

ORDINANCE NO. 138

AN ORDINANCE ESTABLISHING THE LOCATION FOR STRUCTURES, IMPROVEMENTS AND STRUCTURAL ALTERATIONS WITHIN PROPERTY BOUNDARIES, AS MEASURED FROM DESIGNATED PROPERTY LINES, AND PROVIDING PENALTIES FOR VIOLATION OF ITS PROVISIONS.

WHEREAS, Section 29.33.090 specifies land use controls which shall be exercised by a municipality; and

WHEREAS, these land use controls include control over percentage of lot to be covered, provision of orderly development, promotion of fire safety and public order, protection of the public health and general welfare,

NOW THEREFORE LET IT BE ORDAINED THAT:

Chapter 05. GENERAL PROVISIONS

138.05.010 Title

A. This ordinance shall be known and cited as "Yard Requirement Regulations for the City of Bethel."

B. This Yard Requirement Regulation shall remain in force until repealed.

138.05.020 Purpose

The City of Bethel, pursuant to the health, safety and welfare of the community and in accordance with certain provision of Title 29 of the Alaska Statutes, establishes an ordinance for the location of structures within property boundaries, as measured from designated property lines. This title is based on a comprehensive study of the area and becomes one part of the complementation of the Comprehensive Plan.

138.05.030 Authority

This land use control is authorized under Section 29.33.090-150 of the Alaska Statutes, and is hereby declared to be in accordance with all provisions of these Statutes.

138.05.040 Jurisdiction

The territorial jurisdiction under this title shall include all land located within the corporate limits of the City of Bethel.

138.05.050 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.

Chapter 10. STANDARDS: MINIMUM RESIDENTIAL, COMMERCIAL,
PROFESSIONAL, INSTITUTIONAL AND INDUSTRIAL

138.10.010 Front Yard

All buildings, structures and improvements shall be located a minimum of fifteen (15) feet from the front property line.

138.10.020 Rear Yard

All buildings, structures and improvements shall be located from the rear lot line a distance of at least ten (10) feet.

138.10.030 Side Yard

All buildings, structures and improvements shall be set back from the side property line a minimum of ten (10) feet, except that where a street is adjacent to a side property line the side located adjacent to the side street shall be fifteen (15) feet.

Chapter 15 ACCESSORY STRUCTURES

138.15.010 All accessory structures and improvements shall be in compliance with the standards established under this title.

Chapter 20. EXCEPTIONS

138.20.010 The front yard dimension for commercial, professional or institutional structures may be reduced to ten (10) feet if the property owner provides adequate off-street parking. Adequate parking shall be defined by the Administrative Officer, in consultation with the property owner, based on one or more of the following:

- * Floor area ratio
- * Number of employees
- * Seating capacity
- * Design unit
- * Vehicular ingress and egress
- * Street capacity

138.20.020 Zero Lot Line

Commercial structures may be exempt from the side yard requirement if adequate fire protection systems are provided as determined by the Uniform Building Code, and if written approval of the fire protection system is provided by the State Fire Marshall.

Residential structures may be exempt from the side yard requirement if and only if public safety considerations are met.

138.20.030 Grandfather Rights

Existing structures not in compliance with the dimensional standards shall be exempt unless proof of public nuisance or the threat of public danger or hazard.

138.20.040 Future Improvements

Future improvements or alterations to existing structures that would result in changing the exterior dimensions of the structure shall be in accordance with the minimum standards established

under this title. Any structure relocated within a lot or to another location shall be in compliance with the standards established under this title.

138.20.050 Parking

Parking within lots used for commercial, professional, institutional or industrial use shall not be permitted within fifteen (15) feet of the front yard lot line unless adequate ingress and egress has been approved by the Planning Commission. Approval shall be based on the number of parking spaces provided, design and location of parking spaces, location of ingress and egress points and street capacity.

Chapter 25. ENFORCEMENT

138.25.010 Enforcement Officer Designated

This title shall be administered and enforced by the Administrative Officer. The Administrative Officer shall use any means possible to enforce this title including the Building Permit System, City of Bethel Ordinance 114.

138.25.020 All exceptions as provided by this title must be approved by the Planning Commission prior to the issuance of a Building Permit.

Chapter 30. VIOLATION AND PENALTY

Whenever the enforcement officer finds a violation of any of the provisions of this title, he shall notify the person responsible for the violation in writing, and shall order the necessary correction within a period of 90 days, unless there is an immediate and significant endangerment to life, limb or property, to be determined by Public Works and Public Safety, in which case remedial action may be ordered immediately.

138.30.030 Violation - Complaint

It shall be the duty of the Administrative Officer to enforce this title and to bring to the attention of the Planning Commission any violations or lack of compliance herewith. Any person

aggrieved by a violation or apparent violation of the provisions of this title may file a written complaint with the Administrative Officer, who shall immediately investigate such complaint and take legal action to have the violation penalized, if such a violation is found to exist, and/or removed.

