

ORDINANCE NO. 192  
CITY OF BETHEL MUNICIPAL CODE - TITLE 18  
LAND USE ORDINANCE

WHEREAS, the adoption of a Land Use Ordinance is necessary to provide for the health, safety, and general welfare of all of the residents of the City of Bethel;

WHEREAS, the adoption of Ordinance No. 192 supercedes Title 18 of the Bethel Municipal Code, known as the Zoning Ordinance (Ordinance No. 145) and establishes a New Title 18, entitled the "Land Use Ordinance" (Ordinance No. 192).

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF BETHEL, Alaska, that Ordinance No. 192 is adopted to establish land use districts within the City of Bethel, Alaska; allowances and restrictions in the districts; setting forth the procedure to be followed by the Planning Commission in applying the regulations in the various districts, and prescribing penalties for the violation of any of the provisions herein.

TABLE OF CONTENTS

Chapter	Page
<u>18.04</u> <u>General Provisions</u>	2
<u>18.08</u> <u>Establishment of Districts</u> <u>and Official Land Use Map</u>	4
<u>18.12</u> <u>Definitions</u>	6
<u>18.16</u> <u>Site Plan Permits</u>	13
<u>18.20</u> <u>Preservation District</u>	17
<u>18.24</u> <u>Public Lands and Institutional</u> <u>District</u>	20
<u>18.28</u> <u>Open Space District</u>	21
<u>18.32</u> <u>Residential District</u>	22
<u>18.36</u> <u>General Use District</u>	25
<u>18.40</u> <u>Industrial District</u>	26
<u>18.48</u> <u>Supplemental Regulations</u>	27
<u>18.52</u> <u>Planned Development</u> <u>Regulations and Procedures</u>	31
<u>18.56</u> <u>Mobile Home Parks</u>	33
<u>18.60</u> <u>Conditional Use Permit</u> <u>Standards and Procedures</u>	34
<u>18.64</u> <u>Variances</u>	39
<u>18.68</u> <u>Board of Adjustment</u>	42
<u>18.72</u> <u>Appeals</u>	42
<u>18.76</u> <u>Amendments and Rezoning</u>	46
<u>18.80</u> <u>Nonconforming Lots, Structures,</u> <u>and Uses</u>	51
<u>18.84</u> <u>Enforcement, Penalties,</u> <u>and Remedies</u>	52

Chapter 18.04

GENERAL PROVISIONS

Sections:

18.04.010 Title.  
18.04.020 Purpose.  
18.04.030 Application.  
18.04.040 Authority.  
18.04.050 Jurisdiction.  
18.04.060 Conflict.  
18.04.070 Severability.  
18.04.080 Savings Provision.  
18.04.090 City held harmless.

18.04.010 Title.

The ordinance codified in this Title shall be referred to as the "City of Bethel Land Use Ordinance."

18.04.020 Purpose.

The provisions of the ordinance codified in this Title are for the purpose of promoting the public health, safety, and welfare of the present and future inhabitants of the City of Bethel.

18.04.030 Application.

A. Within each district, the regulations codified in this Title shall be minimum regulations and shall apply uniformly to each class or kind of building, structure, land or water area.

B. No building or land shall 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 Title for the district in which it is located.

18.04.040 Authority.

The City of Bethel Land Use Ordinance and map is authorized by Section 29.35.260c of the Alaska Statutes, and is hereby declared to be in accordance with all provisions of these statutes.

18.04.050 Jurisdiction.

A. The territorial jurisdiction under this title shall include all lands located within the corporate limits of the City of Bethel, except restricted and pending native allotments or restricted native properties, which are not subject to the provisions of this Title. The regulations of this Title shall apply equally to private and public property.

B. When the restricted status of a native allotment or property is changed to unrestricted status because of sale or official government action, the land becomes subject to the jurisdiction of this Title. The land may then be classified within a land use district by an amendment to this ordinance.

C. Frozen waterways shall be subject to the regulations of the land use district immediately adjacent to the subject frozen waterway.

18.04.060 Conflict.

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

18.04.070 Severability.

If any part or 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 Title or the application thereof to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision or application.

18.04.080 Savings Provision.

This ordinance shall not 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, or as waiving any right of the City under any section or provision existing at the 12:43 AM adoption of this ordinance, or as vacating or annulling any right obtained by any person, by lawful action of the City except as shall be expressly provided for in this Title.

18.04.090 City held harmless.

The City of Bethel shall not be held liable for any conflicts between private citizens which may arise as a result of this Title.

Chapter 18.08

ESTABLISHMENT OF DISTRICTS AND OFFICIAL LAND USE MAP

Sections:

- 18.08.010 Adoption of districts and land use map.
- 18.08.020 Adoption of regulations.
- 18.08.030 Map changes.
- 18.08.040 Map replacement.
- 18.08.050 Interpretation of map boundaries.
- 18.08.060 Planning Commission map interpretation.

18.08.010 Adoption of districts and land use map.

For the purpose of this ordinance, the districts within the City of Bethel are hereby specified.

Preservation .....	P District
Public Lands and Institution .....	PLI District
Open Space .....	OS District
Residential .....	R District
General Use .....	GU District
Industrial .....	I District

These districts shall be bounded and defined as shown on the official land use map, which shall be kept on file in the City Planning Office. This official land use map, together with all explanatory materials as exhibited at the time of public hearing, is hereby adopted by reference and declared to be a part of this official map, which may from time to time be made or published. The official map, located in the City Planning Office shall be the final authority as to the current districting status of land and water areas, buildings, and other structures in the city.

18.08.020 Adoption of Regulations.

Regulations applying to each district and all other requirements of this Title are hereby adopted.

18.08.030 Map Changes.

No changes shall be made in the official map or explanatory materials except in conformity with the procedures set forth in this Title. Any unauthorized change by any person shall be considered a violation of this section and punishable as provided under the penalties section of this Title.

18.08.040 Map Replacement.

In the event that the official map becomes damaged, destroyed or difficult to interpret because of the nature of 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 land use 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: "City of Bethel Planning Department Official Land Use Map, adopted on July 10, 1990."

18.08.050 Interpretation of Map Boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the official land use 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 indicated as approximately following the platted lot lines shall be construed 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;

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

F. Boundaries indicated as parallel to or extensions of features indicated in above subsections A through E shall be so construed;

G. Distances not specifically indicated on the official map shall be determined by the scale of the map.

18.08.060 Planning Commission map interpretation.

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 Section 18.08.050, the Planning Commission shall interpret the district boundaries.

## Chapter 18.12

### DEFINITIONS

#### Sections:

- 18.12.010 General interpretation.  
18.12.020 Definition of terms.

#### 18.12.010 General 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 natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- 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.

#### 18.12.020 Definition of terms.

**ACCESS.** A means of vehicular or pedestrian approach, entry to or exit from property.

**ACCESSORY BUILDING, STRUCTURE OR USE.** Uses and structures customarily accessory and clearly incidental to principal uses and structures. This may include a structure or use: 1) used for storage, coverage or similar uses incidental to the primary use; 2) contributing to the comfort, convenience, or necessity of occupants of the principal building or principal use; and 3) located on the same lot as the primary building or principal use.

**ADEQUATE.** Sufficient, satisfactory in terms of public safety requirements.

**ADJACENT LOT.** A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land.

**ALLEY.** A public way designed and intended to provide only a secondary means of access to any property abutting thereon.

**ALTERATION.** Any change, addition or modification in the construction, location or use of a building or lot.

**APARTMENT.** Any building or portion thereof which is designed, built, rented or leased, or which contains dwelling units for four or more families living independently of each other.

**AUTOMOTIVE REPAIR.** Replacement of parts, tuneup, lubrication, and washing and polishing of passenger cars and trucks.

**BEDROOM.** A room marketed and/or designed to function primarily for sleeping.

**BUILDING.** A structure, of 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 duration of construction are not buildings. Permanent structures such as houses, stores, mobile homes, manufactured homes, garages, storage sheds, shops, steambaths, and smokehouses are buildings. For setback purposes, a building shall include such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans, water, sewage, and oil tanks, and windows. Where independent units with separate entrances are not joined by a common wall and/or ceiling or floor, each unit is a separate building.

**CHILD CARE FACILITY.** A home or institution used and maintained to provide (for a profit) care for five or more children unrelated to the care provider.

**COMMERCIAL.** A land use or business enterprise engaged in the buying and/or selling of goods and/or services.

**CONDITIONAL USE.** A use allowed within a district subject to approval by the Planning Commission and which the Planning Commission may subject to specified conditions in order not to impair the integrity and character of the district in which the use is conditionally permitted and not to be detrimental to the public health, safety and welfare.

**DEVELOPMENT.** The division of a parcel of land into two or more parcels; the excavation or depositing of fill on a parcel of land; construction, reconstruction, conversion, structural alteration, relocation, or enlargement or any building; any use or change in use of any building or land.

**DISTRICT.** Land use district.

**DRIVEWAY.** A driving surface that is at least twenty feet wide, is maintained year round in a condition that is passable by City utility trucks, and connects the parking area of a property to a City, State, or privately maintained road. (also see "Interior Access Lane")

**DWELLING, TWO-FAMILY.** A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

**DWELLING UNIT.** One or more rooms intended to serve as a living unit for one family. (see definition of "Family")

**EASEMENT.** An area legally reserved by plat or by deed for the purpose of allowing the use by vehicles, pedestrians, utilities, or drainage.

