and

WHEREAS, AS 29.33.090 specifies that second class cities outside boroughs may provide for zoning; and

WHEREAS, the building of the seawall has created a strip of land along the Kuskokwim River within City limits; and

WHEREAS, the City Council finds that wise use of this land and other City land along the riverfront is needed to aid navigation and is essential to the health and welfare of City residents;

NOW, THEREFORE LET IT BE ORDAINED THAT:

Section 145.05.070 A. is amended to read:

145.05.070 ESTABLISHMENT OF DISTRICTS AND PROVISIONS FOR OFFICIAL ZONING MAP.

A. Adoption of districts and zoning map. For the purpose of this ordinance the following districts within the City of Bethel are hereby specified.

Preservation.....P District
Public Land and Institution.....PLI District
Unrestricted.....U District
Riverfront Public Use.....RPU District
Riverfront Port Facility.....RPF District

Chapter 145.10 is enacted to read:

CHAPTER 145.10
RIVERFRONT USE ZONING

Sections:

145.10.010	Riverfront Use Zoning
145.10.020	Definition of Riverfront Use District
145.10.030	Location of Riverfront Public Use District
145.10.040	Permitted Uses in Riverfront Public Use District
145.10.050	Special Exceptions in Riverfront Public Use District
145.10.060	Prohibited Uses
145.10.070	Procedure for Granting Special Exceptions
145.10.080	Definition of Riverfront Port Facility District
145.10.090	Permitted Uses in Riverfront Port Facility District

145.10.010 RIVERFRONT USE ZONING

This chapter governs the use of all land owned or managed by the City of Bethel situated adjacent to all navigable streams and rivers and contiguous waterways within the City limits of the City of Bethel, including, but not limited to, the Petroleum Dock, the City Cargo Dock, the Small Boat Harbor and the City Planner's office. The intent of this chapter is to aid navigation and separate incompatible land uses located on the riverfront while complying with the City of Bethel Comprehensive Plan and the goals, objectives and policies of the City of Bethel Coastal Management Plan.

145.10.020 DEFINITION OF RIVERFRONT PUBLIC USE DISTRICT

The Riverfront Public Use (RPU) district is intended to include certain areas of the City along the Kuskokwim River. The permitted uses in this district are passive public uses consistent with the concept of open space. The permitted public uses are intended to allow the public easy and open access to the riverfront area.

145.10.030 LOCATION OF RIVERFRONT PUBLIC USE DISTRICT

The RPU district, designated on the City Planner's zoning map, consists of all land owned or managed by the City of Bethel situated adjacent to all navigable streams and rivers and contiguous waterways within the City limits of the City of Bethel, excluding the Petroleum Dock and the City Cargo Dock.

145.10.040 PERMITTED USES IN RIVERFRONT PUBLIC USE DISTRICT

Permitted uses in the RPU District shall include:

1. Greenbelts;
2. Walking trails and boardwalks;
3. Subsistence and recreational uses;
4. Playgrounds, playfields and the like;
5. Public use;
6. Parking in designated areas;
7. Moorage of skiffs in designated areas; and
8. Snow-machine, three-wheeler, and other recreational vehicular traffic only at designated areas, and only for access to and from the river.

145.10.050 SPECIAL EXCEPTIONS IN RIVERFRONT PUBLIC USE DISTRICT

The following special exceptions may be licensed as nonconforming uses by the Planning Commission, pursuant to the procedure set forth in Section 145.10.070, in those areas in the RPU district which are specifically designated "special exception areas" by the Planning Commission on the Zoning Map located in the City Planner's office:

1. Agricultural/Community Gardens;
2. Commercial;
3. Light industrial uses, including but not limited to fish processing facilities; and
4. Floatplane ports.

145.10.060 PROHIBITED USES

The following uses shall be prohibited uses in the RPU district:

1. Noxious, injurious or hazardous uses; which are defined as any use that may be noxious, injurious, or hazardous to surrounding property or persons by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar substances or conditions, or the production or storage of explosive material;

2. Any use or structure not of a character indicated under permitted uses or licensed as a Special Exception.

145.10.070 PROCEDURE FOR GRANTING SPECIAL EXCEPTIONS

1. A person desiring to establish an activity in the special exception area established by Section 145.10.050 shall apply to the Planning Commission for a license authorizing the proposed activity as a nonconforming use.

2. The applicant for a license shall specifically describe in the license application the desired type, scope, and location of access to riverfront property.

3. The Port Commission shall review license applications prior to Planning Commission action.

4. In deciding whether to grant the license the Planning Commission shall be guided by the intent of this chapter as set forth in Section 145.10.010.

5. The Planning Commission may grant the license as requested, grant the license with modifications, or deny the license. The Planning Commission shall state the reason for its decisions in writing.

6. The license shall give the applicant a personal privilege and shall not be transferred with the land. At the Planning Commission's discretion, the license shall be limited in duration or made subject to periodic renewal, and shall be revoked if the activities of the license holder violate the terms of the license or violate the intent of this chapter as expressed in Section 145.10.010.

145.10.080 DEFINITION OF RIVERFRONT PORT FACILITY DISTRICT

The Riverfront Port Facility (RFP) district, as designated on the Zoning Map located in the City Planner's office, includes the City Cargo Dock and the Petroleum Port. The permitted uses in this district are active commercial and industrial uses consistent with the fuel and supply needs of Bethel and the region's villages. The permitted uses are intended to allow private enterprise access to specific locations along the riverfront for port and dock facilities and activities.

145.10.090 PERMITTED USES IN RIVERFRONT PORT FACILITY DISTRICT

Permitted uses in the RPF districts shall include:

1. docks;
2. petroleum facilities;
3. warehousing; and
4. accessary uses and structures customarily incidental to the docks, petroleum facilities and/or warehousing.

PASSED AND APPROVED THIS 25th DAY OF June, 1985.

APPROVED:

Joe Sullivan by [illegible]
Mayor of the City of Bethel

ATTEST:

[illegible]
City Clerk