



CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559

543-2297—Area Code 907

ORDINANCE NO. 165

AN ORDINANCE OF THE CITY OF BETHEL REPEALING AND RE-ENACTING ORDINANCES 138 AND 165, ESTABLISHING SITE PLAN REQUIREMENTS AND PROCEDURES.

WHEREAS, AS 29.33.090 specifies land use controls which may be exercised by a municipality; and

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

NOW, THEREFORE LET IT BE ORDAINED THAT:

CHAPTER 15.10

SITE PLAN REQUIREMENTS AND PROCEDURES

GENERAL PROVISIONS

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15.10.020	Purpose
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15.10.010 Title

This chapter shall be known and cited as "Site Plan requirements and procedures for the City of Bethel."

15.10.020 Purpose

The City of Bethel, pursuant to the health, safety and welfare of the community and in accordance with certain provisions of Title 29 of Alaska Statutes, establishes this chapter for the location of structures within property boundaries, as measured from designated property lines. The City also establishes this chapter to provide for review and evaluation of site development and to afford a procedure for mitigation of potentially unfavorable effects on adjacent land uses. This title is based on a comprehensive study of the area and becomes one part of the implementation of the City of Bethel Comprehensive Plan.

15.10.030 Authority

This land use control is authorized by and declared to be in accordance with AS 29.33.090-150.

15.10.040 Jurisdiction

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

15.10.050 Interpretation

The provisions of this title shall be interpreted and applied to be the minimum required for the proper protection of the public health and morals, and the promotion of safety and general welfare.

15.10.060 Conflict_and_Severability

A. It is not the intent of this chapter to repeal, alter or annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by the chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants or easements running with the land to which the City is a party. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this chapter shall control.

B. 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 chapter 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.

15.10.070 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, firm or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this ordinance, or as vacating or annealing any right obtained by any person, firm or corporation, by lawful action of the municipality except as shall be expressly provided for in this chapter.

15.10.080 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 ordinance.

STANDARDS: MINIMUM RESIDENTIAL, COMMERCIAL,
PROFESSIONAL, INSTITUTIONAL AND INDUSTRIAL

Sections:

- 15.10.090 Front Yard
- 15.10.100 Rear Yard
- 15.10.110 Side Yard
- 15.10.120 Accessory Structures
- 15.10.130 Exceptions
- 15.10.140 Zero Lot Line
- 15.10.150 Grandfather Rights
- 15.10.160 Future Improvements
- 15.10.170 Parking

15.10.090 Front_Yard

All buildings, structures and improvements, with the exception of driveway access as provided in 15.10.130 A., shall be located a minimum of fifteen (15) feet from the front property line.

15.10.100 Rear_Yard

All buildings, structures and improvements, with the exception of driveway access as provided in 15.10.130 A., shall be located a minimum of ten (10) feet from the rear lot line.

15.10.110 Side_Yard

All buildings, structures and improvements, with the exception of driveway access as provided in 15.10.130 A., shall be set back from the side property line a minimum of ten (10) feet, except that where a street is adjacent to a side property line the side located adjacent to the side street shall be fifteen (15) feet.

15.10.120 Accessory_Structures

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

15.10.130 Exceptions

A. Driveway access from the right of way through the setback shall be allowed but shall be limited to not more than twenty (20) feet in width.

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

1. Floor area ratio;
2. Number of employees;
3. Seating capacity;
4. Design unit;
5. Vehicular ingress and egress;
6. Street capacity.

15.10.140 Zero_lot_line--Exceptions

A. Commercial structures may be exempted from the front, rear and/or side yard requirements by the Planning Commission if adequate fire protection systems are provided as determined by the Uniform Building Code, and if written approval of the fire protection system is provided by the State Fire Marshal. Exemption requests shall be reviewed using the criteria listed in section 15.10.200.

B. Fill material may be exempted from the front, rear and/or

side requirements by the Planning Department if and only if public safety considerations are met. Exemption requests shall be reviewed using the criteria listed in section 15.10.200.

C. Other improvements, including, but not limited to, residential structures, garages and outbuildings, may be exempted from the front, rear and/or side yard requirements by the Planning Commission if and only if public safety considerations are met. Exemption requests shall be reviewed using the criteria listed in section 15.10.200.

