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Date: January 9, 2001
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CITY OF BETHEL, ALASKA

ORDINANCE #01-05 (P.C. Substitute)

AN ORDINANCE REPEALING AND REENACTING TITLES 15, 16, 17 AND 18 OF THE BETHEL MUNICIPAL CODE GOVERNING SITE PLAN PERMITS AND DEVELOPMENT, FLOOD PROTECTION, THE COMPREHENSIVE PLAN, SUBDIVISIONS, LAND USE REGULATIONS; AND AMENDING OTHER RELATED CODE PROVISIONS

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

SECTION 1. Classification. Sections 2 through 8 of this ordinance are permanent in nature and shall be incorporated into the Bethel Municipal Code. Sections 9 and 10 are temporary in nature and shall not be incorporated into the Bethel Municipal Code.

SECTION 2. Amendment of Section. Bethel Municipal Code Section 1.01.020 is amended to read:

1.01.020 Title – Citation – Reference.

This code shall be known as the "Bethel Municipal Code" and it shall be sufficient to refer to said code as the "Bethel Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal the identified provisions of the "Bethel Municipal Code." Further reference may be had to the titles, chapters, sections and subsections of the "Bethel Municipal Code," and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. For the purpose of the application of this section and of any other provision of the "Bethel Municipal Code" and of any other document, "Bethel Municipal Code" may be abbreviated "BMC."

SECTION 3. Amendment of Section. BMC 1.04.100 is amended by adding a new subsection C reading:

C. The simultaneous repeal and reenactment or re-adoption of an ordinance or provision of the Bethel Municipal Code shall have the same effect as if the legislative action taken were to amend the provision to read as shown in the readopted or reenacted language without a repeal.

SECTION 4. Repeal and Reenactment of Chapter. Chapter 2.24 of the Bethel Municipal Code is repealed and reenacted to read:

Chapter 2.24 Planning Commission

- 2.24.010 Assumption of power.
- 2.24.020 Establishment of commission.
- 2.24.030 Planning and land use functions.
- 2.24.040 Composition and staff.
- 2.24.050 General procedures.

2.24.010 Assumption of power.

Pursuant to AS 29.35.260(c), the City of Bethel has assumed the powers of planning, platting, and land use regulation.

2.24.020 Establishment of commission.

Pursuant to AS 29.35.260(c) and AS 29.40.020, there is established the City of Bethel planning commission. Its duties, functions, procedures and composition shall be as specified in this chapter.

2.24.030 Planning, subdivision and land use functions.

- A. The planning commission may:
1. Review and make recommendations on existing and proposed federal, state and city land selection, acquisition, disposal or management practices that affect the city;
 2. Make recommendations concerning the city's annual planning budget and work program;
 3. Make recommendations concerning all planning consulting contracts to which the city is or proposes to be a party;
 4. Make recommendations concerning needed or proposed public improvements;
 5. Recommend to the city council the prioritization of the projects in the city's annual and long term capital improvements program;
 6. Recommend to the city council adoption of and changes to subdivision, land use, site plan, land acquisition and disposal, flood control, housing, building and similar codes.
- B. The planning commission shall:
1. Maintain and update the official map of the city;
 2. Recommend to the city council integrated or consolidated land use and related codes;
 3. Regularly review the comprehensive plan or its components and recommend to the city council updates or other changes. The comprehensive plan should include:
 - a. Statements of policies, goals and standards,
 - b. A land use plan,
 - c. A community facilities plan,
 - d. A transportation plan, and
 - e. Recommendations for implementation of the comprehensive plan.
 4. Recommend to the city council ordinances to implement the comprehensive plan.
 5. Act as the platting authority for the city.
 6. Perform such other duties and functions as are provided for in titles 15, 16, 17 and 18 and other provisions of this code.

2.24.040 Composition and staff.

- A. The voting members of the planning commission shall be six citizens who have been residents of the city for at least one year. The seventh voting member shall be a member of the city council. The planning department manager or his/her designee will act as staff to the commission and may participate in commission discussions, except appeals of decisions of the planning manager or planning staff, but is not allowed to vote.
- B. Members shall be appointed to the commission by the mayor and shall be confirmed by the council. Appointments to fill vacancies shall be for the unexpired term only.
- C. The term of office shall be three years. Two commission members' terms shall expire each year on the thirty-first of December. The city council representative will be appointed for the duration of his or her city council term.
- D. The planning commission shall designate a member to preside as chairperson for a period of one year. The commission shall also designate as its vice-chairperson, a member who shall exercise the powers of the chairperson during in the absence of the chairperson.

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E. Four members constitute a quorum. Any act of the commission requires an affirmative vote of at least four members.

F. The planning department shall provide administrative support to the commission.

2.24.050 General procedures.

A. Regular meetings shall be held on a schedule established by the planning commission. The schedule of the regular meeting dates, times and places shall be published at least twice in a newspaper of general circulation in the city. The publication shall cover the regular meetings scheduled for the next 12 months or through the end of the next calendar year. The two publications should be within 5 to 15 days of each other. Publication of notice of a specific regular meeting may also be made, but is not necessary unless required by other provisions of this code. A copy of the proposed agenda shall be posted at least five days before the meeting at city hall and in three other public places where such notices are regularly posted. The posted agenda does not limit the matters the commission may act upon.

B. Special meetings may be called by the chairperson or shall be called by the chairperson at the request of two members of the commission or the planning manager. Notice of special meetings shall be given by posting notice of the date, time and place of the meeting at least 5 days prior to the meeting at city hall and three other public places where such notices are regularly posted. A copy of the agenda for the special meeting shall be attached to the posted notice, and matters not on the agenda may not be acted upon by the commission.

C. Meetings shall be public and minutes shall be kept. Minutes shall be retained as a public record in the office of the City Clerk.

D. Meetings shall be conducted under Robert's Rules of Order with such modifications and additions as may be adopted by the commission.

E. Office and Staff. The commission and its staff shall be provided office space suitable for its needs with adequate room to file its journals, resolutions, records, reference materials, correspondence, maps, plats and charts, all of which shall constitute public records of the city. The city manager shall make available to the commission, its staff and consultants the public records to aid the furtherance of the performance of the commission's duties.

F. All formal actions of the commission shall be by resolution bearing:

1. The heading, "Resolution of the Bethel Planning Commission,"
2. The space for the resolution number to be assigned, "Resolution No. (number),"
3. A short and concise title descriptive of its subject and purpose;
4. A short list of "Whereas" clauses descriptive of the reasons for the resolution, if necessary;
5. The resolving clause, "THEREFORE, BE IT RESOLVED THAT..."; followed by a statement of the action approved by the commission and such factual findings, conclusions and other matters as may be appropriate; and
6. A declaration of the date the resolution was adopted: "Adopted (date)" and designated lines for the signatures of the chairperson and the commission clerk.

G. All funds received by the commission or the planning department as fees, charges, or otherwise shall be deposited in the general fund of the city and may be expended only pursuant to an appropriation.

H. Members of the planning commission may be paid a fee or honorarium and reimbursed for expenses as provided by resolution of the city council.

SECTION 5. Title 15. Title 15 of the Bethel Municipal Code is repealed and reenacted to read:

TITLE 15 BUILDINGS AND CONSTRUCTION

Chapter 15.04 Hazards and Nuisances.
Chapter 15.08 Flood Control.
Chapter 15.12 Site Plan Requirements and Procedures.

Chapter 15.04 Hazards and Nuisances

15.04.010 Declaration, notice and hearing.
15.04.020 Abatement.
15.04.030 Appeal.
15.04.040 Definitions.
15.04.050 Enforcement

15.04.010 Declaration, notice and hearing.

A. The manager, city engineer, chief of police, fire chief or city health officer may report to the city council that a particular parcel, property or structure constitutes a fire hazard, health hazard or public nuisance. The report shall be served on the owner or manager of the property by mail or personal delivery. The city officers and council may rely upon any nationally recognized building, plumbing, electrical, structural, mechanical, health, fire, dangerous building, hazardous materials, or similar codes or standards in determining whether a condition of a parcel, property or structure is a fire or health hazard or public nuisance.

B. Upon receiving a report under subsection (A) of this section, the city council shall fix a time and place for a hearing before the council to determine whether the report is correct. Unless the owner of the property or his agent requests a shorter time, the hearing may not be fixed for a date sooner than ten calendar days from the date the report is mailed or delivered to the owner, manager of the property, or owners' agent for service.

C. When a hearing is set, the city clerk shall cause notice of the contents of the report and of the time and place of the hearing to be served upon the owner or manager of the building, parcel, or structure. Such notice shall be served personally or by certified mail on the person shown as the owner in the Bethel District Recording Office or his agent or manager of the property, and shall be posted at the parcel or affixed to the structure. If the identity and address of the owner, the manager or his agent notice cannot be ascertained by reasonable diligence, then notice shall be sent by certified mail to the last known owner at his last known address, and shall be published in a newspaper of general circulation published within the city or posted in three public places where notices of city council meetings or other public notices are posted.

D. At the time and place set for hearing, the council shall hold a hearing to determine whether the report is substantially correct in all material respects. The city administrative officials may present written, photographic, and oral evidence to support the report. The council may as part of the hearing inspect the premises and may treat its observations as evidence to determine the correctness of the report. Observations relied upon by any member of the city council shall be stated at the hearing and become a part of the record. At the hearing the owner or his representative, if present, shall be heard and may present evidence. If the report is substantially correct in all material respects the council may by resolution declare that the premises constitutes a fire or health hazard or a public nuisance.

15.04.020 Abatement.

A. If the city council declares a parcel, property or structure to be a fire hazard, health hazard or public nuisance, it may order correction of the defects or removal or demolition thereof by the owner or his agent. If a structure constitutes a hazard to those occupying it, the council may order the structure to be vacated.

B. Unless the council determines that a longer or shorter period is reasonable or is required, notice of a correction, removal or demolition order shall specify a period of not less than fourteen days from

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the date of the council declaration by which the correction, removal or demolition must be completed, and shall state that the city may remove or demolish the property thereafter.

C. At any time before the date set for completion of removal or demolition, the owner of the property or structure may request a rehearing. The rehearing shall be scheduled at the next regular council meeting or at a special meeting called for that purpose, occurring at least three business days following the date the request for rehearing is filed. The request for rehearing shall include a notarized statement setting out with specificity the corrective actions taken or initiated, and how these steps did or will eliminate the hazard or nuisance found by the city council. At the rehearing, the owner or his agent may show that the deficiencies proved have been substantially remedied or that action has been taken to remedy them. If it is shown that the hazard or nuisance has been eliminated or will be eliminated in a reasonable time, and that the public health, safety and welfare will not be threatened if the prior council order is modified, the city council may rescind or modify its prior order.

D. If the structure or property is not removed or demolished in accordance with the order, the city may remove or demolish it or cause it to be removed or demolished. If the city removes the building, the cost of removal or demolition is a lien upon the land and chargeable to the proceeds of the sale of the structure and the salvaged material, which may be sold at public auction or by competitive bid or by negotiated agreement if no acceptable bids are received. The balance of cost, if any, remains a charge against the land. If the proceeds of any sale of the structure and salvaged material exceed the total cost to the city of the removal or demolition and sale, the excess shall be returned to the owner of the land.

E. If a condition of a structure or property on a parcel that has been ordered corrected has not been corrected in accordance with the order, the city may enter upon the property and take such action as necessary to correct the nuisance or hazard condition. The cost of correcting the condition shall be a lien against the land.