**EGRESS.** An area where a vehicle may leave a private lot and enter the public right-of-way or a public or private alley.

**EXCESSIVE.** A degree of use 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.

**FENCE.** An artificially structured barrier of any material or combination of materials erected to enclose or screen areas of land.

**FLOOD HAZARD AREA.** Those areas contained within the 100-year floodplain which are designated as flood hazard areas on the City of Bethel Flood Insurance Rate Map.

**FREEZER VAN.** A containerized shipping van usually 8x8x20 or 8x8x40 in size. In the past, freezer vans have sometimes been converted to living units.

**GENERAL PERMIT.** A permit issued by the Corps of Engineers which places conditions on Land Development.

**GROSS USABLE AREA.** The area within a parcel, lot, or piece of land that can be developed after subtracting areas of drainages, lakes, significant wetlands, setbacks, and easements.

**GROUP HOME.** 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 and/or recovery program utilizing counseling, self-help or other treatment or assistance.

**HOME OCCUPATION.** An occupation carried on by the occupants of a dwelling as an accessory use in connection with which there is no display, no persons employed and no large trucks or mechanical equipment used or stored except for that normally associated with a single family residence. For guidance, the following uses are home occupations: Knitting, making of clothing, basketmaking, skinsewing, jewelrymaking, fish smoking, dance, or music instructions (class size: five pupils or less). The following uses are not home occupations: electrician, plumber, doctor, dentist, child care facility, repair or fix-it shop, storage of more than one commercial vehicle. In no case shall more than two (2) home occupations being carried on in the same dwelling be considered a Home Occupation.

**IMPROVEMENT.** The construction of any building or permanent structure or any external structural addition that constitutes a betterment of real property. The relocation of a structure or building within a lot or the relocation of a structure or building to another lot, the addition of fill 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 considered to be improvements. Painting, siding, re-roofing, or other cosmetic changes are not considered to be improvements.

**INDUSTRIAL USE.** The use of a building or land where a primary use or activity is the warehousing, storage, movement, shipment, sale, or use of heavy equipment, cargo, petroleum port activities, gravel, sand, lumber, timber, or fish processing. 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 require the use of heavy equipment on the premise are considered to be industrial uses.

**INGRESS.** The area where a vehicle may enter a private lot from the public right-of-way or public or private easement.

**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 and/or provides interior circulation on the lot. (see "Driveway")

**INSTITUTIONAL.** A structure where the primary use is for religious, fraternal, educational, governmental, or medical activities.

**LAND USE ADMINISTRATOR.** The manager of the City of Bethel Planning Department.

**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.

**MANUFACTURED HOUSING.** 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.).

**MOBILE HOME.** 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 after June 15, 1976, the effective date for the Federal 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.).

**MOBILE HOME PARK.** Any parcel of land which is utilized for occupancy by four or more mobile homes, or manufactured homes.

**NONCONFORMING USE.** Lots, structures, buildings, or uses of land that were lawful prior to the adoption, revision or amendment to the Land Use Ordinance, but which fail by reason of such adoption, revision or amendment, to conform to the present requirements of the Land Use District.

**NUISANCE.** An activity which arises from unreasonable, unwarranted or unlawful use by a person of his own 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.

**PARKING SPACE.** A driveable surface (gravel, sand, concrete, or asphalt) that is accessible from a road or interior access lane and has dimensions of at least ten (10) feet

wide by twenty (20) feet long

**PARTY WALL.** A wall shared as a common support between two contiguous structures, buildings, or dwelling units under different ownerships.

**PLANNED DEVELOPMENT.** 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. For regulatory purposes of this Title, a planned unit development is considered to be any development that results in more than one principal building on a lot.

**PLANNING COMMISSION.** The City of Bethel Planning Commission.

**PROFESSIONAL OFFICE.** An office for the conduct of any one of the following uses: Accountant, advertising agency, architect, attorney, chiropractor, civil engineer or surveyor's drafting office, photographer, private detective, real estate office, social worker, doctor, dentist, insurance sales or similar use, BUT NOT THE FOLLOWING USES: Barber shop, beauty parlor, contractor, pest control, pharmacy, veterinary. (Also see "Home Occupation").

**RESIDENTIAL STRUCTURE.** A single structure used primarily as a residence which may have one or more units.

**RESIDENTIAL UNIT.** A common living area designed or advertised to house one family.

**SETBACK.** The distance allowed between any lot line and any permanent structures. For street right-of-way setbacks the distance shall be 15'. For interior lot line setbacks, this distance shall be 10'. Permanent structures are prohibited in the setback area to provide for emergency access and future utilities construction.

**SHOPPING CENTER.** A group of commercial establishments planned, constructed, developed, and managed as a unit with off-street parking provided on site.

**SIGNIFICANT WETLANDS.** 1) those areas of the flood plain that have not been developed; rivers, lakes, streams, sloughs, drainages, and ponds at least one-half (0.5) acre in size; and, 2) a twenty five (25) foot setback from the mean high water mark of major drainage ways, lakes and ponds.

**SITE PLAN.** A plan, drawn to scale, which depicts and describes uses and structures proposed for a parcel of land as required by the regulations in this Title. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape and drainage features, proposed fill activity, plans for accommodating drainage, and plans for the water and sewer system.

**STRUCTURE.** Anything constructed or erected on the ground or attached to something located on the ground. Structures include buildings, radio and T.V. towers, storage vans, sheds, water tanks, sewer tanks, oil tanks, and permanent signs. Vehicles, sidewalks and boardwalks, and pavement are not considered structures.

**STRUCTURE, PRINCIPAL.** 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.

**STRUCTURE, TEMPORARY.** A structure that can easily be dismantled by one person in one 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, or storage boxes. Buildings are not considered temporary structures for setback purposes.

**USE.** The purpose for which any land, structure, or building is arranged, designed, intended, occupied, or maintained.

**USE, ACCESSORY.** A use or structure on the same lot, or on a contiguous lot under common ownership, that is customarily incidental and subordinate to the principle use.

**USE, PRINCIPAL.** The major or predominant use of land or a structure, as distinguished from a secondary or accessory use.

**VARIANCE.** Permission to depart from the literal standards/requirements of this ordinance granted pursuant to Chapter 18.68 of this Title. This definition shall not be construed to permit a use in any district which is otherwise prohibited in that district, or to permit smaller lot sizes than are provided for in this Title.

**VEHICLES.** Any mechanical device for carrying passengers,

goods or equipment, usually moving on wheels or runners, such as a car or snow machine.

**ZERO LOT LINE.** A development approach in which a building is sited on one or more lot lines with no yard on at least one side. The intent is to allow more flexibility in site design and to allow for increased density, while retaining adequate usable open space on the lot.

## Chapter 18.16

### SITE PLAN PERMITS

#### Sections:

- 18.16.010 Administration.
- 18.16.020 Permit Required.
- 18.16.030 Application.
- 18.16.040 Evaluation of Application.
- 18.16.050 Authorized Improvements
- 18.16.060 Action on Application
- 18.16.070 Modifications.
- 18.16.080 Lapse of Permit.
- 18.16.090 Suspension and Revocation of Permits
- 18.16.100 Permit to run with the Land.

#### 18.16.010 Administration.

The City of Bethel Planning Department shall be responsible for administration of the Site Plan Permit procedure, under the authority of the Planning Commission.

#### 18.16.020 Permit required.

A. An owner of a building or parcel of land who wishes to perform any improvement (improvement as defined in section 18.12.020) to their building or parcel of land is required to apply for a Site Plan Permit. The owner of the building or parcel of land may authorize an agent in writing to complete the application.

B. An owner of a building or parcel of land who wishes to change the principal use (principal use as defined in section 18.12.020) of their building or structure is required to apply for a Site Plan Permit. The owner of the building or parcel of land may authorize an agent to complete the application.

D. Any property owner or his or her agent who performs improvements, or changes the principal use of a building or parcel of land without first obtaining an approved Site Plan Permit is in violation of this section and subject to enforcement and penalties as described in Chapter 18.84.

18.16.030 Application.

Application for a Site Plan Permit shall be filed with the City of Bethel Planning Department. The application shall include the following:

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

B. Address and legal description of the property;

C. If the applicant is not the legal owner of the property, a statement signed by the owner indicating that the applicant is the authorized agent of the owner;

D. The Land Use District(s) in which the property is located;

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 Section 18.16.040;

F. A site plan, drawn to scale and dimensioned as required to show 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 of existing buildings and improvements on abutting sites within 50 feet;

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

5. The location of watercourses and drainage features;

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

7. Location of the City or State maintained road that will access the property either directly or via a privately maintained driveway or access lane.

G. Fees as determined by resolution of the City Council.

18.16.040 Evaluation of application.

A. The application shall be reviewed by the Planning Department for conformance with the applicable regulations and standards of this Title.

B. The application will be reviewed for conformance with other applicable regulations and standards, established by City ordinances, such as Chapter 15.08, Flood Control regulations, minimum water and sewage tank requirements, and other applicable regulations such as the required elevation certificate)

18.16.050 Authorized Improvements.

A. This section of the Site Plan Permit is to be filled out by the application reviewer and will include such things as new residences, sand pads, garages, storage sheds, steamhouses, or other additions. The following are mandatory authorized improvements and must be included as part of the approved Site Plan Permit to meet the requirements of the General Permit, the Site Plan Ordinance, and the Subdivision Ordinance:

1. Sandbagging and/or seeding of sand pad slopes. Fill activity equal to two or more loads of sand or other fill-type material, shall require seeding and/or sandbagging.