138.30.040 Violation - Penalty

Failure to comply with all of the provisions of this title, unless authorized by the Planning Commission, shall constitute a misdemeanor and upon conviction is punishable by a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred (\$500.00), or by imprisonment for a period of not more than ten (10) days, or by both such fine and imprisonment. Each day after the expiration date specified in Chapter 30.010 that the violation continues to exist shall be considered a separate offense.

138.30.050 Appeals

Any person may appeal to the Bethel Planning Commission any decision made by the administrative officer or designee and shall file notice with the City Clerk within twenty (20) days of the decision complained of. The appeal shall be heard by the Planning Commission as a whole and the appellant shall have the burden of showing that the administrative officer or designee was clearly mistaken in his decision. The appeal shall be made at the next regularly scheduled Planning Commission meeting.

Powers and authority to hear and decide appeals to the decisions of the Planning Commission relative to this title are vested in the city council as provided by A.S. 29.33.110-130. The decision of the City Council shall be final.

Chapter 35. CONFLICT AND SEPARABILITY

A. It is not the intent of this chapter to repeal, alter, or annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically

repealed by this chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants or easements running with the land to which the city is a party. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of the chapter shall control.

B. If any part of provision of this ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the chapter or the application thereof to other persons or circumstances. The Planning Commission hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision or application.

Chapter 40. SAVING PROVISION

138.40.010 General

This ordinance shall be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discounting, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this ordinance, or as vacating or annulling any right obtained by any person, firm or corporation, by lawful action of the municipality except as shall be expressly provided for in this chapter.

Chapter 45 DEFINITIONS

138.45.010 Generally

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

138.45.020 Interpretation

- A. Words used in the present tense include the future tense.
- B. The singular number includes the plural.
- C. The word "person" includes a corporation as well as an individual.
- D. The word "lot" includes the word "plot" or "parcel."
- E. The term "shall" is always mandatory.
- F. The word "may" is always permissive.
- G. 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."

Accessory building, structure or use. A structure used for storage, coverage or similar uses incidental to the primary use; (2) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (3) is located on the same lot as the primary building or principal use. Examples of accessory uses are private garages, storage shed, and play houses.

Administrative Officer: The City Manager or individual designated by the City Manager to administer this chapter/ ordinance.

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.

Commercial. A structure where the primary use is for retail or wholesale business enterprise.

Egress. The point where a vehicle may leave a private lot and enter the public right-of-way or a public or private alley.

Front Yard. The distance between the property line which coincides with the street right-of-way and the edge of the structure nearest the front yard property line. It also means that portion of a yard between the front lot line and the building, and between the two side lot lines, the depth of which shall be the least distance between the front lot line and the building. In the case of a corner lot, the Administrative Officer shall designate which property line shall be used to determine the front yard location.

Improvement. The construction of any external building or structure or any external change that constitutes a betterment of real property. For the purpose of the Ordinance, a relocation of a structure or building within a lot or a relocation of a structure or building to another lot is considered to be an improvement.

Industrial. A structure where the primary use is for manufacturing, possessing, warehousing, cargo or petro-port related activities, or heavy equipment activities.

Ingress. The point where a vehicle may enter a private lot from the public right-of-way or public or private alley.

Institutional. A structure where the primary use is for religious, fraternal, educational or similar activities.

Lot. Any subdivision of land in public or private ownership, with fixed boundaries, designed to be occupied by one or more buildings, structures or uses.

Non-conformities. Lots, structures, uses of land and structures, and characteristics of uses, which are prohibited under the terms of this chapter but were lawful at the date of the ordinance's enactment.

Non-conforming buildings. A building or structure or portion thereof, legally built prior to the effective date of this ordinance codified in this title or any amendment thereto, and conflicting with the provisions of this title.

Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

Planning Commission. The City of Bethel Planning Commission.

Professional. A structure whereby the primary use is for commercial or semi-public service.

Property line. The perimeter of the lot.

Rear Yard. The distance between the property line that parallels or generally parallels the front yard property line and the edge of the structure nearest the rear yard property line.

Residential. A structure where the primary use is for human habitation.

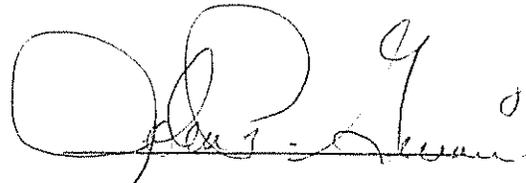
Side Yard. The distance between the property lines which are perpendicular or generally perpendicular to the front yard property line and the edge of the structure nearest the side yard property line.

Structural Alteration. Any addition to, or subtraction of parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

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. For the purpose of this title mobile homes are considered structures.

Vehicles. Any device for carrying passengers, goods or equipment, usually one moving on wheels or runners, as a car or sled.

PASSED AND APPROVED THIS 13th DAY OF December
1982.



John Guinn, Mayor

ATTEST:



Wayne J. Maiers
City Clerk