F. The owner and the person to whom the order is directed, if other than the owner, shall comply with the order and each such person is liable for failure to comply. Failure to comply is a violation of this section.

G. Notice of a lien arising under this chapter shall be filed in the Bethel District Recording Office and thereafter may be foreclosed as provided by Alaska Statute.

15.04.030 Appeal.

The owner of the property or his agent may appeal the decision and order of the city council to the Alaska Superior Court in accordance with the court rules of appellate procedure. A request for a rehearing does not toll the time for filing the notice of appeal.

15.04.040 Definitions.

In this chapter:

“Fire hazard” means any structure, which, for want of proper repairs, or by reason of age or dilapidated condition, or by reason of poorly installed or defective electrical wiring or equipment, defective chimneys, defective heating apparatus or any other cause or reason, is especially liable to fire, or which building or structure is so situated and occupied as to endanger any other structure or property or human life. Such term shall also mean and include any structure containing any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind, especially liable to cause fire or endanger the safety of such structure, premises, or human life. Such term shall also mean and include any situation or condition in which any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind is especially liable to cause or spread fire or endanger the safety of any structure, premises or human life.

“Health hazard” means any parcel or structure which is in a filthy or unsanitary condition especially liable to cause the spread of contagious or infectious disease or diseases, or permits foul odors or obnoxious or poisonous gases to escape from such parcel or structure.

“Public nuisance” means any parcel or structure the condition of which is such as to likely endanger the safety of person or property of persons other than the owner of the building or structure, whether because of damage, deterioration, dilapidation, or other cause whether or not the fault of the owner.

15.04.050 Enforcement

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this chapter.

Chapter 15.08 Flood Control

15.08.010 Findings.

15.08.020 Purpose.

15.08.025 Deference to federal regulations.

15.08.030 Definitions.

15.08.035 Records to be obtained and maintained.

15.08.040 Permit-required for floodplain construction.

15.08.050 Permit-application.

15.08.060 Permit-requirements.

15.08.070 Flotation, collapse or lateral movement.

15.08.080 Construction materials and practices.

15.08.090 Water and sewer systems.

15.08.100 Elevation-residential structures.

15.08.110 Elevation-nonresidential structures.

15.08.120 Critical facilities.

15.08.130 Floodproofing.

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15.08.160 Flood damage control measures.

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15.08.190 Conflicting provisions.

15.08.200 Liability denied.

15.08.210 Preexisting structures.

15.08.220 Contracts authorized.

15.08.230 Complaint.

15.08.235 Correction of violations.

15.08.240 Enforcement.

15.08.250 Costs.

15.08.260 Variance procedures.

15.08.010 Findings.

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

B. Areas within the city have been designated as flood-prone pursuant to Section 201 of the Flood Disaster Protection Act of 1973 and the city is required to join the National Flood Insurance Program

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to make flood insurance and federal and federally regulated financial assistance available to the residents within the flood-hazard areas.

15.08.020 Purpose.

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

1. Establish a land use permit system within the floodplain area as delineated by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Bethel," dated February 15, 1985, and any revisions thereto, with accompanying Flood Insurance Rate Maps on file at the City of Bethel Planning Department, P.O. Box 388, Bethel, Alaska 99559.
2. Require that land uses vulnerable to floods, including public facilities and utilities which serve such uses, shall be protected against flood damages at the time of initial construction or substantial improvement as required by applicable law and regulations;
3. Restrict or prohibit land uses and structures which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocity;
4. Ensure that subdivision and development of land within Bethel are consistent with the need to minimize flooding and damage done by flooding.

15.08.025 Deference to federal regulations.

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

15.08.030 Definitions.

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

15.08.035 Records to be obtained and maintained.

A. Where base flood elevation is provided through the Flood Insurance Study, FIRM, or required under BMC 15.08.050(A)(6), obtain and record the actual, as-built elevation in relation of mean sea level of the lowest floor, including the basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

B. For all new or substantially improved floodproofed structures where elevation data is provided through the Flood Insurance Study, FIRM, or as required under BMC 15.08.050(A)(6):

1. obtain and record the actual elevation in relation to mean sea level to which the structure was floodproofed, and
2. maintain the floodproofing certifications required by BMC 17.08.110.

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

15.08.040 Permit-required for floodplain construction.

No person shall commence any development, construct or relocate a structure, or make substantial improvements to a structure, or make improvements on any parcel of land, or modify or relocate a watercourse, within the flood hazard area of the city, without first securing from the land use administrator a floodplain land use permit under this chapter for each structure and modification. If a site plan permit is also

required, both permits shall be processed together and the requirements and conditions imposed under this chapter may be incorporated into the site plan permit.

15.08.050 Permit-application.

A. Application for a floodplain land use permit shall be filed with the city planning department and be made on a form furnished by the planning department. The applicant should be informed that elevating the structure one foot or more above the base flood elevation may result in substantial reduction of flood insurance premiums, but that they should verify the reduction with their insurer. The information furnished in that application shall include, but is not limited to:

1. The name and address of the owner or builder of the structure on the parcel;
2. The name and address of the owners of the parcel;
3. A legal description of the parcel;
4. Flood hazard area status as shown on the Federal Insurance Rate Map;
5. A copy of all state, federal and other local government permits required for the work;
6. If the structure or substantial improvement is located in a flood hazard area, a

description of the protective measures that will be taken to meet the applicable requirements set out in Sections 15.08.070 through 15.08.150 and other information which demonstrates that the structure will be adequately protected against flood damage and that the structure or site preparation will not adversely affect flood elevations or velocities.

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

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

15.08.060 Permit-requirements

Within flood hazard areas, no floodplain land use permit shall be approved unless all of the applicable requirements set out in Sections 15.08.070 through 15.08.150 are satisfied.

15.08.070 Flotation, collapse or lateral movement.

Any new or substantially improved structure shall be designed or modified and anchored to prevent flotation, collapse or lateral movement of the structure. All mobile and manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top of frame to ground anchors.

15.08.080 Construction materials and practices.

Construction materials and utility equipment that are resistant to flood damage and construction practices and methods that will minimize flood damages shall be utilized.

15.08.090 Water and sewer systems.

Construction or substantial improvement shall not occur unless the applicant demonstrates that any associated new or replacement water supply system and sanitary sewage system, including on-site systems, will be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and

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discharge from the systems into floodwaters. All systems shall be floodproofed at least to the regulatory floodwater surface elevation. Electrical, heating ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. On-site sewage disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

15.08.100 Elevation-residential structures.

A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

15.08.110 Elevation-nonresidential structures.

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

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

B. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level, but that the applicant should verify this with their insurer.

C. Nonresidential structures that are elevated, but not floodproofed, must meet the same standards for space below the lowest floor as described in BMC 15.08.100.

15.08.120 Critical facilities.

Construction of new critical facilities shall be, to the maximum extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permitted within the special flood hazard area if no feasible alternative site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three feet above grade or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should be protected to the elevation applicable to the lowest floor. Floodproofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

15.08.130 Floodproofing.

If floodproofing is utilized pursuant to BMC 15.08.110, it shall be in accordance with the standards for completely floodproofed structures contained within Sections 210.2.1 FPL or 210.2.2. FP2 of the U.S. Army Corp. of Engineers Publication entitled "Flood-Proofing Regulations," June 1972 edition or any subsequent edition thereof or any replacement standard. A registered professional engineer or architect shall certify that the floodproofing measures taken are reasonably adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one-hundred-year flood and a record of certification shall be part of the floodplain land use permit records. If the construction or structure improvement is located in an area where the flood insurance agency has not provided the City with the base flood elevation data, the City shall use the best available data to administer the elevation requirements.

15.08.140 Increase of flood height.

Construction or substantial improvement, including landfill, shall not, when combined with all other existing and anticipated uses, increase the regulatory flood level by more than one foot at any point. It shall be the responsibility of the applicant to demonstrate that this requirement will be fulfilled. However, the city reserves the right to certify, at its own expense, any such statement.

15.08.150 Mobile homes moving into parks.

All mobile or manufactured homes to be placed or substantially improved within flood insurance rate zones A1-30 and AE of the FIRM shall be elevated on a permanent foundation such that the lowest floor of the mobile or manufactured home is at or above that base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this chapter.

15.08.160 Flood damage control measures.

- A. Where floodproofing is required, the following shall be accomplished:
1. Installation of watertight doors, bulkheads, shutters or similar methods of closure;
 2. Reinforcement of walls to resist water pressures;
 3. Use of paints, membranes or mortars to reduce seepage of water through walls;
 4. Addition of mass or weight to structures to resist flotation;
 5. Installation of pumps to lower water levels in structures;
 6. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;
 7. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;
 8. Location and installation of all electrical equipment, circuits, appliances and heating systems so that they are protected from inundation by the regulatory flood;
 9. Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare; or design of such facilities to prevent floatation of storage containers which could result in the escape of toxic materials into floodwaters;
 10. Use of materials such as sheathing, siding, sub-flooring and underlayment that are not subject to water damage due to prolonged submersion below regulatory flood level;
 11. Use of closed cell insulation to prevent water logging and consequent loss of insulating ability below the regulatory flood level;
 12. Location of oil storage tanks outside the structure and anchoring to prevent disturbance by floodwater. Tanks should be placed upon and secured to a concrete slab of sufficient volume to prevent flotation. In the calculation of required anchorage, little recognition should be given to shear or friction values of the soils as they will be substantially reduced due to saturation. Both fill and vent pipes should extend above the expected high water level;

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13. Installation of a backwater valve in sewer lines in an accessible location immediately adjacent to the exterior foundation wall.

15.08.170 Subdivisions and utilities-requirements.

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

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

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

C. All new or replacement public utilities such as gas, electric and telephone systems shall be designed or constructed to eliminate disruptions due to flooding and associated hazards.

15.08.180 Subdivisions and utilities-application of requirements.

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

1. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;
2. The danger that intended uses may be swept on to other lands or downstream causing injury or damage to other persons or property;
3. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner,
5. The importance of the services provided by the proposed facility to the community,
6. The requirements of the subdivision for a flood hazard location;
7. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
8. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed subdivision or development to the comprehensive plan and floodplain management program for the area;
10. The safety of access to the property for emergency vehicles in times of flood;

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

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

13. The installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures.

15.08.190 Conflicting provisions.

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

15.08.200 Liability denied.

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

15.08.210 Preexisting structures.

Nothing in this chapter shall be construed as applying to a structure existing prior to April 21, 1975, or to a structure in existence and in full compliance with this chapter on the effective date of an amendment to this chapter, that causes the structure to be out of compliance with this chapter unless the structure is to be substantially improved after that date. Nothing in an amendment to this chapter shall be construed as applying to any structure for which fifty percent or more of the materials have been already ordered, prior to the effective date of the amendment. Any structure that will be substantially improved is subject to the provisions of this chapter in the same manner as new construction and the entire structure shall meet the requirements of this chapter.

15.08.220 Contracts authorized.

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

15.08.230 Complaint.

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

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

15.08.235 Correction of violations.

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

B. The land use administrator may order:

1. The discontinuation of unlawful uses of land or structures;

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

15.08.240 Enforcement

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this chapter.

15.08.250 Costs.

All costs incurred in conforming to application procedures and standards set forth in this chapter shall be the responsibility of the applicant.