2. Sewage holding tank of adequate size based on the size of the required water tank.  
(ref: Ordinance #82, Amendment #1)

3. Water storage tank of adequate size based on the number of bedrooms in the house.

4. No greywater shall be discharged other than to a sewage holding tank.

5. Setbacks: 10' from side and rear property lines, 15' from front property line (street side).

6. Any other improvement which the Planning Commission deems necessary to protect the health, safety, and/or general welfare of surrounding property owners.

18.16.060 Action on application.

A. Within five (5) working days of receipt of the application, the Planning Department shall review the application. Action may be approval, approval subject to modifications, or disapproval of the Site Plan Permit.

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.

C. If denied, the applicant shall be notified in writing of the denial and the reasons therefore.

18.16.070 Modifications.

A. 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 shall submit an application for modification of the approved Site Plan Permit. Minor revisions or modifications may be approved by the Planning Department if it is determined that the circumstances or conditions applicable at the time of original approval remain valid, and the changes would not affect the findings prescribed in 18.16.040.

B. Major modifications will require the filing of an additional application, and will be subject to the process outlined in Sections 18.16.030, 18.16.040, and 18.16.050.

18.16.080 Lapse of Permit.

A. If not exercised within one year from the date of approval, the Site Plan Permit shall expire, unless otherwise stated as a condition of the approval. A permit shall be considered "exercised" upon completion of 50% or more of the authorized improvements.

B. A Site Plan Permit subject to lapse may be renewed by the Planning Department for an additional period of one year, provided that 30 days prior to the expiration date, a written request for renewal is filed with the Planning Department.

18.16.090 Suspension and revocation of permits.

A. The Site Plan Permit shall be suspended by the Land Use Administrator upon violation of any applicable provision of this Title, or if the permit was granted subject to conditions, upon failure to comply with the conditions. Suspension shall take effect upon written notification of the owner, or the owner's authorized agent.

B. The applicant may appeal the decision to suspend the Site Plan Permit to the Planning Commission, according to the procedures in Chapter 18.72.

C. Suspension of the Site Plan Permit shall remain in effect during the appeals process. Any site improvements or changes in the principal use made while suspension is in effect shall be subject to the penalties set forth in Chapter 18.84.

18.16.100 Permit to run with land.

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 lot or structure which was the subject of the application.

Chapter 18.20

PRESERVATION DISTRICT - P DISTRICT

Sections:

- 18.20.010 Intent.
- 18.20.020 Permitted principal uses and structures.
- 18.20.030 Conditional uses.
- 18.20.040 Minimum lot size.
- 18.20.050 Minimum setback requirements.
- 18.20.060 Maximum height of structure.
- 18.20.070 Drainage.

18.20.010 Intent.

A. The Preservation District is intended to apply to significant wetlands and drainageways and should be preserved exclusively as open areas. When uncertainty exists concerning the actual physical location of the Preservation District boundary line, as shown on the official Land Use Map, the Land Use Administrator shall inspect the area of uncertainty and shall determine the physical location of Preservation District boundary using the definition of the Preservation District.

B. Any person proposing the use of fill within this district shall be required to obtain a Corps of Engineers 404 permit prior to approval by the City and before development, pursuant to General Permit 83-4A.

C. A redesignation of the preservation district must be approved by the Army Corps of Engineers, pursuant to General Permit 83-4A, prior to Planning Commission approval of the redesignation.

18.20.020 Permitted principal uses and structures.

A. Greenbelts.

B. Trails and boardwalks that do not require the use of fill material.

C. Subsistence and recreational uses that do not require the use of fill material.

D. Any accessory use or structure normally associated with a permitted use or structure.

E. The use of freezer vans as residential units is specifically not permitted.

18.20.030 Conditional uses.

A. Subsistence and recreational uses that require fill.

B. Trail, walkways, boardwalks, and roads that require the use of fill.

C. Agricultural uses.

D. Residential uses.

E. Planned development (see Chapter 18.52 for standards and regulations).

F. Commercial uses (for standards and listing of commercial uses, see Chapter 18.48, Supplemental Regulations).

G. Public and Institutional uses.

H. Any of the above conditional uses that require dredge or fill activity require an approved Army Corps of Engineers permit before Planning Commission approval.

I. Landing strips and/or air taxi services.

18.20.040 Minimum lot size. 7000 square feet.

18.20.050 Minimum setback requirements.

- A. Street yard: 15 feet.
- B. Interior yard: 10 feet.
- C. 25' from the mean high water mark of any drainage or lake

18.20.060 Maximum height of structure.

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

18.20.070 Drainage.

See Chapter 18.48, Supplemental Regulations.

Chapter 18.24

PUBLIC LANDS AND INSTITUTIONAL DISTRICT - PLI DISTRICT

Sections:

- 18.24.010 Intent.
- 18.24.020 Permitted principal uses and structures.
- 18.24.030 Conditional uses.
- 18.24.040 Minimum lot sizes.
- 18.24.050 Minimum setback requirements.
- 18.24.060 Maximum height of structure.
- 18.24.070 Drainage.

18.24.010 Intent.

The Public Lands and Institutional District is intended to apply to undeveloped public lands not dedicated for open space, and public and quasi-public institutional uses, including government office buildings, facilities, and existing land reserves for public and institutional use.

18.24.020 Permitted principal uses and structures.

- A. Greenbelts and lands reserves.
- B. Trails and boardwalks.
- C. Sewer installations and water supply installations.
- D. Utilities installations.
- E. Any accessory use or structure normally associated with a permitted use or structure.

18.24.030 Conditional uses.

- A. Parks, playfields, and playgrounds.
- B. Museums, historic and cultural exhibits.
- C. Educational institutions, including public, private or parochial academic schools, colleges, and universities.
- D. Hospitals, sanitariums, children's homes, group

homes, nursing homes, convalescent homes, homes for the aged, and similar homes.

E. Cemeteries and accessory uses and structures.

F. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens and meeting rooms.

G. Headquarters or administrative offices for such charitable organizations and similar quasi-public organizations of a non-commercial nature.

H. Governmental office buildings.

I. Radio and television transmission towers, not including amateur ham and c.b. radio antennas which are considered accessory residential uses.

J. Recreation uses.

K. Governmental service shops, maintenance and repair centers, and equipment storage yards.

L. Roads and parking areas.

M. Animal control facility.

N. Other public buildings.

O. Land strips and/or air taxi services.

P. Other compatible uses deemed to be in the public's best interest.

18.24.040    Minimum lot size.    7000 square feet.

18.24.050    Minimum setback requirements.

Street yard:    15 feet.

Interior yard: 10 feet.

18.24.060    Maximum height of structure.

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

18.24.070    Drainage.

See Chapter 18.48, Supplemental Regulations.

## Chapter 18.28

### OPEN SPACE DISTRICT - OS DISTRICT

#### Sections:

18.28.010    Intent.

18.28.020    Permitted principal uses and structures.

18.28.030    Conditional uses.

18.28.040    Minimum lot size.

18.28.050    Minimum setback requirements.

18.28.060 Maximum height of structure.

18.28.070 Drainage.

18.28.010 Intent.

The Open Space District is intended to provide undeveloped open space to protect trails, to provide open areas for recreation, and to provide buffers between incompatible districts.

18.28.020 Permitted principal uses and structures.

- A. Trails and boardwalks.
- B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Public recreation areas.
- D. Greenbelts and buffers.
- E. Subsistence uses.

18.28.030 Conditional uses.

- A. Parks, playgrounds, and playfields.
- B. Parking area related to a permitted or conditional use in the Open Space District.
- C. Moorage of skiffs in a designated area.
- D. Motorized vehicle (including snowmachine and three wheeler) access areas to and from the Kuskokwim River.
- E. Landing strips and/or air taxi services.

18.28.040 Minimum lot size. 7000 square feet.

18.28.050 Minimum setback requirements.

Street yard: 15 feet.

Interior yard: 10 feet.

18.28.060 Maximum height of structure.

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

18.28.070 Drainage.

See Chapter 18.48, Supplemental Regulations.

Chapter 18.32

RESIDENTIAL DISTRICT - R DISTRICT

Sections:

- 18.32.010 Intent.
- 18.32.020 Permitted principal uses and structures.
- 18.32.030 Conditional uses.
- 18.32.040 Minimum lot size.
- 18.32.050 Minimum setback requirements.
- 18.32.060 Maximum height of structure.
- 18.32.070 Drainage.

18.32.010 Intent.

The intent of the Residential District is to provide protection to residential areas from encroachment from non-residential activities.

18.32.020 Permitted principal uses and structures.

- A. Trails and boardwalks
- B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single family residential structures.
- D. Two-family residential structures (i.e., duplex)
- E. Three-family residential structures (i.e., tri-plex)
- F. All uses and structures listed as a permitted use in the Public Lands and Institutional District.
- G. Subsistence activities.
- H. Any accessory use or structure normally associated with a permitted use or structure.
- I. The use of freezer vans as residential units is specifically not permitted.
- J. A freezer van may be used as a storage unit.
- K. Home occupations.

18.32.030 Conditional uses.

A. Residential apartment buildings (for standards, see Chapter 18.48, Supplemental regulations).

B. Planned development (see Chapter 18.52 for standards and procedures).

C. Commercial structures and uses (for standards and listing of commercial uses, see Chapter 18.48, Supplemental Regulations).