15.10.150 Grandfather_Rights

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

15.10.160 Future_Improvements

Future improvements or alterations to existing structures that would result in changing the exterior dimensions of the structure shall be in accordance with the minimum standards established under this title. Any structure relocated within a lot or to another location shall be in compliance with the standards established under this title.

15.10.170 Parking

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

SITE PLAN PROCEDURE

Sections:

- 15.10.180 Administration
- 15.10.190 Application and Fee
- 15.10.200 Standards for Evaluating the Application
- 15.10.210 Action on Application
- 15.10.220 Modifications
- 15.10.230 Lapse of Permit
- 15.10.240 Suspension and Revocation of Permits
- 15.10.250 Approval to Run with Land

15.10.180 Administration

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

15.10.190 Application_and_Fee

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

A. Name and address 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 that the applicant is the authorized agent of the owner;

D. A brief description of the proposed use, including information pertinent to the review criteria and findings in section 15.10.200;

E. A Site Plan, drawn to scale and sufficiently 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 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, fencing and screening, signs, and lighting;
5. The location of watercourses and drainage features; and
6. A plan showing existing and proposed topography and, if using fill, a cross-section of the fill; and

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

15.10.200 Standards For Evaluating The Application

The Planning Department shall review and evaluate the Site Plan application based on the following criteria:

- A. Conformance with applicable regulations and standards established by City Ordinances;
- B. Compatibility with adjacent sites, in terms of setbacks, open spaces, drainage, site development, and access and circulation features;
- C. Potentially unfavorable effects on existing uses in abutting sites, to the extent that such effects exceed those which reasonably result from use of the site; and
- D. Modifications to the Site Plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards.

15.10.210 Action on Application

- A. Within ten (10) working days of receipt of the application, the Planning Department shall act upon the application. Action may be approval, approval subject to modifications or disapproval of the site plan.
- B. If approved, the permit shall be issued.
- C. If approved subject to modifications, 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.
- D. If denied, the applicant shall be notified in writing of the denial and the reasons therefore.

15.10.220 Modifications

A. Once the site plan is approved, no modifications may take place without the written consent of the City. The applicant shall submit an application for modification in the approved Site Plan. 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 15.10.200.

B. Major modifications will require the filing of an additional application, and will be subject to the process outlined in sections 15.10.190, 15.10.200, and 15.10.210.

15.10.230 Lapse_of_Permit

A. Unless a longer time shall be specifically established as a condition for approval, a Site Plan approval shall lapse and shall become void one year following the date on which such approval becomes effective.

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

15.10.240 Suspension_and_Revocation_of_Permits

A. Upon violation of any applicable provision of this ordinance, or if granted subject to conditions, upon failure to comply with the conditions, the Site Plan approval shall be suspended by the Administrative Officer. Suspension shall take effect upon notification of the owner or applicant by the Administrative Officer.

B. The applicant may appeal the decision to suspend Site Plan approval to the Planning Commission. The applicant shall file notice with the City Clerk within twenty (20) days of notification of suspension. The Planning Commission shall hold a public hearing within forty (40) days of filing of the notice. If not satisfied that the provisions of the approval or this ordinance are being complied with by the applicant, the Planning Commission may revoke the Site Plan approval or take such action as may be necessary to insure compliance with this ordinance.

C. The applicant may appeal the decision of the Planning Commission to City Council. Applicant shall file notice with the City Clerk within ten (10) days of Commission action. Council shall hold a public hearing within forty (40) days of filing of the notice. Council shall take such action as may be necessary to insure compliance with this ordinance. Council decision is final, and shall take effect immediately.

D. Suspension of Site Plan approval shall remain in effect during the appeals process. Any site improvements made while suspension is in effect shall be subject to the penalties set forth in section 15.10.290 of this ordinance.

15.10.250 Approval_To_Run_With_Land

A Site Plan approval pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

ENFORCEMENT

Sections:

- 15.10.260 Enforcement Officer
- 15.10.270 Complaint
- 15.10.280 Correction of Violations
- 15.10.290 Violation - Penalty
- 15.10.300 Information to be Supplied to Planning Commission

15.10.260 Enforcement Officer

This title shall be administered and enforced by the Administrative Officer.