15.08.260 Variance procedures and appeals.

- A. A person who is aggrieved by a decision of the planning department in the interpretation or enforcement of this chapter may appeal the decision to the planning commission as provided in BMC 18.72.010.
- B. General conditions under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in 15.08.260(L) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- C. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places, without regard to the procedures and requirements set forth in this section.
- D. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon:
 1. a showing of good and sufficient cause in accordance with general zoning law principles;
 2. a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in 15.08.260(L) or conflict with existing city codes or regulations.
- G. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they are justified by peculiarities of a physical piece of property, they are not personal in nature and are not justified by the condition, location or use of the structure, the personal situation, desires, or other circumstances of the inhabitants, economic or financial circumstances. Under this chapter, they primarily address small lots in densely populated residential neighborhoods. Variances from the flood elevation standards should be quite rare.

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

I. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

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

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

L. In passing upon variance applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of the Bethel municipal code, and:

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

M. Upon consideration of the factors of 15.08.260(L) and the purpose of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.

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

Chapter 15.12 Site Plan Permits

15.12.010 Administration.

15.12.020 Permit required.

15.12.030 Application.

15.12.040 Evaluation of application.

15.12.050 Required permit conditions.

15.12.060 Action on application.

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- 15.12.080 Lapse of permit.
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- 15.12.100 Correction of violation.
- 15.12.110 Suspension of permits.
- 15.12.120 Permit runs with land.
- 15.12.130 Display of site plan permit required.
- 15.12.140 Enforcement.

15.12.010 Administration.

The City of Bethel Planning Department shall administer and enforce of the Site Plan Permit procedure under this chapter.

15.12.020 Permit required.

A. A person shall not make an improvement to land or a structure, initiate a new use or change the use of land or a structure unless a Site Plan Permit has first been issued for the improvement or use.

B. For purposes of this chapter, an improvement requiring a Site Plan Permit includes activities that:

1. Involve a land disturbance through grading, excavation, or paving on lands with slopes in excess of 10 percent.
2. Involve a land disturbance through grading, excavation, or paving of an area that might reasonably be expected to impact drainages, significant wetlands, or nonsignificant wetlands.
3. Involve a proposal that will create impervious surfaces of such extent that might reasonably be expected to impact drainages, significant wetlands, or non-significant wetlands.
4. Involve land subject to local ponding due to soil or topographic conditions.
5. Involve land located in an area with a history of flooding, or that may be subject to flooding.

6. Involve the placement or relocation of a non temporary structure or change to the dimensions of a non temporary structure that increases or decreases the ground footprint of the structure.

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

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

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

F. Any person proposing to dredge or to place or move fill within an area designated as a significant wetlands by the Army Corps of Engineers shall obtain an individual permit from the Corps of Engineers prior to final approval by the city of a Site Plan Permit unless the Corps of Engineers has waived the requirement for an individual permit for the proposed development.

15.12.030 Application.

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

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

- B. Address and legal description of the property;
- C. Signature of the owner and the signature of the applicant if other than the owner;
- D. The Land Use District(s) in which the property is located and the flood hazard zone status;
- E. A brief description of the proposed improvements and the principal use, including information required to evaluate the application according to the standards described in Section 15.12.040;
- F. A site plan, drawn to scale and dimensioned as required, showing the following:
 - 1. The date, scale, north point, title, name of owner and name of the person preparing the site plan;
 - 2. The location and dimensions of boundary lines, easements, and required yards and setbacks;
 - 3. The location, height and intended use of existing and proposed buildings on the site, and the approximate location on abutting parcels of existing buildings and improvements within 50 feet of the property line;
 - 4. The location and dimensions of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, drainage, landscaped areas, utility or service areas including water and sewer tanks, fencing and screening, signs, and lighting;
 - 5. The location of water areas, watercourses and drainage features and, if any part of the site is within a flood hazard area, the information required under BMC 15.08;
 - 6. A plan showing existing and proposed drainage and topography and, if using fill, a cross-section of the fill;
 - 7. If an activity described in section 15.12.020B will occur, a drainage plan containing the following shall be included:
 - a. Flow lines of surface waters onto and off the site.
 - b. Existing and proposed contours at 2-foot intervals.
 - c. Location and amount of cuts, fills, or contouring.
 - d. Existing and proposed drainages, wetlands, and waterbodies.
 - e. Building corner and street elevations for existing and proposed improvements.
 - f. Existing and proposed retaining walls.
 - g. The location and design of facilities for storage or conveyance of surface water runoff.
 - h. Estimates of existing and proposed runoff from and to adjacent properties and existing and proposed drainages, wetlands, and waterbodies; and
 - 8. Location of the city or state maintained street that will access the property either directly or via a privately maintained driveway or access lane.
- G. An elevation certificate if required under BMC 15.08.
- H. Fees as determined by resolution of the City Council.

15.12.040 Evaluation of application.

- A. The application shall be reviewed by the planning department for conformance with the applicable regulations and standards of BMC Titles 15, 16, 17 and 18, minimum water and sewage holding tank requirements and other applicable regulations.
- B. Drainage plans required under section 15.12.030(F)(6) shall be reviewed by the city engineer who shall recommend appropriate measures to the land use administrator. Drainageways shall meet the requirements of this subsection B.
 - 1. Drainages that have been designated as significant wetlands by the Bethel Wetlands Study are subject to the standards listed in subsection (B)(2) of this section and to such additional standards as are required under the National Flood Insurance Program.
 - 2. Drainages that have been designated as significant wetlands by the Bethel Wetlands Study and those drainages that are not designated as significant wetlands in the Bethel Wetlands Study but

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are determined by the land use administrator to be active drainages must be maintained or accommodated as follows:

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

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

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

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

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

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

15.12.050 Required permit conditions.

A. The following are mandatory conditions of a permit and must be included as part of the approved Site Plan Permit.

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

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

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

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

5. Setbacks and yards as required by BMC title 18.

6. Offstreet parking area as required by BMC title 18.

7. Drainageway improvement and maintenance required under section 15.12.040B or by Title 17 and 18.

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

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

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

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

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

B. The improvements and uses shall meet the applicable requirements of the General Permit, and BMC titles 15, 16, 17 and 18. Failure to include a required condition or other requirement on a Site Plan Permit does not waive or lessen the applicability of the condition or requirement.

15.12.060 Action on an application.

A. Within ten (10) working days of receipt of a complete application, the planning department shall review the application. An application may be approved, approved subject to modifications, tentatively approved subject to receipt of required state or federal approval, or disapproved.

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

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

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

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

F. The site plan permit shall include:

1. the address and legal description of the property;
2. a descriptions of the improvements approved and required by the site plan permit;
3. the approved use of the site and improvements;

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4. any other information, including diagrams, drawings, specifications and standards the land use administrator believes are necessary to inform the public and the applicant of the exact nature of the approved uses and the nature and location of the improvements;
5. conditions of the permit; and
6. a signature block with spaces for the date and time the site plan permit was posted and the signature of the person who posted the permit.

G A summary of the times within which an appeal of the land use administrator's decision on the permit may be filed shall be set out on the permit. If the permit is denied, the summary shall be stated in the written notice to the applicant of the denial.

15.12.065 Appeal.

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

15.12.070 Modifications.

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

15.12.080 Lapse of permit.

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

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

15.12.090 Complaint.

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

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

15.12.100 Correction of violations.

A. When the land use administrator finds a violation of any of the provisions of this chapter or a site plan permit, he shall notify in writing the person responsible for correcting the violation and shall order the necessary correction be accomplished within a reasonable period specified in the order, not exceeding ninety days and may suspend the permit pursuant to BMC 15.12.110. If there is an immediate and significant danger to life, limb or property, the land use administrator may order immediate remedial action. The owner and the person to whom the order is directed, if other than the owner, shall comply with the order and each such person is liable for failure to comply. Failure to comply is a violation of this section.

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

15.12.110 Suspension of permits.

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

B. Upon the issuance and posting of the suspension or receipt of the notice of suspension by the owner or other person to whom directed, no construction or other activity covered by the permit may occur except as provided in BMC 15.12.110D.

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

D. Suspension of the site plan permit shall remain in effect during the appeals process; provided, with the written approval of the land use administrator, the appellant may make such changes or improvements as are specifically approved by the land use administrator that are necessary to protect the land or improvement or other property. A person shall not make any other improvements or changes in the use while a suspension is in effect.

15.12.120 Permit runs with land.

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

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

C. It is the duty of the owner of the land and of any person who has management authority over the land, including a lessee, to ensure that the land, improvements and uses of the land meet the requirements and conditions of titles 15, 16, 17 and 18, all conditions and requirements of the site plan permit, and other applicable requirements of the Bethel Municipal Code, and state and federal laws and regulations. This duty falls jointly and severally on the present owner and the persons with management authority without regard to when the use, land or improvement first failed to meet requirements or conditions.

15.12.130 Display of Site Plan Permit Required.

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

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enter on the permit the date and time of posting of the permit and site plan and shall sign the notice of the date and time of posting, verifying its accuracy

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

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

D. The site plan and the permit shall also be displayed during the construction of the project until such time as the project is fifty percent completed, but in no case for less than ten consecutive days after the start of the construction or change in use.

15.12.140 Enforcement

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this chapter.

SECTION 6. Title 16. Title 16 of the Bethel Municipal Code is repealed and reenacted to read:

TITLE 16 PLANNING, LAND USE, PLATTING AND SITE DEVELOPMENT

16.04 Purposes and general provisions.

16.08 Comprehensive plan.

16.12 Definitions

Chapter 16.04 Purposes and General Provisions

16.04.010 Purposes.

16.04.020 Application.

16.04.030 Design and construction standards.

16.04.040 Fee schedule.

16.04.050 Violations, enforcement and penalties.

16.04.010 Purposes.

A. In addition to the purposes set out in each title, the purposes of Title 15, Buildings and Construction, Title 16, Planning, Land Use, Subdivision and Site Development, Title 17, Subdivisions, and Title 18, Zoning, together are to:

1. Promote a logical growth pattern within the city and the economic extension of public services and facilities.
2. Encourage the most appropriate use of land throughout the city.
3. Reduce congestion in the streets.
4. Enhance safety from fire, flooding and other dangers.
5. Provide adequate light, air and open space.
6. Preserve property values.
7. Prevent the overcrowding of the land.
8. Avoid undue concentration of population.
9. Facilitate adequate provisions for transportation, water, sewage, drainage, schools, parks and other facilities.

10. Assure that development does not adversely affect either the ability of the city to deliver public services or the safety of property and the health, safety and welfare of persons.

11. Assure that the burdens placed on public facilities by development are borne by the development.

12. Promote the public health, safety and welfare.

B. Titles 15, 16, 17 and 18 of the Bethel Code shall be interpreted and administered to complement each other and so as to implement the purposes set out in subsection (A) of this section.

16.04.020 Application.

The provisions of this chapter apply to Titles 15, 16, 17 and 18 of the Bethel Code as if set out in each title.

16.04.030 Design and construction standards.

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

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

16.04.040 Fee schedule.

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

16.04.050 Enforcement, violations and penalties.

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

B. A person who violates any provision of BMC titles 15, 16, 17 or 18 is guilty of a misdemeanor and upon the first conviction for the violation is punishable by a fine of not less than \$25.00 and not more than \$500.00. If, within 24 months of a prior conviction for a violation of a provision of BMC title 15, 16, 17 or 18, a person commits a violation of the same, a similar or a related provision, upon conviction, the person shall be subject to punishment by a fine of not more than \$1,000. Each day that a violation continues is a separate violation.