D. Parks, playfields, and playgrounds.

E. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens and meeting rooms.

F. Headquarters of administrative offices for charitable organizations and similar quasi-public organizations of a non-commercial nature.

G. Radio and television transmission towers, not including amateur ham and c.b. radio antennas which are considered accessory residential uses.

18.32.040 Minimum lot size. 9000 square feet.

18.32.050 Minimum setback requirements.

Street yard: 15 feet  
Interior yard: 10 feet

18.32.060 Maximum height of structure.

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

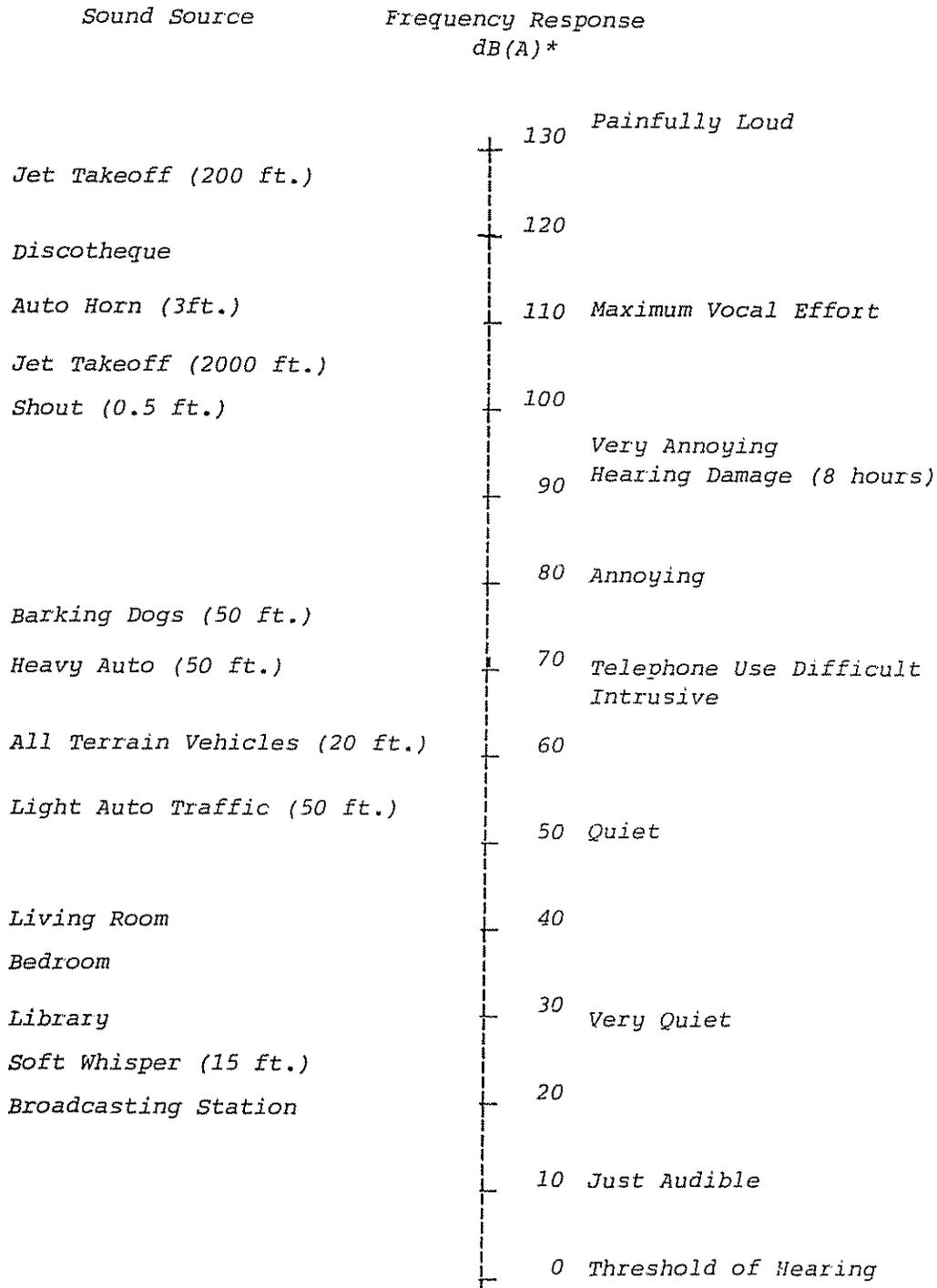
18.32.070 Drainage.

See Chapter 18.48, Supplemental Regulations.

18.32.080 Noise.

No loud noise shall be permitted within this land use designation, public or private, during the evening hours (11:00 p.m. to 6:00 a.m.). Loud noise shall be defined as a decible level exceeding 80 dba. (see Noise Generation Chart on the following page) Specific examples of loud noise: a person or persons speaking or yelling, operating machinery (vehicle or otherwise), or honking a horn within 20 feet of a residence. **Note:** This provision excludes noise associated with aircrafts arriving or departing from the airport.

NOISE LEVEL CHART



Chapter 18.36

GENERAL USE DISTRICT - GU DISTRICT

Sections:

18.36.010 Intent.  
18.36.020 Permitted principal uses and structures.  
18.36.030 Conditional uses.

18.36.040 Minimum lot size.  
18.36.050 Minimum setback requirements.  
18.36.060 Maximum height of structure.  
18.36.070 Drainage.

18.36.010 Intent.

The General Use District is intended to allow a mix of compatible residential and commercial uses. Noxious, injurious, or hazardous uses shall not be permitted in the General Use District.

18.36.020 Permitted principal uses and structures.

- A. All uses permitted in the Residential District.
- B. All uses listed as conditional uses in the Public Lands and Institutional District.
- C. Residential apartment buildings (for standards, see Chapter 18.48, supplemental regulations).
- D. Planned unit development (see Chapter 18.52 for standards and procedures).
- E. Commercial uses and structures (for standards and listing of uses, see Chapter 18.48, Supplemental Regulations).
- F. Trails and boardwalks.
- G. Any accessory use or structure normally associated with a permitted use or structure.
- H. The use of freezer vans as residential units is specifically not permitted.
- I. Home occupations.

18.36.030 Conditional uses.

A. Industrial uses (for standards and listing of uses, see Chapter 18.48, Supplemental Regulations).

B. Radio and television towers, not including amateur ham and c.b. radio antennas which are considered accessory residential uses.

C. Landing strips and/or air taxi services.

18.36.040 Minimum lot size. 7000 square feet

18.36.050 Minimum setback requirement.

Street yard: 15 feet

Interior yard: 10 feet

18.36.060 Maximum height of structure.

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

18.36.070 Drainage.

See Chapter 18.48, Supplemental Regulations.

#### Chapter 18.40

#### INDUSTRIAL DISTRICT - I DISTRICT

##### Sections:

- 18.40.010 Intent.
- 18.40.020 Permitted principal uses and structures.
- 18.40.030 Conditional uses.
- 18.40.040 Minimum lot size.
- 18.40.050 Minimum setback requirements.
- 18.04.060 Maximum height structure.
- 18.04.070 Drainage.

18.40.010 Intent.

The Industrial District is intended to apply to areas where industrial development is the predominant, or is expected to be the predominant use. The industrial use shall be compatible with the surrounding uses.

18.40.020 Permitted principal uses and structures.

A. Industrial uses (for standards and listing of uses, see Chapter 18.48, Supplemental Regulations).

B. Commercial uses (for standards and listing of uses, see Chapter 18.48, Supplemental Regulations).

C. One owner/manager dwelling unit may be occupied as an accessory use.

D. Any accessory or structure normally associated with a permitted use or structure.

E. All strictly residential uses that are not an accessory use to an industrial or commercial use are specifically not permitted.

18.40.030 Conditional uses.

A. None.

18.40.040 Minimum lot size. 7000 square feet.

18.40.050 Minimum setback requirements.

Street yard: 15 feet.  
Interior yard: 10 feet.

18.40.060 Maximum height of structure.

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

18.40.070 Drainage.

See Chapter 18.48, Supplemental Regulations.

Chapter 18.48

SUPPLEMENTAL REGULATIONS

- 18.48.010 Drainage.
- 18.48.020 Standards for residential apartment uses and structures.
- 18.48.030 Zero Lot Line Development.
- 18.48.040 Standards and listing of commercial uses.
- 18.48.050 Standards and listing of industrial uses.

18.48.010 Drainage.

A. Significant wetlands. Drainages that have been designated as significant wetlands by the Bethel Wetlands Study are subject to the standards listed in Chapter 18.20, Preservation District.

B. Non-significant wetlands. 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:

1. In order to be considered maintained, a drainage shall have a channel preserved on the natural drainage with a width of at least twenty (20) feet plus the average width of the surface water drainage during periods of high water.

2. In order to be considered accommodated a drainage channel shall be preserved with a width of at least twenty (20) feet plus the average width of the surface water drainage during periods of high water, 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 the drainage.

3. Any road crossing of the drainage (including driveways) shall be properly culverted with a culvert at least 24" (twenty-four inches) in diameter to accommodate any drainage, unless it is determined by the Land Use Administrator that a lesser diameter would be adequate.

18.48.020 Standards for residential apartment structures and uses.

A. The Land Use Administrator must receive a copy of the written approval by the State Fire Marshal of the building plans prior to approval of a Site Plan Permit.