15.10.270 Complaint

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

B. The Administrative Officer may also investigate violations or apparent violations of the provisions of this title on his/her own initiative.

15.10.280 Correction of Violations

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

15.10.290 Violation - Penalty

Failure to correct a violation within the time frames provided in section 15.10.280 shall constitute a misdemeanor and upon conviction is punishable by a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500), or by imprisonment for a period of not more than ten (10) days, or by both such fine and imprisonment. Each day that the violation continues after the expiration date specified in section 15.10.280 shall be considered a separate offense.

15.10.300 Information To Be Supplied To Planning Commission

The Administrative Officer shall inform the Planning Commission of any violations of the Site Plan requirements and/or procedures.

APPEALS TO PLANNING COMMISSION AND CITY COUNCIL

Sections:

- 15.10.310 Appeals to Planning Commission
- 15.10.320 Review and Evaluation of Appeals
- 15.10.330 Appeal to City Council

15.10.310 Appeals to Planning Commission

An applicant may appeal any decision made by the Planning Department to the Planning Commission. The applicant shall file notice with the City Clerk within twenty (20) days of the decision of the Planning Department. The appeal shall be heard by the Planning Commission as a whole and the appellant shall have the burden of showing that the Planning Department was clearly mistaken in its decision. The appeal shall be made at the next regularly scheduled Planning Commission meeting.

15.10.320 Review and Evaluation of Appeals

The Planning Commission shall review and evaluate appeals using the following criteria:

- A. Conformance with applicable regulations and standards established by City Ordinances;
- B. Compatibility with adjacent sites, in terms of setbacks, open spaces, drainage, site development, and access and circulation features;
- C. Potentially unfavorable effects on existing uses in abutting sites, to the extent that such effects exceed those which reasonably result from use of the site; and
- D. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards.

15.10.330 Appeal_to_City_Council

A. Power and authority to hear and decide appeals of the Planning Commission relative to this title are vested in the City Council as provided by AS 29.33.110-130.

B. The appeal must be filed with the City Clerk within ten (10) days after the date of the Planning Commission's decision.

C. Not more than forty (40) days following the filing of an appeal, the Council shall hold a public hearing on the appeal. Notice shall be given, as set forth in 2.04.040. The Council shall act on the appeal not more than twenty (20) days following the closing of the public hearing. The decision of the City Council shall be final and shall be effective immediately.

D. The City Council shall review and evaluate appeals upon the criteria listed in sections 15.10.200 and 15.10.320, and the appelliant shall have the burden of showing that the Planning Commission was clearly mistaken in its decision.

DEFINITIONS

Sections:

- 15.10.340 Interpretation
- 15.10.350 Definitions

15.10.340 Interpretation

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

B. The singular number includes the plural.

C. The word "person" includes a corporation as well as an individual.

D. The word "lot" includes the word "plot" or "parcel."

E. The term "shall" is always mandatory.

F. The word "may" is always permissive.

G. The words "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."

15.10.350 Definitions

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

A. Accessory Building, structure or use. A structure (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. Examples of accessory uses are private garages, storage sheds, and play houses.

B. Administrative Officer. The City Manager or individual designated by the City Manager to administer this chapter.

C. Building. A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity. Temporary structures such as tents are not buildings, but houses, garages, factories, barns, etc., are. Mobile homes are also defined as buildings.

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

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

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

G. Improvement. The construction of any external building or structure or any external change that constitutes a betterment of real property. For the purpose of this chapter, a relocation of a structure or building within a lot or a relocation of a structure or building to another lot, and the addition of fill material are considered to be an improvements.

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

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

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

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

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

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

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

O. Planning Commission. The City of Bethel Planning Commission.

P. Property line. The perimeter of the lot.

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

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

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

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

U. Structure. Anything constructed or erected on the ground or which is attached to something located on the ground. Structure include buildings, radio and TV towers, sheds, and permanent signs. For the purpose of this title mobile homes are considered structures.

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

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

Approved:

Joe Sullivan
Mayor of the City of Bethesda

David J. Mair
City Clerk