C. A contractor or other person who engages in, directs, or supervises the work on land or a structure, or a use of property, or an activity or action, may be held liable for any violation of BMC titles 15,

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16, 17 or 18 resulting from the work performed, the use of the property, or the activity or action, and is subject to the penalty and remedy provisions of this section.

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

E. An action authorized under this section may be brought without a notice of violation or an order of correction having first been issued or disobeyed.

Chapter 16.08 Comprehensive Plan

16.08.010 Comprehensive Plan.

16.08.020 Planning commission review and recommendations.

16.08.030 City council action.

16.08.040 Adoption and contents of the comprehensive plan.

16.08.010 Comprehensive plan description and purpose.

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

16.08.020 Planning commission review and recommendations.

The planning commission shall regularly review the comprehensive plan and recommend additions, deletions and revisions to the city council.

16.08.030 City council action.

The comprehensive plan may be revised by the city council by the addition of documents to the plan, or by deletion or revision of documents in the plan.

16.08.040 Adoption and contents of the comprehensive plan.

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

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

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

C. City of Bethel Coastal Management Plan dated September 29, 1983, prepared by Kasprisin Pellinari Design, and Environmental Sciences and Engineering.

D. City of Bethel Sewer and Water Facilities Master Plan, dated June 1996, prepared by Dames and Moore.

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

F. The June 1998 Transportation Element of the Bethel Comprehensive Plan prepared by HDR Alaska, Inc.

Chapter 16.12 Definitions

16.12.010 Titles applicable.

16.12.020 General rules of interpretation

16.12.030 Definitions

16.12.010 Titles applicable.

The definitions of words, terms and phrases set out in this chapter apply to such words and phrases when used in Titles 15, 16, 17 and 18 of the Bethel Municipal Code, unless specifically defined in the title where used, and except where the context clearly indicates a different meaning was intended.

16.12.020 General rules of interpretation.

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

1. Words used in the present tense include the future tense.
2. The singular number includes the plural, and the plural includes the singular.
3. Words of any gender may, when the sense so indicates, refer to any other gender.
4. The word "person" includes a corporation and any other entity or form of association as well as an individual.
5. The words "must" and "shall" are always mandatory and the terms "must not," "shall not" and "may not" are prohibitory
6. The word "used" or "occupied," as applied to any land or structure shall be construed to include the phrase "intended, arranged or designed to be used or occupied."

16.12.030 Definitions.

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

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

ACCESS. 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 subordinate and incidental to the principal use or structure on a lot. This may include a structure or use for storage, coverage or similar uses incidental to the principle use which contributes to the comfort, convenience, or necessity of occupants of the principal structure or use and is located on the same lot as the principal structure or use.

ADDITION. A parcel of land which is platted adjacent to an existing subdivision and which has the same name.

ADEQUATE. Sufficient in terms of actual or anticipated capacity or demand, satisfactory in terms of public safety requirements or as may be required by the Bethel Municipal Code, or other law, regulations, or standards.

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

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

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

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

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

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

ARTERIAL. A street used to carry high volumes of traffic to and from major traffic generators or into or out of the community.

AS-BUILT PLANS. Construction plans that have been revised in accordance with all field changes reflecting the improvements on the site as they actually exist.

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

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year; also referred to as the one hundred year flood. Areas subject to the base flood are flood hazard areas and the designation of these areas on the FIRM always include the letters A or V.

BASEMENT. Any area of a building having its floor below ground level on all sides.

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

BLOCK LENGTH. The distance between intersections of through streets, such distance being measured along the longest street bounding the block and from right-of-way line to right-of-way line of the two intersecting streets.

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

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, fish-drying racks, dog houses, and shipping vans placed on a lot only for the reasonable duration of construction are not buildings for purposes of street and yard setbacks. Permanent structures such as houses, stores, mobile homes, manufactured homes, garages, storage sheds, shops, steambaths, and smokehouses are buildings. For

setback purposes, a building includes such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans, water, sewage, and oil tanks, and windows. Where independent buildings with separate entrances are not joined by a common wall and/or ceiling or floor, each building is a separate building.

BUNK HOUSE. A building consisting of individual sleeping rooms for one or more individuals working for the same employer, provided, the rooms are not for rent or lease to persons other than employees of the same employer.

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

CERTIFIED MOBILE HOME. 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, 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.) (*see also*, "MOBILE HOME").

CHILD CARE FACILITY. A home or structure used and maintained to provide, for compensation, care for five or more children unrelated to the care provider.

CITY. The City of Bethel.

COLLECTOR STREET. A street that carries traffic between local streets and other collectors and arterials.

COMMERCIAL USE. A retail or wholesale business enterprise.

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

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

CONSTRUCTION. Includes design, engineering, contract administration and work, labor and materials furnished for an improvement.

CONTROL VALVE. The shut off valve required by the city water utility to be placed on the water extension line on the customer's property.

CORNER LOT. A lot located at the intersection of two or more streets where the angle of intersection of the lot lines abutting those streets does not exceed one hundred thirty-five degrees.

CUL-DE-SAC. A road having one end open to traffic and being terminated at the other end by a vehicular turnaround.

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

DEDICATION. The intentional appropriation of land by the owners to public use.

DEVELOPMENT. Any man-made change to improved or unimproved land, including but not limited to, the excavation or relocation of material or depositing of fill on a parcel of land; mining, dredging, filling, grading, paving, or drilling operations; construction, reconstruction, conversion, structural alteration, relocation, or enlargement or any structure; for purposes of BMC chapter 15.08, it also includes any storage of equipment or materials; for purposes of BMC title 18, it also includes any use or change in use of any structure or land.

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

DISTRICT. Land use district established by BMC Title 18.

DRIVEWAY. A driving surface that connects the parking area of a property to a city, state, or privately maintained road. (also see "Interior Access Lane")

DUPLEX. A structure or use on one lot involving two attached common wall dwelling units, each unit designed for occupancy by one family

DWELLING. A building designed or used as the living quarters for one or more families.

DWELLING UNIT. A room or group of rooms constituting all or part of a dwelling which are arranged, designed and used or intended for use exclusively as living quarters for one family which may include washing, sleeping, and eating facilities, but no more than one kitchen.

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

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

ELEVATED BUILDING. For flood insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, or columns.

ENGINEER. A registered professional civil engineer authorized to practice engineering in the state.

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

FAMILY. One or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a roominghouse, club, fraternity house or hotel.

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

FEDERAL INSURANCE ADMINISTRATOR. The administrator of the FIA as established in 42 USC Section 4129.

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

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

FINAL PLAT. The final map, drawing, or chart on which the subdivision or resubdivision of land is presented to the planning commission or platting officer for approval, and which, when approved as meeting all preliminary plat conditions, will be submitted to the District Recorder for recording.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from either or a combination of the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD AREA, SPECIAL FLOOD HAZARD AREA, and AREA OF SPECIAL FLOOD HAZARD. The area within the city subject to the one-hundred-year flood as delineated on the Flood Insurance Rate Map for Bethel published by the Federal Insurance Administration. Designation of an area on the FIRM will always include the letter A or V.

FLOOD HAZARD BOUNDARY MAP. The map of the city issued by the Federal Insurance Administration which delineates the area subject to the one-hundred-year flood. This area is identified as the "special flood hazard area" on the map.

FLOOD INSURANCE RATE MAP OR FIRM. The official map of the city on which the Federal Insurance Administration has delineated the areas of special flood hazards and the risk premium zones applicable to the city.

FLOODPLAIN. That area of land adjoining the channel of a river, stream, or other similar body of water which may be inundated by a flood that can reasonably be expected to occur. The floodplain includes all the land within the limits of the one-hundred-year flood and the floodway within it if the floodway is delineated.

FOOD AND BEVERAGE SALES. Retail sales of groceries, beverages, and household items. Typical uses include grocery stores, convenience stores and bakeries.

FOOD AND BEVERAGE SERVICES. Establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premise consumption. Typical uses include restaurants, cafes, fast food outlets, including drive-through or drive-in establishments, and taverns.

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FREEZER VAN. A containerized shipping van usually about 8 feet wide by 8 feet high and either 20 or 40 feet long and which have sometimes been converted to dwellings or storage and other non shipping uses.

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

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

GENERAL PERMIT. General Permit No. 83-4, as amended, extended or reauthorized, and issued by the Corps of Engineers which places conditions on land development.

GREENBELT OR BUFFER PARK. A strip or parcel of land privately restricted or publicly dedicated as open space for the purpose of protecting and enhancing the environment.

GROSS USABLE AREA. The area within a lot or parcel of land that can be developed after subtracting areas of drainages, water areas, significant wetlands, setbacks, easements and areas that cannot be developed as a practical matter because of topography, soil or other physical conditions.

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

HOME OCCUPATION. An occupation carried on by the occupants of a dwelling as an accessory use in connection with which there is no exterior display of the activity except as noted in this definition, no persons are employed and no trucks or mechanical equipment is used or stored except trucks that are normally associated with a single family residence. Home occupations include knitting, making of clothing, basketmaking, skinsewing, jewelrymaking, fish smoking, dance or music instructions in classes of five pupils or less, and child care involving three or fewer children who are not members of the household. Home occupation does not include use by an electrician, plumber, doctor, dentist, repair or fix-it shop.

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

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

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

INSTITUTIONAL. A structure where the primary use is for educational, governmental, or hospital activities.

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

INTERIOR ACCESS LANE. A non-dedicated small vehicular way that is totally within the boundaries of a lot and provides direct access to parking spaces and/or provides interior circulation on the lot. (see "Driveway")

LAND USE ADMINISTRATOR. The manager of the City of Bethel Planning Department or such other person as the city manager appoints to administer Titles 15, 16 and 18 of the Bethel Municipal Code.

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

LOCAL STREET. A street, generally within a subdivision, designed primarily to provide direct access to individual abutting properties.

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

LOT DEPTH. The distance between straight lines connecting side lot lines, measured between the midpoint of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

LOT FRONTAGE. The length of the front lot line.

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

LOT LINE. A fixed boundary of a lot described by survey located on an approved plat filed for record.

LOT WIDTH. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

MANUFACTURED HOME. A structure, including a mobile home, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis

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and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; it also includes any structure which meets all the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the U.S. Secretary of Housing and Urban Development and complies with the standards established under 42 USC 5401 through 5426; and except that such term shall not include any self-propelled recreational vehicle.

MARGINAL STREET ACCESS. A frontage road which separates properties from arterials and collectors and eliminates the need for unlimited access to such streets.

MINOR STRUCTURE. For purposes of yard setback requirements, a structure such as a doghouse, small storage box or other small structure, not exceeding 3 feet in height and not occupying more than 25 square feet; except, a fence that does not exceed 6 feet in height is treated as a minor structure.

MOBILE HOME PARK. Any parcel of land, including separate parcels under common ownership, which is occupied by four or more mobile homes but not including a mobile home sales lot if none of the mobile homes are used as dwellings.

MOBILE HOME. A transportable structure constructed to be towed on its own chassis and designed to be used as a year-around residential dwelling (*see also* "CERTIFIED MOBILE HOME").

NONCONFORMING USE, LOT, OR STRUCTURE. Lots, structures, buildings, or uses of land that were lawful prior to the effective date of a provision of Title 15, 16, 17 or 18, an amendment thereto, the removal of federal or state protections on land, or the annexation of land into the city, but which fail by reason of such new or revised provision, removal of government restrictions, or annexation to conform to the present requirements of the provision.