B. Minimum lot size. 10,000 square feet for the first four units and an additional 1000 square feet per each additional unit. For example, the minimum lot size for an eight unit apartment is  $10,000 + 4,000$  (4 additional units) = 14,000 square feet.

18.48.030 Zero lot line development.

A. Procedure. The Planning Commission may approve a zero lot line development following the variance procedure pursuant to Chapter 18.68 and conforming to the standards and procedures of this section, if written approval is obtained by the State Fire Marshal.

B. Two or three family residential structures may be exempted from the rear and/or side yard requirements by the Planning Commission if: 1) the party wall of the separate residential units rests on the lot line; 2) a signed party wall agreement is submitted to the Planning Commission and approved by the Commission; and 3) the Planning Commission determines that the yard is not necessary for drainage, access, circulation, parking or for use as a buffer area from adjacent uses.

18.48.040 Standards and listing of commercial uses.

A. The Land Use Administrator must receive a copy of the written approval by the State Fire Marshal of the building plans prior to approval of a Site Plan Permit.

B. The proposed use must comply with all requirements of this Title that are applicable to the district in which the proposed use is located.

C. Listing of Commercial uses:

1. Delicatessens, meat, seafood, and other food speciality shops.
2. Art and picture framing shops.
3. Shoe repair shops
4. Bookstores, stationery, gift, novelty, souvenir, and card shops.
5. Drug stores.
6. Laundry and dry cleaning shops.
7. Beauty and barber shops.
8. Cafes, restaurants, drive-in and fast-food restaurants, and other places serving food and beverages.
9. Knit shops, yarn shops, dry goods, dressmaking and notions stores.
10. Small appliance repair shops.
11. Photography studios, art studios.
12. Sporting goods stores, bicycle sale shops.
13. Business, professional, and administrative offices.
14. Day care facilities.
15. Video stores.
16. Clothing, apparel, and shoe stores.
17. Hobby store.
18. Florist.
19. Tobacco stores.
20. Wholesaling and distribution operations, including incidental assembly or processing of goods for sale at retail or wholesale on the premises, but not to include yards for storage or display of any scrap, junk, or salvaged materials or for any scrap or salvage operations.
21. Jewelry stores.
22. General merchandising store.
23. Wholesale and retail camera and photographic supply stores.
24. Funeral services, including crematoriums.
25. Motion picture theaters and live theaters.
26. Banking and financial institutions.
27. Medical and health services.
28. Business service establishments, including office supply and printing and publishing establishments.
29. Parking lots.

30. Taxicab and dispatching offices.
31. Hotels, motels, hostels, bed and breakfast, and boarding houses.
32. Radio and television studios.
33. Plumbing and heating service and equipment dealers.
34. Paint, glass, and wallpaper stores.
35. Electrical or electronic appliances, parts and equipment.
36. Gasoline service stations.
37. Aircraft and marine parts and equipment stores, and outboard motor repair.
38. Antiques and second hand stores, including auctions, pawnshops.
39. Automotive accessories, parts and equipment stores.
40. Automotive repair, services and garages.
41. Motor vehicle dealers, new and used.
42. Wholesale and retail fur repair, storage, and sales.
43. Automobile display lots, new and used.
44. Lumber yards and builder's supply stores.
45. Nurseries and garden supply stores.
46. Automobile car washes.
47. Air passenger terminals.
48. Amusement arcades, billiard parlors, bowling alleys, roller and ice skating rinks.
49. Veterinary clinics and boarding kennels, with activities conducted in a completely enclosed building.
50. Vocational or trade schools.
51. Wholesale and retail furniture and home furnishing stores.
52. Wholesale and retail radio and television stores.
53. Wholesale and retail household appliance stores.
54. Wholesale, industrial, and retail hardware stores.
55. Merchandise vending machines sales and service.
56. Frozen food lockers.
57. All Terrain Vehicles, remodeling or repair.
58. Boat building.
59. Sign shops.
60. Cabinet shops.
61. Cleaning, laundry or dyeing plants.
62. Other commercial uses of a character similar to those uses listed in this section.

18.48.060 Standards and listing of industrial uses.

A. The Land Use Administrator must receive a copy of the written approval by the State Fire Marshal of the building plans prior to approval of a Site Plan Permit.

B. The proposed use must comply with all requirements of this title that are applicable to the district in which the proposed use is located.

C. Listing of industrial uses:

1. Airplane assembly, remodeling or repair.
2. Airports.
3. Machine shops.
4. Metal working or welding shops.
5. Sawmills.
6. Steel fabrication shops or yards.
7. Iretane foaming yards or plants.
8. Warehouses.
9. Shipping or receiving terminals.
10. Bulk fuel distribution and storage.
11. Cement manufacturing.
12. Distillation of wood, coal or bones.
13. Tannery.
14. Paper manufacturing.
15. Poison manufacturing.
16. Printing ink manufacturing.
17. Rock and stone crushing mill.
18. Natural resource extraction, such as a sandpit.
19. Cargo dock facility or freight transfer area.
20. Fish processing plants.
21. Fiberglass fabrication shops or yards.
22. Junk yards and salvage yards.
23. Land fills, solid waste processing facilities.
24. Sewage treatment facilities.
25. Other industrial uses of a character similar to those uses listed in this section.

Chapter 18.52

PLANNED DEVELOPMENT (PD) REGULATIONS AND PROCEDURES.

Sections:

- 18.52.010 Minor and major PD.  
18.52.020 Minimum area required.  
18.52.030 Parking.  
18.52.040 Access.  
18.52.050 Spacing between structures.  
18.52.060 Open space.

18.52.010 Minor and Major Planned Development (PD)

A. A minor Planned Development is defined as a development that has two or three single-family residential structures on a single lot or parcel, or a combination of single-family residential structures and principal commercial structures not to exceed three.

B. A Major Planned Development is defined as a development that has four or more single family residential structures on a single lot or parcel, or a combination of single family residential structures and principal commercial structures totaling four or more. A development that has four or more mobile homes or manufactured homes and is not a major planned development on a single lot or parcel is defined as a mobile home park and is not a major planned development.

18.52.020 Minimum area required.

A. Usable area. If a portion of the parcel to be developed is partially occupied by a drainageway, lake or significant wetland, the minimum area required is based on gross usable area, rather than on actual lot size.

B. Minor Planned Development.

1. For two single family residential structures or a combination of single-family residential structures and principal commercial structures not to exceed two, the minimum lot size shall be 9,000 square feet.

2. For three single family residential structures or a combination of single-family residential structures and principal commercial structures not to exceed three, the minimum lot size shall be 12,000 square feet.

C. Major Planned Development.

1. For four single family residential structures or a combination of single-family residential structures and principal commercial structures not to exceed four, the minimum lot size shall be 14,000 square feet.

2. For five single family residential structures or a combination of single-family residential structures and principal commercial structures, the minimum lot size shall be 16,000 square feet. For each additional single-family residential structure or each additional principal commercial structure an additional 2,000 feet must be added to the lot.

18.52.030 Parking.

A. Minor Planned Development. Two parking spaces shall be provided for each residential unit. If any of the principal structures is a commercial use, the required number of parking spaces for that use will be determined by the Land Use Administrator.

B. Major Planned Development. One and one-half parking spaces shall be provided for each residential unit. If any of the principal structures is a commercial use, the required number of parking spaces for that use will be determined by the Land Use Administrator.

18.52.040. Access.

Each principal structure must be accessed by either a road right-of-way or interior access land in order to gain services by water delivery, sewage evacuation trucks or emergency vehicles. Such access shall be level so that service vehicles are not easily stranded during icy periods.

18.52.050. Spacing between structures.

A space must be maintained between principal structures of at least 20 feet. For spacing purposes the structure includes attached extensions such as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, and windows. The space between principal structures may be used as a parking area.

18.52.060. Open Space.

Major Planned Development that occupy a parcel of land with a gross usable area greater than two acres must reserve 10% of the gross usable area for open space or recreation.

Chapter 18.56

MOBILE HOME PARKS

Sections:

- 18.56.010 Minimum area required.
- 18.56.020 Parking.
- 18.56.030 Access.
- 18.56.040 Spacing.
- 18.56.050 Open space.

18.56.010 Minimum area required.

The minimum area required is 6,000 square feet of gross usable area for each mobile or manufactured home. This area includes room for interior access lanes, ingress-egress lanes, and parking.

18.56.020 Parking.

Two parking spaces per unit shall be provided.

18.56.030 Access.

Each mobile home or manufactured home must be accessed by either a road right-of-way, interior access lane, in such a

manner as to be serviceable by water delivery, sewage evacuation trucks and emergency vehicles. Such access shall be level so that service vehicles are not stranded during icy periods.

18.56.040 Spacing between structures.

A space must be maintained between mobile homes or manufactured homes of at least 20 feet. For spacing purposes, the structure includes attached extensions such as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, and windows. The space between homes may be used as parking area.

18.56.050 Open Space.

Mobile home park that occupy a parcel of land with a gross usable area greater than two acres must reserve 10% of the gross usable area for open space for recreation.

Chapter 18.60

CONDITIONAL USE PERMIT (CUP) STANDARDS AND PROCEDURES

Sections:

- 18.60.010 Authorization.
- 18.60.020 Hearing and notification.
- 18.60.030 Application.
- 18.60.040 Staff review.
- 18.60.050 Planning Commission review.
- 18.60.060 Standards for Planning Commission decision.