NONCONFORMITY. A nonconforming lot, structure, or use of land or structures.

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

OFFICIAL MAP OR OFFICIAL LAND USE MAP. The map adopted by ordinance showing the boundaries of the land use districts to which the regulations of this code apply.

ONE-HUNDRED YEAR FLOODPLAIN. A flood of a magnitude which can be expected to occur on an average of once every one hundred years.

ONE-HUNDRED-YEAR FLOOD. A flood of a magnitude which can be expected to occur on the average of once every one hundred years. It is possible for this size flood to occur during any year. The odds are one to a hundred that this size flood will occur during a given year, there is a one percent chance that a flood of this magnitude will occur each year. Statistical analysis of available stream flow or coastal storm records, or analysis of rainfall and runoff characteristics of the watershed or coastal topography and storm characteristics are used to determine the extent and depth of the one-hundred-year flood.

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

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient property interest in a parcel that is subject to the provisions of Title 15, 16, 17 or 18 of the Bethel Municipal Code.

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

PARKING SPACE. A driveable surface of gravel, sand, concrete or asphalt that is accessible from a street, interior access lane or aisle.

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

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

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

PLAN. The city comprehensive plan.

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 and discretion in determining the nature and arrangement of and special restrictions on the development.

PLANNING COMMISSION. The City of Bethel Planning Commission.

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

PLATTING AUTHORITY. The planning commission.

PLATTING OFFICER. The manager of the City of Bethel Planning Department or such other person as the city manager appoints to administer Title 17 of the Bethel Municipal Code.

PRELIMINARY CONSULTATION. A voluntary meeting between the subdivider or developer and the land use administrator or platting officer for the purpose of informing the subdivider or developer of subdivision and development procedures and standards as prescribed by Titles 15 through 18.

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PRELIMINARY PLAT. The conceptual maps, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission.

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

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

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 work, doctor, dentist; insurance sales or similar use, but not including barber shop, beauty parlor, contractor, pest control, pharmacy, veterinary. (*Also see* "PERSONAL SERVICE").

PROPERTY LINE. The perimeter of the lot.

PUBLIC IMPROVEMENT GUARANTEE. A performance bond, deposit in escrow, letter of credit or a note from the applicant secured by a first deed of trust upon land given to the city to secure the timely performance of the applicant in the construction of required improvements.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, park, pedestrian way, street, offstreet parking area, lot improvement, street lights, sewer, water or other facility for which the city may ultimately assume the responsibility of maintenance and operation, or which may affect an improvement for which city responsibility is established.

PUBLIC OPEN SPACE. Land dedicated or reserved for the use by the general public, including, but not limited to, parks, parkways, recreation areas, and school sites.

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

REAR LOT LINE. That boundary of a lot which is most parallel to the front lot line and does not intersect the front lot line. In the case of a triangular lot, "rear lot line" means a line twenty feet in length within the lot parallel to and at the maximum distance from the front lot line.

REAR YARD. The distance between the property line that parallels or generally parallels the rear lot line and the part of a structure, other than a minor structure, nearest the rear lot line.

REGULATORY FLOOD. The one-hundred-year flood. The water surface elevation of the regulatory flood is the water surface elevation delineated on the flood insurance rate map.

REPLAT. An alteration to an original recorded plat; a resubdivision.

RESERVE STRIP. Land reserved adjacent to a proposed street for the purpose of denying access from adjacent property to such street.

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

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

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

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

RIGHT-OF-WAY. Land reserved, used or to be used for the use of supporting city services.

ROAD. A way for vehicular traffic, dedicated to public use.

SETBACK. The minimum distance required between a lot line and structures other than minor structures.

SEWER FACILITIES. All interceptors, pressure pumps, valves, sumps, heating and electrical facilities, manholes, guards and other features required for an operating, piped sewage collection system.

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

SIDE LOT LINE. That boundary of a lot which is neither a front or rear lot line and which is perpendicular or generally perpendicular to the front lot property line.

SIDE YARD. The distance between the side lot line and the part of a structure, other than a minor structure, nearest the side lot line

SIGNIFICANT WETLANDS. 1) those areas of the floodplain 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 wide area upland from the mean high water mark of major drainage ways, lakes and ponds.

SINGLE FAMILY DWELLING. A site-built dwelling unit designed for occupancy by one family for individual ownership, lease, or rental.

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 title 15. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape and drainage features, proposed fill activity, plans for accommodating drainage, access location and dimensions and plans for the water and sewer system.

STATE. The State of Alaska.

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

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STREET RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the centerline of the street.

STREET WIDTH. The shortest distance between the lines delineating the right-of-way of street.

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

STRUCTURE. Anything constructed or erected on the ground or attached to something located on the ground. Structures include walled or roofed buildings, radio and T.V. towers, storage vans, sheds, water tanks, sewage tanks, oil tanks, gas or liquid storage tanks that are principally above ground, fences and signs. Operable vehicles, sidewalks and boardwalks, and pavement are not considered structures for yard setback purposes. (See also, MINOR STRUCTURE and TEMPORARY STRUCTURE).

STUB STREET. A dead-end local street which provides for eventual expansion of the street onto unplatted land.

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

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

SUBSTANDARD LOT. A lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one or more of the applicable standards of BMC title 17 or 18.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

SURVEYOR. A land surveyor who is registered in the state.

TEMPORARY STRUCTURE. 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, and small storage boxes.

THOROUGH OR DOUBLE-FRONTAGE LOT. A lot other than a corner lot with frontage on more than one street.

TOPOGRAPHIC MAP. A map showing the land form by the use of contour lines.

TRACT. An area of land which has been defined on a subdivision plat, but has not been designated by lot and block numbers.

TRACT. An area within a subdivision that has been identified as a tract, but which is not a lot located within a numbered or lettered block and is not identified as a block.

TRIPLEX. A structure involving three attached common wall dwelling units, each unit designed for occupancy by one family, for ownership, lease or rental.

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

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

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

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

VEHICLE. Any mechanical device for carrying passengers, goods or equipment usually moving on wheels or runners, such as a car, bicycle, sled or snow machine.

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

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

WATER AREA. An area that is regularly or always occupied by water, whether standing, flowing or frozen.

WATER CONNECTION. That part of the water distribution system connecting a water main with the lot line of the property to be furnished water service.

WATER DEPENDENT. A use or structure for commerce or industry that is dependent on the water by reason of the intrinsic nature of its operations and which cannot exist in any other locations.

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WATER FACILITIES. All water mains, water connections, pumps, valves, fire hydrants, heating and electrical facilities, storage tanks and other parts of the city or a community water system.

WATER MAIN. That part of the water distribution system intended to, directly or indirectly, serve more than one water connection.

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.

SECTION 7. Title 17. Title 17 of the Bethel Municipal Code is repealed and reenacted to read:

TITLE 17 SUBDIVISIONS

Chapter 17.04 General Provisions and Requirements

Chapter 17.12 Preliminary Plat

Chapter 17.16 Final Plat

Chapter 17.18 Abbreviated Plat

Chapter 17.20 Minor Replats

Chapter 17.24 Improvements and Dedications

Chapter 17.28 Monuments

Chapter 17.32 Vacation of Dedications

Chapter 17.36 Variances

Chapter 17.40 Enforcement

Chapter 17.50 Property Numbering and Street Names

Chapter 17.04 General Provisions and Requirements

17.04.010 Authority.

17.04.020 Interpretation and purpose.

17.04.025 Notice

17.04.030 Applicability.

17.04.040 Conformance required.

17.04.045 Definitions.

17.04.050 Development phasing districts.

17.04.060 Existing lots.

17.04.070 Control and maintenance of dedicated and constructed facilities.

17.04.090 Conflicting provisions.

17.04.010 Authority.

Subdivision and platting powers and authority are vested in the planning commission, acting as the platting board, and referred to in this title as the "planning commission."

17.04.020 Interpretation and purpose.

It is the purpose of this title to promote and protect the public health, safety and general welfare of the people of the city; to provide for the proper arrangement of streets in relation to existing or proposed streets; to provide for adequate and convenient open spaces; to provide for efficient movement of vehicular and pedestrian traffic; to assure adequate and properly placed utilities; to ensure that subdivision and

development occur in a logical pattern in coordination with infrastructure availability; to provide access for firefighting apparatus, sewage collection and water delivery vehicles; to secure safety from flood and other dangers; to assure adequate drainage of land; to assure the reservation of adequate open space; to facilitate the further subdivision of larger tracts into smaller parcels of land; to ensure proper legal descriptions and monumenting of subdivided land. These regulations provide a mechanism for the planning commission to develop and apply new or more restrictive requirements when a new, unusual, or unanticipated circumstance comes to its attention and it appears to the commission that the provisions of this title are not adequate to deal with the circumstance. In addition, these regulations and provide for the accurate surveying of land; for equitable processing of all plats by providing uniform procedures and standards for observance by both the city and the subdivider; and for the proper preparation and recording of plats. The provisions of this chapter set out minimum requirements and shall be interpreted in the manner to accomplish the purposes set out in this section.

17.04.025 Notice.

A. Unless otherwise specifically provided in this title, notice of hearings required under this title shall be given as provided in subsections B through E of this section. When a hearing is required under BMC chapter 17.20, notice of that hearing shall be given as provided BMC 17.20.050.

B. Notice shall contain the following:

1. The date the complete application or petition was filed.
2. The name of the owner of the parcel that is the subject of the application or petition or the name of the person who made the filing.
3. The purpose of the application or petition.
4. A description of the location and a legal description of the parcel.
5. The date, time and place of the hearing.
6. The notice may contain any other information the platting officer believes to be appropriate or that the planning commission may require.

C. Notice shall be published at least once in a newspaper of general circulation in the city at least 6 days before the hearing.

D. Notice shall be mailed to the owners of each parcel of property any part of which is within 600 feet of the exterior boundary of the parcel that is the subject of the application or petition.

1. The name and address of the owner of each parcel that is to receive mailed notice and that receives sewer or water service from the city shall be provided to the platting officer by the public works department. The name and address of each other owner that is to receive mailed notice shall be provided to the platting officer by the applicant. An application is not complete until the applicant has submitted the list of the names and addresses of all such other owners. The applicant, its agents and successors, shall save, hold harmless and defend the city, its officers and employees, from and against all claims and suits based in whole or in part on the failure of the city to provide mailed notice to a person to whom mailed notice was required to be sent under this subsection if the applicant provided an incorrect address or no address for a person whose address it was the applicant's responsibility to provide. The name and address of the person shown in the records of the Bethel district recorders office as the owner of the relevant parcel shall be presumed to be correct.
2. Mailed notice shall be deposited in the U.S. Mail, postage paid, at least 5 days before the hearing.
3. Mailed notice may include maps or other additional material that is not included in the published or posted notice.

E. Notice shall be posted on the public bulletin board at city hall and at three other public places where other notices are regularly posted. Notice shall be posted at least 5 days before the hearing.

F. The failure of the city to fully meet each requirement of this section or of any other notice requirement of this title shall not be the basis for invalidating an action taken under this title if there was substantial compliance with the requirements of this or the otherwise applicable section.

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17.04.030 Applicability.

This title shall apply to the subdivision of all land located within the corporate limits of the city of Bethel, except as provided by law.

17.04.040 Conformance required.

A. A recorded plat of land within the city shall not be altered or replatted except pursuant to this chapter, on petition of the state, the city, a public utility, or the owners of a majority of the land affected by the alteration or replat.

B. No land shall be subdivided, sold or conveyed until the subdivider or his agent has submitted and obtained all approvals required by this title of both a preliminary and final plat of the land in accordance with this title, has obtained all signatures and seals required on the final plat, and the final plat has been recorded with the district recorder.

17.04.045 Definitions.

Words and terms used in this title are defined in BMC 16.12.

17.04.050 Development phasing districts.

For the purpose of designating the areas of the city in which certain types of public improvements must exist, be provided by the subdivider, or be planned and funded by the city, as a condition of subdivision plat approval, there is adopted the area or district designations shown on Figure 11, revised September 2000, entitled "Development Phasing" in the 1997 Comprehensive Plan of the City of Bethel. A question or a dispute as to the relationship of a parcel with respect to the boundary of a development phasing district shall be resolved in the manner provided in BMC 18.08.050 for the interpretation of boundaries on the Official Land Use Map.

17.04.060 Existing lots.

The provisions of this title and amendments thereto do not apply to any lot or lots forming a part of a subdivision legally created and recorded with the district recorder prior to the effective date of the amendment thereto, except in the case of further subdivision or resubdivision of existing lots or tracts.

17.04.065 Application of new requirements.

A. Except as provided in an agreement that meets the requirements of BMC 17.04.067 or as provided in an ordinance amending this title, an amendment to the standards or requirements of this title, including standards and requirements established by the city engineer, shall be applied by the planning commission to the subdivision of land that has not received unconditional preliminary plat approval by the planning commission and may be applied to the subdivision of land that has received unconditional preliminary plat approval but has not received unconditional final plat approval.

B. If the planning commission believes the current provisions of this title are inadequate to properly deal with an actual or possible circumstance for which it becomes aware, the commission shall recommend such standards and requirements as it believes to be appropriate. The platting officer shall prepare an ordinance for city council action that would amend this title to incorporate the commission recommendations. Unless the commission requests that the ordinance first be reviewed by the commission, the ordinance shall be forwarded to the manager for introduction and action by the city council.

C. Except as provided in an agreement that meets the requirements of BMC 17.04.067, new or more restrictive standards and requirements recommended by the planning commission pursuant to subsection B of this section shall be applied by the planning commission to the subdivision of land that has not received unconditional preliminary plat approval by the planning commission and may be applied to the

subdivision of land that has received unconditional preliminary plat approval but has not received unconditional final plat approval.

D. As used in this section, unconditional plat approval means approval of a plat without a condition that it be returned to the commission or the platting officer for further review or for approval of a change required by the commission or platting officer. Approval of a preliminary plat for phased development under BMC 17.12.100 shall be treated as a conditional preliminary plat approval. When the platting officer is authorized under this title to approve a preliminary or final plat, the term planning commission as used in this section includes the platting officer for purposes of applying standards recommended by the planning commission under subsection B.

17.04.067 Subdivision agreements.

A. In order to assure a subdivider that the subdivider may proceed with the subdivision of a parcel in accordance with existing standards and requirements under this title and not be subject to changes in such standards and requirements before the subdivider receives unconditional approval of the final plat of the parcel, the subdivider and the city may enter into a subdivision agreement pursuant to the provisions of this section. The rejection and the approval and execution of a requested subdivision agreement are within the absolute discretion of the city. A subdivision agreement is enforceable by each party to the agreement, but is effective only if approved by the planning commission by resolution and approved by the city council by a non-code ordinance.

B. A subdivider, upon payment of the required subdivision agreement application fee and the submission of such documents as the platting officer or planning commission may require, may submit to the planning commission a request that the city enter into a subdivision agreement with respect to the subdivision of a parcel for which a complete preliminary plat application has been submitted. The submission of a request for a subdivision agreement, whether or not the request is complete, suspends the running of the time within which a pending or subsequently submitted plat must be approved until the request is withdrawn, or is rejected by the planning commission or the city council, or receives the required approvals and the agreement is executed.

C. The planning commission shall consider the request for the subdivision agreement after reviewing the preliminary plat. If the commission determines that the existing standards and requirements of this title are adequate to deal with the likely impact of the subdivision as proposed or that they would be adequate if supplemented with additional requirements to which the subdivider agrees, the commission may, in its discretion, proceed to negotiate with the subdivider for a subdivision agreement containing such additional requirements, if any, as the commission believes are appropriate. The agreement may impose additional standards, requirements and exactions not otherwise applicable to the subdivision, without regard to whether such standards, requirements or exactions could be lawfully imposed as a subdivision or other city regulation.

D. A subdivision agreement may not reduce or eliminate the application of any standard or requirement of this title or of any other provision of the Bethel Municipal Code, nor of any standard or requirement issued by the city engineer. An agreement may limit the application of proposed standards and requirements to the pending plat, but may not limit or reduce any other discretion of the planning commission, require any particular decision or approval by the commission, or in any way lessen, affect or control the plat approval procedures in effect when the agreement is executed after city council approval. An agreement may not be inconsistent with applicable provisions of the comprehensive plan and shall, when possible, further the goals of the plan.

E. A subdivision agreement may not limit the application of any amendment of any title other than this title whether such amendment was recommended, proposed or adopted before or after execution of the agreement. The provision of any agreement that would have an effect prohibited by this subsection is void and unenforceable.

F. The provisions of an agreement that protect the subdivider from changes to the standards and requirements applicable to the subdivision of the parcel remain effective for so long as no party other than

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the city is in default under the agreement and there is timely performance by the subdivider of the construction of required subdivision improvements. The city may terminate the agreement if the final plat of the subdivision has not been approved within 18 months of the date the agreement is approved by the city council by ordinance or by the earlier of such other date as is set out in the agreement or is set out in the ordinance approving the agreement. Upon the termination of the agreement by the city for a default of the subdivider under the agreement or the failure of the subdivider to comply with a requirement of this subsection, the city may require the subdivider to bring the subdivision into compliance with all standards and requirements it avoided by virtue of the agreement and with all standards and requirements the planning commission may recommend within 60 days of the date the agreement is terminated.

G. A subdivision agreement does not have effect beyond the plat to which it applies and any resubdivision of any part of the same parcel shall be subject to all changes to the standards and requirements of this title except to the extent such resubdivision is subject to a new subdivision agreement.

17.04.070 Control and maintenance of dedicated and constructed facilities.

A. Acceptance of a plat dedication of a right-of-way, easement, park, way, square, place, open space, or any other public area shown on a plat gives the city control of the area and the obligation only to hold and manage the area in the public interest. The city has no duty to open, improve or maintain any way or other place upon its dedication by plat. The exercise of control over a dedicated area creates no duty for the city to open, improve or maintain the area.

B. The placement of utility facilities in a dedicated street or utility right-of-way or easement may occur only under a permit issued by the city authorizing the placement. The director of the public works department or such other person as the manager may designate shall issue utility permits. The permit may be conditioned on the payment of either or both one time or annual fees established by the council by resolution. The rights of the public or the city to the use of a dedicated way or easement is superior to that of a private utility or other private person. The owner of a utility facility placed in a dedicated way or easement shall be liable for the cost of removal or relocation of the facility if it interferes with a public project or public use of the way or easement.

C. The duty and liability for the condition of and for the maintenance, operation and repair of streets, boardwalks and other pedestrian ways, street lights, street signs, sewer and water facilities, drainage improvements and other improvements constructed by a subdivider as a condition of receiving final plat approval remain with the subdivider until the improvement meets the applicable standards of the city, is free and clear of liens and claims of any nature, and has been formally accepted by the city. Upon acceptance of such improvement by the city, title to the improvement vests in the city and the city assumes the duty of maintenance, operation and repair of the improvement, except as provided in this section.

D. The following improvements continue to be the responsibility of the subdivider after the city has determined that their construction meets the applicable city standards:

1. Community water systems that are required to be operated by the subdivider or a property owners' association.
2. Community sewage collection and disposal or treatment systems that are required to be operated by the subdivider or a property owners' association.
3. Open and recreational space that is required to be maintained and operated by the subdivider or a property owners' association.
4. Streets and other ways that are required to be maintained and repaired by the subdivider or a property owners' association.
5. Any other improvement or dedication required by the planning commission to be provided and that the commission requires be operated, maintained, repaired or controlled by the subdivider or a property owners' association.

E. Community water and sewer systems shall be designed and constructed to city standards and in such a manner that the system may be connected to the city system when city mains or laterals are extended to the area. The cost of connecting the community system to the city systems and the cost of any modifications or repairs to the community system that are necessary to bring the community system up to city standards or to make the community system compatible with the city system shall be paid by the property owners or customers of the community system. Payment shall be in a lump sum prorated on a property owner or customer basis unless a different proration or payment method is provided for in the applicable utility tariff. Upon connection of a community system to the city system title to all the facilities of the community system vest in the city, free of all claims and liens, unless otherwise provided in an agreement between the city and owner of the community system entered into at the time the systems are constructed.

F. Streets for which the city will not immediately assume maintenance responsibility, shall, nevertheless, be designed and constructed to applicable city standards and shall be constructed to the place where the subdivision street connects to the easement or right-of-way that provides access to the subdivision.

17.04.090 Conflicting provisions.

It is not the intent of this title to repeal, alter or annul, or in any way impair or interfere with, existing provisions of other laws or ordinances 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 or the planning commission imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, covenant or deed, the restrictions of the planning commission and this chapter shall govern.

Chapter 17.12 Preliminary Plat

- 17.12.010 Preliminary consultation.**
- 17.12.020 Preliminary plat required.**
- 17.12.030 Submittal, form and contents.**
- 17.12.040 Administrative review.**
- 17.12.050 Transmittal to concerned agencies.**
- 17.12.060 Public hearing.**
- 17.12.065 Suitability of land.**
- 17.12.070 Planning commission action.**
- 17.12.080 Modifications of preliminary plat.**
- 17.12.090 Abandonment.**
- 17.12.100 Phased final plat approval.**

17.12.010 Preliminary consultation.

The subdivider may, and is encouraged to, at any time prior to submitting a preliminary plat, request a meeting with the platting officer or the planning commission for the purposes of an informal preliminary consultation to identify land that may not be suitable for subdivision and development in its natural state, special design and other possible problems. A preliminary plat may be submitted at any time for review and action by the planning commission under this chapter.

17.12.020 Preliminary plat required.

Prior to submitting a final plat of a subdivision a subdivider shall submit a preliminary plat in order that general agreement may be reached and specific requirements established on layout and arrangement of streets, lots, drainages, access, dedications, required improvements and other features before a final plat is prepared.

17.12.030 Submittal, form and content.

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A. An original reproducible mylar and twenty paper copies of the preliminary plat and all information, certifications and material required under this section shall be submitted to the platting officer at least thirty calendar days prior to the planning commission meeting at which consideration of the preliminary plat is desired. The submission shall also include:

1. the preliminary plat fee,
2. a certificate of ownership indicating the date the land proposed to be subdivided was acquired, together with the book and page of each conveyance to the present owner or owners as recorded in the Bethel District Recorder's office,
3. a statement that all taxes and special assessments pertaining to the property have been paid or that a payment schedule satisfactory to the city has been arranged,
4. a list of the names and addresses of the owners of record of all property contiguous to and across a public right-of-way from the proposed subdivision, and
5. completed applications for all waivers, variances or other special permissions required under this chapter before the preliminary plat may be approved, including the fee required for each such additional special permission.