18.60.010 Authorization.

The Planning Commission may grant a Conditional Use Permit for those uses or structures specified within the "Conditional Use" paragraph of the district regulations for each land use district in accordance with the Comprehensive Plan and subject to the standards provided in this ordinance.

18.60.020 Hearing and notification.

A. Upon receipt of a complete application for a Conditional Use Permit, the Land Use Administrator shall set a date for public hearing before the Planning Commission. All meetings and hearings of the Planning Commission shall be open to the public, and the Commission shall keep public records of their proceedings. The public hearing shall be scheduled no sooner than twenty (20) calendar days and no later than fifty (50) calendar days from the date of acceptance of a complete application.

B. Notice of the public hearing on a proposed conditional use shall be published once a week for at least two consecutive weeks preceding the public hearing in any newspaper of general circulation in the City of Bethel. The notice shall also be delivered to a local radio station five days prior to the scheduled hearing. The notice shall indicate a brief description of the proposed Conditional Use.

18.60.030 Application.

A. The applicant shall complete a Conditional Use Permit application (to be provided by the Planning Department in which the applicant shall describe:

1. Potential impacts on pedestrian and vehicular traffic circulation and safety;
2. Potential output of noise, fumes, dust, or other environmental pollution;
3. Special features designed to ensure the public health, safety and welfare of the residents. If the development is a nonresidential activity in a residential area,

B. A fee shall be included as established by resolution of the City Council.

18.60.040 Staff review.

A. Staff report. The Land Use Administrator shall review the Conditional Use Permit application and the accompanying Site Plan Permit application. The Administrator shall then prepare a staff report with analysis and recommendations. The Land Use Administrator may recommend any conditions reasonably necessary for the proposed use to comply with the findings listed below in Sub-section B of this Section. The written staff report shall be presented to the Planning Commission with their meeting materials one week prior to the public hearing.

B. Staff conclusions. The Land Use Administrator may only make a recommendation for approval with the following conclusions:

1. The proposed Conditional Use will not be detrimental to the general public's health safety and welfare;

2. The Conditional Use meets the standards for the proposed use set forth under this Title;

3. There are adequate existing or proposed sewage capacity, transportation facilities, parking area and water supply to serve the proposed Conditional Use;

4. The Conditional Use conforms to the intent and purpose of the Land Use regulations;

5. The use or uses proposed are of appropriate character and scale for the area in which the project will be located;

6. The Conditional Use is in accordance with the goals and policies of the Comprehensive Plan;

7. The proposed use will not subject surrounding properties and pedestrians to hazardous traffic conditions.

18.60.050 Planning Commission review.

A. Applicant. The applicant or an authorized representative must be present at the public hearing, informed and available for questions relative to the proposed project. The Planning Commission may take action on the agenda item even if the applicant or an authorized representative is not present at the public hearing. The Planning Commission may deny the project based entirely on the violation of this subsection.

B. Consideration. The Planning Commission shall consider the matter at a public hearing. The Commission shall consider the Conditional Use Permit application, the Land Use Administrator's staff report, any written comments from members of the public submitted prior to the public hearing, or any verbal comments made at the public hearing.

C. Public Hearing Procedure. During all phases of the public hearing, any speaker shall address the Chairperson prior to making any comment. If any person wishes to question any other person in attendance, the question shall be directed through the Chairperson. All public hearings shall be conducted in the following manner:

1. The Chairperson shall explain the hearing procedure

(a) Planning Department Staff shall present a staff report and recommendations regarding the subject project.

(b) The Planning Commission shall ask staff any questions they may have regarding the review and/or recommendations.

(c) The applicant shall be given the opportunity to explain the nature of the project and any other relevant information (including rebuttal or additional information regarding any of the correspondence received).

(d) Planning Commissioners may ask the applicant any questions they may have about the project.

(e) The neighbors or any other interested parties will be given the opportunity to speak. The Chairperson will read all written comments submitted regarding the proposed project. Information provided should be considered opinion and not necessarily fact. Persons who have given testimony previously during the hearing, may comment on any new information limiting comments to new information only. The Chairperson shall exercise his/her discretion regarding repeated testimony based on time constraints or other situations which may arise.

(f) Members of the Planning Commission shall ask any questions of neighbors or other interested parties.

(g) The applicant shall be given the opportunity to rebut.

(h) At this time, the Planning Commission may make a decision to approve, conditionally approve, or deny the project. The Commission may also decide to take the matter under advisement or continue the hearing to a future date in order to allow time to acquire more information as needed.

The Planning Commission and the Planning Staff shall be given the opportunity to comment during or in between any of these steps.

D. Decision. The Commission shall make a decision based upon the standards specified in Section 18.60.060 based upon a majority vote of its membership. The Commission may impose any conditions reasonably necessary for the proposed use to comply with the standards listed in 18.60.060. If the Planning Commission does not adopt the Land Use Administrator's recommendations, it must support its findings with a Statement of Findings and Conclusions which shall be included in the official minutes of the hearing.

18.60.060 Standards for Planning Commission decision.

A. General Standards. The Planning Commission may approve a request for a Conditional Use Permit with the following findings:

1. The proposed Conditional Use will not be detrimental to the public's health, safety, or general welfare;
2. The Conditional Use meets the standards for the proposed use set forth under this Title;
3. There are adequate existing or proposed sewage capacity, transportation facilities, and water supply to serve the proposed Conditional Use;
4. The Conditional Use conforms to the intent and purpose of the Land Use regulations;
5. The use or uses proposed are appropriate to the character and scale for the area in which the project will be located;
6. The proposed use will not subject surrounding properties and pedestrians to hazardous traffic conditions.

B. Mix of uses. Where the approval of a Conditional Use Permit application would result in a mix of residential and nonresidential uses, any approval of the Conditional Use may impose conditions and design standards necessary to ensure the public health, safety, and welfare of residents.

C. Minimum required. All standards contained in this chapter are minimum standards. More restrictive conditions may be imposed by the Planning Commission where necessary to ensure the public health, safety, and welfare of Bethel's citizens.

D. Permit required. A Site Plan Permit must be obtained following the granting of a Conditional Use Permit and prior to the establishment of the use or structure for which the Conditional Use Permit was sought.

18.60.061 Lapse of Approval

A. Unless a longer time shall be specifically established as a condition for approval, a Conditional Use Permit approval shall lapse and shall become void, if not exercised within one year from the date of approval. For a

permit to be considered "exercised" substantial improvement to the land must be performed within one year from the date of approval. Substantial improvement shall be determined as the completion of 50% or more of the total authorized improvements as specified on the subject permit.

B. Conditional Use Permit approval subject to lapse may be renewed by the Planning Commission for an additional period of one year, provided that prior to the expiration date, a written request for renewal is submitted to the Planning Commission.

## Chapter 18.64

### VARIANCES

#### Sections:

- 18.64.010 Authorization.
- 18.64.020 Application.
- 18.64.030 Hearing.
- 18.64.040 Staff evaluation.
- 18.64.050 Planning Commission decision.
- 18.64.060 Lapse of approval.

#### 18.64.010 Authorization.

A variance from the numerical standards of the Land Use Ordinance may be granted by the Planning Commission after reviewing the findings, conclusions and recommendations of the Planning Department. Any variance granted shall be the minimum variance that will make possible a use of the land, building, or structure that is permitted by right in the same land use district. Non-Conforming uses and/or violations which exist in any land use district, will not set a precedent to be considered in evaluating grounds for any variance.

#### 18.64.020 Application.

An applicant for a variance shall submit a Site Plan Permit Application as described in Chapter 18.16. The application shall be submitted to the City of Bethel Planning Department. A request for variance must be included by the property owner or his/her designee, potential purchaser of the subject property, or a government agency in the Site Plan Permit application. The applicant must specifically state the relief sought and must specify the facts or circumstances that are alleged to show that the application meets the conclusions listed in 18.68.040(B). The application shall include a fee, as established by resolution of the City Council.

18.64.030 Hearing.

A. Date. Upon receipt of a complete application, the Land Use Administrator shall set a date for a public hearing before the Planning Commission. The date for public hearing shall be no sooner than twenty (20) calendar days, or no later than fifty (50) calendar days from the date an application is accepted.

B. Notice. Notice of public hearing on the proposed variance shall be published at least once a week for two consecutive weeks preceding the hearing in a newspaper of general circulation in the City of Bethel. The notice shall also be read on a local radio station once a day for five days beginning at least ten days prior of the scheduled hearing. The notice shall indicate the time and place of the public hearing and shall include a brief description of the proposed variance.

18.64.040 Staff evaluation.

A. Staff Report. The Land Use Administrator shall review the application for variance and the accompanying Site Plan Permit application. The Administrator shall then prepare a staff report with findings, analysis, conclusions, and recommendations. The written staff report shall be presented to the Planning Commission with their meeting materials one week prior to the public hearing.

B. Staff conclusions. The Land Use Administrator may only make a recommendation for approval with the following conclusions:

1. Special physical conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district;
2. Strict interpretation of the provisions of the Land Use Ordinance would deprive the applicant of uses of land permitted by right to other properties in the same district under the terms of the Land Use Ordinance;
3. Special conditions and circumstances which do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience (pursuant to A.S. 29.33.110);
4. Granting the variance would be consistent with the intent and purpose of the Land Use Ordinance and not injurious to the character of the neighborhood or otherwise detrimental to the public health, safety and welfare;

5. Granting the variance will not permit a land use or permit a lesser minimum lot size than is provided for in the Land Use district in which the property lies;

6. The variance granted is the minimum variance that will make possible a reasonable use of the land, building, or structure.