B. The preliminary plat shall show the land to be subdivided and the entire tract, plat, parcel, or survey in which the land proposed to be subdivided is located, including all subdivided lands within that tract, plat, parcel, or survey. The plat shall be prepared in black permanent ink and drawn on 24 inch by 36 inch sheets, except, if the subdivision creates or changes 5 or fewer lots, the plat may be drawn on 11 inch by 17 inch sheets. All sheets of a plat shall be the same size and the first sheet of a multi sheet plat shall contain an index to all the sheets. The plat shall be drawn to a scale of one inch equals one hundred feet if more than five lots are created or changed by the proposed subdivision, otherwise to a scale of one inch equals fifty feet. The planning commission may require the preliminary plat be redrawn on a different size sheet or to a different scale than the one used on the submitted plat and it may specify the sheet size and scale to be used on the final plat. The following information shall be placed on the plat:

1. Notation that the plat is preliminary;
2. Date, scale and northpoint;
3. Name of the proposed subdivision;
4. Location of the property by U.S. Survey, section, township and range;
5. The names and addresses of subdivider(s) and the surveyor preparing the plat;
6. Citation of existing covenants, reservations, deed restrictions, trails and easements on the property, if any;
7. Zoning on and adjacent to the proposed subdivision and any other land use designation of this area as established under Title 18 of the Bethel Municipal Code;
8. The approximate acreage, dimensions and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;
9. Location and size of existing and proposed utility systems or other improvements including but not limited to water, sewer, telephone, cable and electrical in and within two hundred feet of the proposed subdivision;
10. The general location of streams, lakes, other bodies of water, and waterways, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within two hundred feet of the proposed subdivision including proposed drainageways and drainageway modifications both within and outside the subdivision;
11. If any portion of the proposed subdivision is located in an area identified as a flood hazard area, a delineation of the one-hundred-year floodplain, every floodway and drainage way that is delineated within the floodplain, and the information required under BMC 15.08.170;
12. A statement concerning responsibility for construction, operation and maintenance of water supply and sewage collection, treatment and disposal facilities in the proposed subdivision;

13. Recommended or proposed type and location of water sources and sewage treatment or disposal systems on a typical lot diagram in relation to water sources and sewage collection, treatment and disposal systems on adjacent lots or in relation to city and community systems, if present;

14. To the extent ascertainable, a statement concerning the possibility of future community water or sewage systems and an appropriate timetable for their development and the proposed layout of service lines;

15. Representative soil testing, logs and borings prepared by a professional engineer registered in the state in an area and number sufficient to determine whether soils are suitable for surface and storm water drainage, street construction and on-site sewage disposal and to determine street construction and drainage system standards to be applied and the area required for soil absorption systems. If a method of sewage treatment and disposal other than soil absorption systems is proposed, soils borings shall be required only for street and drainage construction engineering purposes. The city engineer may require additional soil testing, logs and borings;

16. Contours sufficient to show topography but in no event greater than five-foot intervals. If the contour mapping of the subdivision is not available in the digital mapping base of the city, the drawings showing the contours shall also be submitted on disc media meeting the same standards as are required for the disc submission of the final plat. The contour drawing disc may be submitted with the final plat or at any time prior to the submission of the final plat;

17. A surveyors certificate in substantially the following form:

Surveyor's Certificate

"I, (surveyor's name and land surveyor number), on this _____ day of _____, 20___, hereby certify that I am a registered professional land surveyor in the state of Alaska and that this preliminary plat represents a survey made by me or under my direct supervision, and that all dimensional and other details are true and correct to the best of my knowledge."

(Seal and signature)

C. The names of proposed and existing streets in and adjacent to the proposed subdivision;

D. A vicinity map showing streets and other general development of the surrounding area at a scale of no less than one inch equals one thousand five hundred feet.

E. A copy of the current plat or U.S. Survey that creates the parcels subject to the proposed subdivision.

F. A copy of the current plats and U.S. Surveys of the land that abuts the boundaries of the proposed subdivision.

17.12.040 Administrative review.

The platting officer shall review the plat to determine whether all necessary information has been provided and all required factors have been addressed. Deficient documents shall be returned to the subdivider with a request to correct the deficiency. No preliminary plat shall be considered to be filed and accepted by the city if it does not meet the submittal requirements of this chapter, as determined by the platting officer. The applicant may appeal any decision of the platting officer to the planning commission.

17.12.050 Transmittal to concerned agencies.

The platting officer shall, within three days after determining the plat submittal meets the submittal requirements of this chapter, transmit a copy of the plat and all accompanying materials to the public works director, city fire department, the utility providing electric service and companies or agencies providing water and waste disposal, cable companies and telephone companies, and to federal and state agencies that may be affected by the subdivision or have jurisdiction over any aspect of the subdivision, for their review and comment. Comments, if any, shall be filed with the platting officer within fourteen days.

17.12.060 Public hearing.

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The platting officer shall schedule the plat for a public hearing before the planning commission, and shall give notice of the hearing as provided in BMC 17.04.025.

17.12.065 Suitability of land.

A. Land which the planning commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, adverse topography, utility easements, or other features that would cause the development of the proposed subdivision to result in a substantially harmful effect on the health, safety or general welfare of the present or future inhabitants or property in the subdivision or its surrounding areas shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission to solve any problems created by the unsuitable land condition. The subdivider shall construct all improvements and obtain and dedicate such interests in land as may be necessary to accomplish the solutions approved by the planning commission.

B. Except when replatting nonconforming or substandard lots, such lot, block and tract created by the plat and dedicated to undeveloped open space or other undeveloped purpose shall be configured so that a reasonable use and development may be accomplished as a practical matter and without the need for a variance or other relaxation of the provisions of BMC Title 15 and 18 or other provisions of the Bethel Municipal Code.

17.12.070 Planning commission action.

A. The planning commission shall approve, conditionally approve, or disapprove the preliminary plat within sixty days from the date the preliminary plat was accepted by the platting officer.

1. If approved by the commission, the platting officer shall sign the plat and attach thereto a notation that it has received preliminary plat approval and return it to the subdivider for compliance with final plat approval requirements.

2. If conditionally approved with modifications to be made, the platting officer shall sign the plat as conditionally approved, attach a statement of the changes required, and return it to the subdivider. If disapproved by the commission, the platting officer shall attach to the plat a statement of the reasons for such action and return it to the subdivider. In any case, a notation of the action taken and reasons therefore shall be entered in the records of the planning commission.

B. Approval of the preliminary plat by the planning commission shall not constitute final acceptance of the subdivision by the planning commission.

C. If improvements are to be constructed, the plans and specifications shall be submitted for approval by the city engineer. Required approval of the plans and specifications by state and federal agencies shall be submitted prior to submittal of the final plat and the commencement of construction. Construction of improvements may not begin until the platting officer has received notification of approval of the plans and specifications by the city engineer and the relevant state and federal agencies.

17.12.080 Modifications of preliminary plat.

A. When substantial modifications to the proposed subdivision occur or are proposed subsequent to preliminary plat approval, the platting officer may direct the subdivider to submit a new preliminary plat reflecting the modifications that occurred or are proposed subsequent to initial preliminary plat approval. A preliminary plat that is modified and submitted under this section shall be treated as a new submittal, must meet the requirements for original submittals, be advertised, heard and acted upon by the planning commission.

B. Minor proposed modifications may be approved by the platting officer if the modifications do not cause the plat to violate any standards applicable to the plat, require that the modified plat be reviewed and approved by a state or federal agency, and is consistent with the concerns and policies that may have

been expressed by the planning commission, city and state agencies and local utilities during the review and consideration of the preliminary plat.

17.12.090 Abandonment.

A preliminary plat shall be considered to have been abandoned by the subdivider if a final plat for such subdivision has not been submitted within eighteen months from the date the preliminary plat submittal was accepted for consideration. The subdivider may be granted an extension of this time by the planning commission not to exceed six months upon written application filed before the expiration of the eighteen month period, for reasons deemed adequate by the planning commission. Any plat not submitted for final approval within the period of time set forth in this section shall be null and void, and the subdivider shall submit a new preliminary plat if the subdivision is to receive planning commission consideration.

17.12.100 Phased final plat approval.

If an entire subdivision has received preliminary plat approval, the subdivider may, upon written approval of the planning commission, submit a final plat for a portion of the subdivision. Such partial plat and all subsequent plats for the remainder of the subdivision shall conform to the approved preliminary plat. The phasing and scheduling of such partial platting shall be specified in the planning commission's written approval. The last final plat must be submitted not later than 24 months from the date of the preliminary plat approval. All subdivision improvements necessary for a phase to be complete and for the improvements to function fully shall be completed or guaranteed prior to approval of the final plat for that phase.

Chapter 17.16 Final Plat

17.16.010 Preliminary plat required.

17.16.040 Filing.

17.16.050 Administrative review.

17.16.060 Transmittal to interested agencies.

17.16.070 Hearing.

17.16.080 Approval and recordation.

17.16.090 Public improvements guarantee.

17.16.110 Contents of final plat submittal.

17.16.010 Preliminary plat required.

The subdivision, resubdivision or replat of land under this title may be initiated by submitting to the planning commission for consideration a preliminary plat under the provisions of chapter 12 of this title.

17.16.040 Filing.

Following the approval of the preliminary plat and the completion by the subdivider and the acceptance by the city of all required improvements or the submission of an acceptable guarantee covering required improvements that have not been completed or have not been accepted by the city, the subdivider shall file with the platting officer, thirty days prior to the regularly scheduled planning commission meeting at which consideration of the final plat is desired, one reproducible mylar original and twenty (20) blue-line copies of the final plat, along with any required fees and reimbursements and all accompanying data and documents as required in Section 17.16.110.

17.16.050 Administrative review.

The platting officer shall review the final plat to determine whether all required items in the proper form have been submitted. The platting officer, city engineer and such other city officials as may be appropriate shall inspect the site to determine compliance with the approved preliminary plat and this title. Deficient documents shall be returned to the subdivider with a request to correct the deficiency. Written

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notice of deficiencies found during the site inspection shall be provided to the subdivider. No final plat shall be considered to be filed and accepted by the city for final planning commission approval if the submittal does not meet the submittal requirements of this chapter, including matters subject to the site inspection, as determined by the platting officer. The applicant may appeal any decision of the platting officer to the planning commission.

17.16.060 Transmittal to interested agencies.

The platting officer shall, within three days of determining that the submittal is complete, transmit a copy of the plat and all accompanying materials for the review and comment to the same agencies that received copies of the preliminary plat under section 17.12.050. Agencies shall have 14 days to comment on the final plat.

17.16.070 Hearing

The platting officer shall schedule the plat to be heard by the planning commission and shall give notice of the hearing as provided in BMC 17.04.025.

17.16.080 Approval and recordation.

A. The planning commission shall, within sixty days from the date the final plat was accepted by the platting officer as complete, approve, conditionally approve, or disapprove the final plat; provided, approval may not be given unless all required improvements have either been completed and accepted by the city or the construction of uncompleted or unaccepted improvements has been guaranteed in accordance with the provisions of BMC 17.24.300.

B. One copy of the final subdivision plat shall be returned to the subdivider with the date of approval or disapproval noted thereon, with the reasons for disapproval accompanying the plat if it was disapproved.

C. If approved, the platting officer shall sign the original reproducible of the final subdivision plat. A copy of the signed plat shall be distributed to the subdivider, the local utilities providing electric, telephone and cable service, the city public works department, companies providing water and sewage or waste disposal that are affected by the subdivision, and state and federal agencies with jurisdiction over the development of the subdivision.