18.64.050 Planning Commission Decision.

A. Applicant. The applicant or an authorized representative must be present at the public hearing, informed and available for questions relative to the proposed project. The Planning Commission may take action on the agenda item even if the applicant or an authorized representative is not present at the public hearing. The Planning Commission may deny the project based entirely on the violation of this subsection.

B. Consideration. The Planning Commission shall consider the matter at a public hearing. The Commission shall consider the Conditional Use Permit application, the Land Use Administrator's staff report, any written comments from members of the public submitted prior to the public hearing, or any verbal comments made at the public hearing.

C. The Planning Commission hearing on a variance request shall be conducted pursuant to section 18.60.050 C, Public Hearing Procedure.

D. Decision. The Planning Commission shall render a decision no later than the meeting following the public hearing. The Commission may only approve the variance with the conclusions specified in 18.68.040(B). If the Planning Commission does not adopt the Planning Department's recommendations, it must support its decision with a statement of its findings and conclusions into the official record of the meeting.

18.64.060 Lapse of approval.

A. Unless a longer time shall be specifically established as a condition for approval, a variance approval shall lapse and shall become void, if not exercised within one year from the date of approval. For a permit to be considered "exercised" substantial improvement to the land must be performed within one year from the date of approval. Substantial improvement shall be determined as the completion of 50% or more of the total authorized improvements.

B. A variance approval subject to lapse may be renewed by the Planning Commission for an additional period of one year, provided that prior to the expiration date, a written

request for renewal is submitted to the Planning Commission.

Chapter 18.68

BOARD OF ADJUSTMENT

Sections:

- 18.68.010 Organization.
- 18.68.020 Powers and Duties.

18.68.010 Organization.

A. The City Council shall constitute the Board of Adjustment.

B. All meetings and hearings of the Board shall be open to the public, and the Board shall keep public records of their proceedings.

18.68.020 Powers and duties.

A. The Board of Adjustment shall hear and decide appeals regarding alleged errors in enforcement of the Land Use Ordinance.

B. The Board of Adjustment shall hear and decide appeals from the decisions of the Planning Commission on request for conditional uses and on requests for variances.

Chapter 18.72

APPEALS

Sections:

- 18.72.010 Appeal of Decision of the Planning Department.
- 18.72.020 Appeal of Decision of Planning Commission.
- 18.72.030 Appeal of Decision of Board of Adjustment.

18.72.010 Appeal of decision of Planning Department.

A. Filing appeal. An appeal from any action or decision of the Planning Department or the Land Use Administrator may be filed by the property owner affected by said action or decision. An Appeal may also be filed by any property owner within 1000' of the subject property affected by the decision. The appeal shall be filed with the Planning Commission by submitting a written statement to the Planning Department. The written appeal must specify the grounds for the appeal and specify the findings of the Department that are being disputed. All appeals must be accompanied by an appeal fee as determined by resolution passed by the City Council.

B. Time limit. The appeal must be filed within ten (10) calendar days from the date of the action or decision of the Planning Department or Land Use Administrator. If the deadline day falls on a weekend or holiday, the deadline is extended to the end of the next working day. If any appeal is not filed by the deadline specified in this subsection then the action or decision is final.

C. Notice. Notice of public hearing on the proposed variance shall be published at least once a week for two consecutive weeks preceding the hearing in any newspaper of general circulation in the City of Bethel. Notice shall also be read on a local radio station once a day for five days beginning at least ten days prior to the scheduled hearing. The notice shall indicate the time and place of the public hearing and shall include a brief description of the appeal, and invite written comment on the appeal.

D. Hearing. The Land Use Administrator shall schedule the public hearing at a Planning Commission meeting no sooner than twenty (20) calendar days and no later than fifty (50) calendar days from the date the appeal is filed. The Planning Department shall prepare a written summary of the original application and a statement of findings supporting the action of the Land Use Administrator. The Planning Commission shall only consider the following evidence when considering the appeal:

1. The Land Use Permit application of the appellant;
2. The letter sent from the Land Use Administrator to the appellant taking the action that is the subject of the appeal;
3. The letter submitting the appeal to the Planning Commission;
4. The Planning Department summary of the application and the statement of findings supporting the action of the Land Use Administrator.
5. Written comments received prior to the appeal hearing; and
6. Verbal testimony at the appeal hearing.

E. Action on appeal. The Planning Commission may deny or grant the appeal in the form of a motion. Based on the evidence presented, a statement of findings and conclusions shall be included in the motion. If the Commission denies the appeal, it may confirm or modify the findings and conclusions of the Planning Department or the Land Use Administrator. If the Commission grants

the appeal, the Commission's decision will take affect ten (10) calendar days after the hearing unless a timely appeal is filed to the Board of Adjustment.

F. Statement of findings. Within five working days after the appeal hearing, the Planning Department shall issue a written statement of findings. The statement of findings shall include the motion made by the Planning Commission and a brief summary of their findings and conclusions. The statement shall be mailed immediately to the appellant and any other interested parties.

G. Stay of proceedings. The filing of an appeal shall stay all proceedings in the matter until ten (10) calendar days after the decision has been rendered by the Planning Commission. Any action taken by the Planning Department or Land Use Administrator shall remain in effect and any land use in violation of such action is a violation of this Title and subject to the penalties described in Chapter 18.84.

18.72.020 Appeal of decision of Planning Commission.

A. Filing appeal. An appeal from any action on decision of the Planning Commission may be filed by the property owner affected by said action or decision. Appeal may also be filed by any property owner within 1000' of the subject property affected by the decision. The appeal shall be filled with the Board of Adjustment by submitting a written statement to the City Clerk with a copy sent to the Land Use Administrator. The written appeal shall specify the grounds for the appeal and specify the findings of the Commission that are being disputed.

B. Time limit. The appeal must be filed within ten (10) calendar days from the date of the decision of the Planning Commission. If the deadline day falls on a weekend or holiday, the deadline is extended to the end of the next working day. If an appeal is not filed within ten calendar days of the decision of the Planning Commission then the decision is final.

C. Notice. Notice of the Board of Adjustment hearing on the appeal shall be published once a week for at least two consecutive weeks in a newspaper of general circulation within the City of Bethel. The notice shall also be read on a local radio station once a day for five days beginning at least ten days prior to the date of the scheduled hearing. The notice shall describe the time and place of the hearing, a brief description of the appeal, and invite written comment on the appeal.

D. Hearing. The City Clerk shall schedule the Board of Adjustment hearing (a public hearing before the City Council of the City of Bethel) no sooner than twenty (20) calendar days from the date the appeal is filed and no later than fifty (50) calendar days. The Planning Department shall prepare a written summary of the appeal application and a statement of the findings of the Planning Commission supporting the decision. The Board of Adjustment shall only consider the following evidence when hearing the appeal:

1. The Site Plan Permit application of the appellant;
2. Correspondence sent from the Land Use Administrator to any party involved in the appeal;
3. The letter submitting the appeal to the Planning Commission, if a prior appeal has been taken to the Planning Commission, and the letter submitting the appeal to the Board of Adjustment;
4. The Planning Department summary of the application and the statement of findings of the public hearing in which action was taken on appellant's case;
5. Written and verbal testimony on record from the Planning Commission public hearing; and
6. Written comments submitted to the Board of Adjustment.

E. Action on appeal. The Board of Adjustment shall deny or approve the appeal based on the evidence and with a written statement of findings and conclusions based upon a majority vote of its membership. If the Board denies the appeal, it may confirm or modify the findings and conclusions of the Planning Commission. If the Board grants the appeal, the Commission's decision will take affect 10 calendar days after the hearing, unless timely appeal is filed. Appeal of decision made by the Board of Adjustment shall be filed at the Superior Court of the State of Alaska.

F. Stay of proceedings. The filing of an appeal shall stay all enforcement proceedings in the matter until after the decision of the Board of Adjustment has been rendered, unless the Board or a court issues an enforcement order based on imminent peril to life or property.

G. Appeal of decisions made by the Board of Adjustment, shall be filed at the Superior Court of the State of Alaska.

## Chapter 18.76

### AMENDMENTS AND CHANGING LAND USE SPECIFICATIONS

#### Sections:

- 18.76.010 Initiation of text amendments and land use map modifications.
- 18.76.020 Application.
- 18.76.030 Hearing and notification.
- 18.76.040 Staff review.
- 18.76.050 Planning Commission hearing.
- 18.76.060 City Council hearing.

#### 18.76.010 Initiation of text amendments and land use map modifications

A. Initiation of text amendments. An amendment to any portion of the text of this Title may be initiated by application from any of the following:

1. The City Council;
2. The Planning Commission;
3. Any citizen, group of citizens, firm or corporation residing, owning, or leasing property in the City of Bethel.

B. Initiation of land use map modifications. A modification or redesignation of any portion of the official Land Use Map adopted as a part of this Title may be initiated by application from any of the following:

1. The City Council;
2. The Planning Commission;
3. Any person, provided that the redesignation is accompanied by a petition favoring the redesignation and signed by the owner or owners of at least 51% of the properties within a 1000' radius of the boundary lines of the area proposed for modification.

#### 18.76.020 Application.

A. Amendment to the text. An application for an amendment to any portion of the text of this Title shall be made by filing a written request with the Planning Department. The application shall request the Planning Commission review the proposed change in this Title. The

application shall specifically state the proposed change and the rationale for the change including how the change would better implement the Comprehensive Plan. The application shall also include a fee as established by resolution by City Council.

B. Map redesignation. An application for an amendment to the official Land Use map shall contain:

1. A description of the land area to be redesignated, and the requested new classification, along with the existing designation on all adjacent sides of the area;

2. A written statement of justification for the redesignation, including one of the following conditions:

a. changing area conditions;

b. error in original land use designation;

c. conformance to the Comprehensive Plan for the area;

d. demonstrated suitability of the site to a certain use;

3. Description and drawings, of buildings 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.

4. A fee as established by resolution of the City Council.

18.76.030 Hearing and notification.

A. Upon receipt of a complete application for an amendment to the text or official map adopted by this title, the Land Use Administrator shall set a date for a public hearing before the Planning Commission. The public hearing shall be scheduled no sooner than twenty (20) calendar days and no later than fifty (50) calendar days from the date of acceptance of a complete application.

B. Notice of the public hearing on a proposed text amendment or map redesignation shall be published once a week for at least two consecutive weeks preceding the public hearing in any newspaper of general circulation in

the City of Bethel. The notice shall also be delivered to a local radio station five days prior to the scheduled hearing. The notice shall indicate a brief description of the amendment or redesignation.

18.76.040 Staff review.

A. Amendment to text. The Planning Department shall evaluate the application for amendment to the text to this Title. The Planning Department may only make a recommendation for approval with the following findings:

1. The proposed amendment will be consistent with the Comprehensive Plan;
2. The proposed amendment will be fair and reasonable to implement and enforce;
3. The proposed amendment will enhance the stated purpose of this Title of promoting the public health, safety, and welfare of the present and future inhabitants of the City of Bethel;
4. The proposed amendment will be consistent with the intent and wording of the other provisions of this Title.

B. Map redesignation. The Planning Department shall evaluate the proposed map rezone and submit findings and recommendations to the Planning Commission. The Department may only recommend approval of the rezone with the following findings:

1. The proposed redesignation will be consistent with the Comprehensive Plan;
2. The proposed redesignation is better suited to the area because either the conditions have changed in the area to be redesignated since the present designation was assigned, or the area was previously assigned an inappropriate zoning district;
3. The permitted uses in the proposed redesignation will be compatible with the surrounding area for a 1000' radius;
4. The area proposed to be redesignated either attaches directly to an area of the same designation, or is at least two acres in size;
5. The existing or proposed water, sewage and transportation systems are adequate to serve the permitted and conditional uses of the proposed redesignation.

~~18.76.050 Planning Commission Hearing~~  
A. Consideration. The Planning Commission shall consider the matter on record. The Commission shall only consider:

1. The application for text amendment or map redesignation;
2. The Planning Department's report including the findings and recommendation;
3. Any written comments submitted prior to the public hearing; and
4. Any verbal comments made at the public hearing.

B. Recommendation. The Planning Commission shall make a recommendation based upon the majority of its membership. The Commission may adopt the Planning Department's findings and recommendation. If the Commission does not adopt the Department's recommendation, the motion must include findings as listed in 18.76.040(B).

C. Action on recommendation. If the Planning Commission recommends denial of any proposed amendment or rezone, the recommendation will be considered a final decision of the Planning Commission unless a property owner (as designated in Section 18.72.020 (A)) with ten days of the date of the decision, files the written application with the City Clerk with a written request that the amendment or rezone be considered by the City Council. The City Clerk shall then request the Land Use Administrator to submit any additional application materials for the proposed amendment. If the Planning Commission recommends approval of the amendment or rezone, the Land Use Administrator will forward the application, on the day following the Planning Commission approval, to the City Clerk for consideration of the matter by the City Council.

18.76.060 City Council Hearing

A. Application. An application for City Council consideration of a text amendment or map redesignation shall contain the following:

1. The application to the Planning Commission requesting the amendment or rezone;
2. The Planning Department staff report, including the findings and recommendations;
3. A written statement of the Planning Commission findings and recommendation;
4. Any maps or supporting materials that may clarify

the application;

5. An ordinance adopting the amendment or redesignation.

B. Hearing. Upon receipt of an application for an amendment or rezone, the City Clerk shall schedule an introduction for public hearing at the next City Council meeting. The public hearing shall be scheduled no sooner than twenty (20) calendar days and no later than fifty (50) calendar days from the date of acceptance of a complete application.

C. Notification. Notice of the public hearing on a proposed text amendment or map redesignation shall be published once a week for at least two consecutive weeks preceding the City Council public hearing in any newspaper of general circulation in the City of Bethel. The notice shall also be read on a local radio station for five days beginning at least ten days prior to the scheduled hearing. The notice shall indicate a brief description of the proposed amendment or redesignation.

D. Consideration. The City Council shall consider the matter on record. The Council shall consider:

1. The application to the Planning Commission requesting the amendment or redesignation;
2. The Planning Department staff report, including the findings and recommendations of the Planning Commission;
3. The approved minutes from the Planning Commission meeting concerning the application, including the Commission's findings and recommendation;
4. Any maps or supporting materials that may clarify the application;
5. Any written comments submitted to the Council prior to the public hearing;
6. Any verbal comments made to the Council at the public hearing.

E. Decision. The City Council shall make a decision based upon the majority of its membership. The Council may adopt the Planning Commission's findings and recommendation. If the Council does not adopt the Commission's recommendation, it must support its decision with findings and conclusions stated in the official minutes of the meeting.

Chapter 18.80

NONCONFORMING LOTS, STRUCTURES AND USES

Sections:

- 18.80.010 Intent.
- 18.80.020 Date of Construction.
- 18.80.030 Nonconforming Uses of Record
- 18.80.040 Nonconforming Structures and uses of Land.
- 18.80.050 Grandfather Rights.

18.80.010 Intent.

Within the Land Use Districts there may be nonconforming lots of record, structures, - uses of land and uses of structures. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their perpetuation.

18.80.020 Date of construction.

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 which was lawfully constructed or under construction prior to the effective date of adoption of this ordinance and upon which actual building construction has been carried on diligently.

18.80.030 Nonconforming lots of record.

In any district, any lot which is of record on the date of passage or amendment of this ordinance may be the site upon which permitted principal uses and structures may be erected in compliance with the provisions of this Title. This provision applies even though such lot fails to meet the minimum lot size requirements applicable in the district.

18.80.040 Nonconforming structures and uses of land.

A. No nonconforming use of land shall be enlarged to occupy or altered in a way which increases its nonconformity.

B. Should a nonconforming structure be totally destroyed, it shall not be reconstructed except in conformity with this ordinance.

C. A conforming structure may be enlarged so long as the addition to the structure conforms to all the requirements set forth in this ordinance.

18.80.050 Grandfather Rights.

A. Any lot, structure, buildings, or use of land that were lawful prior to the adoption, revision, or amendment to this Land Use Ordinance, but which fail by reason of such adoption, revision or amendment, to conform to the present requirements of the Land Use District, are not subject to the provisions of this ordinance.

B. Grandfather rights are not transferable. Any person acquiring an interest in any non-conforming lot, structure, or use, shall either bring the non-conforming lot, structure, or use into conformance within two (2) years from the date the interest was acquired, or, apply for a Conditional Use Permit or a variance.

Chapter 18.84

ENFORCEMENT, PENALTIES AND REMEDIES

Sections:

- 18.84.010 Enforcement Officer.
- 18.84.020 Complaint.
- 18.84.030 Correction of Violations.
- 18.84.040 Penalties and Remedies.
- 18.84.050 Enforcement.

18.84.010 Enforcement Officer.

This title shall be administered and enforced by the Land Use Administrator.

18.84.020 Complaint.

A. Public complaint. Any person aggrieved by a violation or apparent violation of the provisions of this title 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. Investigation. The Land Use Administrator may also investigate violations or apparent violations of the provisions of this Title on his/her own initiative.

18.84.030 Correction of violations.

A. Finding a violation. When the Land Use Administrator finds a violation of any of the provisions of this Title, 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. 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.

B. Order of correction. 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 a land or structure;
4. When necessary to ensure compliance with this Title, the suspension or revocation of land use permits, variances or other City land use entitlements.

18.84.040 Penalties and remedies.

A. Civil remedies. If there is a violation of the terms of any provision within this ordinance, the City Manager, Land Use Administrator or any aggrieved citizen may institute or cause to be instituted any appropriate civil action to enjoin this violation and proceed to obtain damages for any injury the plaintiff suffered as a result of the violation. Any action to enjoin any violation of this ordinance may be brought notwithstanding the availability of any other remedy.

B. Failure to comply with an order of correction within the time frames provided in 18.84.030 shall constitute a fineable violation and upon conviction is punishable by a fine of not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300.00). Each day that the violation continues after the expiration date specified in Section 18.84.030 shall be considered a separate offense.

18.84.050 Enforcement of Authorized Improvements.

A. The applicant shall have a minimum of 30 days (unless otherwise stated on the Site Plan Permit) in which to comply with the Authorized Improvements as specified in the Site Plan Permit approval. More than 30 days may be granted based on weather and other considerations.

B. If it is determined by the Land Use Administrator that the terms of the Authorized Improvements as specified, have not been met, the applicant shall be given written notice that he/she has an additional 30 days in which to comply.

ORDINANCE NO. 192

PASSED AND APPROVED THIS 10<sup>th</sup> DAY OF July, 1990.

  
Tom Warner, Mayor

ATTEST:

  
Anna McGowan, City Clerk