D. If conditionally approved, the platting officer shall not sign the original reproducible of the subdivision plat until the platting officer verifies that the conditions have been met and the plat has been revised in accordance with the conditions specified by the planning commission as a condition of approval.

E. The platting officer shall file the original, signed plat with the district recorder's office within ten days of the later of date the last required signature is appended to the plat or the date all required documents and The subdivider shall pay all filing fees to the city before the plat is recorded. The recorded plat shall be returned to the platting officer who shall make a reproducible copy for the city files and shall notify the subdivider that the original recorded plat is available for delivery to the subdivider at the office of the platting officer.

F. No vested rights shall accrue to or under any plat by reason of final approval until the plat is officially recorded.

17.16.090 Public improvements guarantee.

When a public improvements guarantee is required under BMC 17.24.300, the platting officer may endorse approval of the plat only after the security has been determined by the platting officer to cover all required improvements and other performances required of the subdivider and has been approved by the city attorney as to form and content. If the guarantee is in the form of a deed of trust or other instruments

involving an interest in land, the instrument shall be immediately recorded in the appropriate district recorder's office and the recording fees paid or reimbursed by the subdivider.

17.16.110 Contents of final plat submittal.

A. The final plat submission is complete when the submission meets the requirements of this section and all fees, charges and reimbursable costs for which the subdivider is liable have been paid.

1. The final plat will have incorporated all, but only, those changes or modifications required or approved by the planning commission or required under BMC 17.18.030A. If none, it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion conforms with all the requirements of this chapter and such portion has been approved by the planning commission for phased final platting under BMC 17.12.100.

2. The subdivider shall submit to the planning commission a certificate to plat covering the land that is to be subdivided.

3. A copy of the letter from the Department of Environmental Conservation approving the sewer and water plans for the subdivision is required.

4. The subdivider shall submit the final plat drawings on disc media in a format specified or approved by the platting officer.

B. The final plat shall be prepared by a registered surveyor and shall be clearly and legibly drawn in black, permanent ink on reproducible mylar. Unless the planning commission has specifically approved or required a different scale or drawing size for the final plat, the size of the sheet and the scale of the drawing shall be as required for preliminary plats under BMC 17.12.030B; where multiple sheets are used to cover the platting of any subdivision, the sheets must be of the same size and the first sheet must contain an index to all the sheets.

C. The following information shall be placed on the plat:

1. Notation that the plat is "final;"

2. A title block which shall be placed on the lower right hand corner of each drawing of the set comprising the plat. It shall show at least:

a. Name of subdivision, including the phase number if it is a phase of a subdivision approved under BMC 17.12.100,

b. Sheet number and total number of sheets,

c. Date,

d. Scale,

e. Location of subdivision by U.S. Survey, township, section and range;

f. Total acreage of the final subdivision,

g. Total number of lots in the subdivision;

3. North point and a graphic scale

4. A statement that the subdivision plan has received approval from the Alaska Department of Environmental Conservation pursuant to applicable regulations which shall be specified on the plat or that no such approval is required;

5. Each plat of a subdivision filed for record shall contain a certificate of ownership and dedication. The certificate shall be signed in black ink by all persons, including owners, trustees, settlors and trust beneficiaries, lienors, mortgagees and others having any legal, security or equitable interest in the lands subdivided or dedicated, and shall be acknowledged before an officer duly authorized to take acknowledgements of deeds, in the manner in which deeds are required to be acknowledged. If the interest is held by a corporation, it shall be signed and acknowledged by a person authorized by a resolution of the board of directors of the corporation to execute deeds for the corporation or to execute the certificate. If the interest is held by a government agency, it shall be signed by a person authorized by appropriate law to execute deeds for the agency or to execute the certificate. When a person holding a mortgage, lien or other security or equitable interest in the lands has not signed the certificate of ownership, the person may provide

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a written certification or claim of interest and consent to the subdivision and dedications on the plat. The signature of a person who holds a subsurface estate or interest is not required.

The certificate of ownership and dedication and the acknowledgment shall be substantially as follows:

Certificate of Ownership and Dedication

“(I)(We) certify that (I am)(we are)(_____, Inc., is) the owner(s) of the property, or of an interest therein, shown and described in this plat, and that (I)(we)(it does) adopt this plan of subdivision by (my)(our)(its) free consent and dedicate all rights-of-way, streets, alleys, ways, and public areas to the City of Bethel and grant to the City of Bethel for the uses shown all easements not shown as private.”

Owner's name and address

_____, 20__

Date

Acknowledgment

This is to certify that on the ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the state of Alaska, duly commissioned and sworn, personally appeared _____, to me known to be the person(s) described in and who executed the above certificate of ownership and dedication; and who, being sworn or under oath, acknowledged to me that they signed the same freely and voluntarily for the uses and purposes therein mentioned (and that they did so on behalf of and with the full authority of _____, Inc.).

Witness my hand and official seal the day and year in this certificate first above written.

Notary for the state of Alaska

[SEAL]

My commission expires: _____

6. A surveyor's certificate shall be provided in substantially the following form:

Surveyor's Certificate

“I, (surveyor's name and land surveyor number), on this ____ day of _____, 20__, hereby certify that I am a registered professional land surveyor in the state of Alaska and that this plat represents a survey made by me or under my direct supervision, that the monuments shown on the plat actually exist as described, that all monuments set as a part of this subdivision were set by me or under my direct supervision, and that all dimensional and other details are true and correct to the best of my knowledge.”
(Seal and signature)

7. A certificate of approval in substantially the following form for execution by the platting officer shall be provided. The city clerk shall print or emboss the seal of the City of Bethel under the certificate.

Platting Officer's Certificate

“I certify that this subdivision plat has been found to comply with the land subdivision regulations of the City of Bethel, and that the plat has been approved by the platting authority by Resolution number _____, dated _____, 20__, and that this plat has been approved for recording in the office of the recorder in the Fourth Judicial District at Bethel, Alaska in which the plat is located.”

City of Bethel Platting Officer

[SEAL OF CITY]

_____, 20__

8. In the case of a vacation of publicly dedicated land, the following certificate shall be printed on the plat and signed by the platting officer:

Certificate of Vacation

"I hereby certify that the vacation shown herein has been found to comply with the requirements of state law and the subdivision code of the City of Bethel (BMC Title 17), and that said vacation has been duly approved by the platting authority by Resolution number _____, dated _____, 20__, and has received such approval of the Bethel City Council as is required by statute and city ordinance."

Platting Officer

_____, 20__

9. Within the subdivision, the centerlines of all rights-of-way, lengths and radii of all curves, and the total width of each right-of-way;
10. The exact boundaries of all areas to be dedicated or reserved for public use or for the common use of the property owners. The purpose of the dedication or reservation shall also be set forth if the public use is for a limited purpose;
11. The names of adjacent subdivisions and the lot numbers of adjacent lots. If the adjacent land is not subdivided, it should be so indicated and the land identified by U.S. Survey or other means;
12. The delineation of flood hazard areas;
13. The location of flood plain boundaries, drainage ways, undevelopable areas, easements and other conveyances for public purpose, including the book and page where recorded.
14. The centerline and total width of trails, pedestrian ways, alleys, and utility easements.
15. A statement of the city accepting for public use and purpose all dedicated lands and areas shown on the plat, such statement to be signed by the mayor and city clerk;
16. Official seals of the attesting officers and of the land surveyor who surveyed the plat;
17. Locations of all monuments and stakes and a graphic presentation of the designation appearing on the caps of the monuments;
18. Initial point of survey, original or reestablished corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat. The length and bearing of each lot, block and tract line shall be shown.

D. All final plats requiring construction of public improvements that have not yet been completed and accepted by the city shall be accompanied by a public improvements guarantee meeting the requirements of BMC 17.24.300.

E. Every final plat of a subdivision submitted for recording shall be accompanied by a certificate to plat, executed no more than 90 calendar days prior to recording, by a title insurance company, confirming that the title of the land described and shown on the plat is in the name of the person or persons, including corporations and other entities, signing and shown in the certificate of ownership on the plat.

Chapter 17.18 Abbreviated Plat and Waiver

17.18.005 Abbreviated plats.

17.18.010 Preliminary plat procedure for abbreviated plats.

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17.18.020 Notification for abbreviated preliminary plats.

17.18.030 Abbreviated preliminary plat: approval, conditional approval, disapproval.

17.18.050 Notice and procedure for abbreviated final plats.

17.18.060 Approval or disapproval for abbreviated final plats.

17.18.070 Waiver of final platting procedures.

17.18.005 Abbreviated plats.

A subdivision meeting the definition of "abbreviated plat" may be processed under the provisions of this chapter. The plat contents and standards are governed by BMC 17.12 applicable to regular preliminary plats.

17.18.010 Preliminary plat procedure for abbreviated plats.

A. The subdivider shall submit fifteen (15) copies of the abbreviated preliminary plat to the planning department at least 30 working days before the next scheduled meeting of the planning commission in order to insure sufficient time for agency comment and public notice.

B. The filing date shall be the date on which all fees and materials required by this chapter have been submitted to the city. The filing date shall be recorded on the application and stated in the resolution which approves, conditionally approves, or disapproves the preliminary plat of the subdivision.

17.18.020 Notification for abbreviated preliminary plats.

A. Notice of the hearing on an abbreviated preliminary plat shall be given as provided in BMC 17.04.025.

B. Local, state, or federal agencies or entities which service, regulate, or are determined by the platting officer to be affected by the proposed subdivision shall be provided a copy of the preliminary plat for comment. Agencies and entities may include, but are not limited to, the telephone, electric, cable and other utilities in the city, the city public works department, city fire department, Bethel schools, Alaska Department of Environmental Conservation, Alaska Department of Transportation and Public Facilities, Alaska Department of Natural Resources, and U.S. Army Corps of Engineers.

17.18.030 Abbreviated preliminary plat: approval, conditional approval, disapproval.

A. The planning commission shall approve, conditionally approve, or disapprove the abbreviated preliminary plat within 60 days of the filing date or the abbreviated plat is considered approved with such changes and conditions as the platting officer has recommended in writing prior to the expiration of the 60-day period.

B. The planning commission or the platting officer shall request that the subdivider consent to an extension of the 60-day period if it is anticipated that no action will be taken within the 60-day time frame and the planning commission has made a good faith attempt to review the plat.

C. Approval of the abbreviated preliminary plat shall entitle the subdivider to approval of the final plat if the final plat conforms to the approved abbreviated preliminary plat, complies with the conditions of approval placed on the subdivision and complies with all other provisions of this code and all applicable statutes and regulations.

17.18.050 Notice and procedure for abbreviated final plats.

Except as provided in section 17.18.070, the final plat procedure for an abbreviated plat shall be the same as for a standard plat except that the final plat and subdivision shall be approved or disapproved administratively by the platting officer rather than by the planning commission.

17.18.060 Approval or disapproval for abbreviated final plats.

A. The platting officer shall approve or disapprove the final abbreviated plat within 60 days after a request for approval is filed, or shall return the plat to the applicant for modification or correction and state what must be done to make the plat acceptable to the city.

B. Any reasons for the disapproval of the plat or subdivision by the platting officer shall be stated in a written notice to the subdivider.

C. The platting officer's written reasons for rejection shall be mailed certified, return receipt requested, to the applicant within five (5) working days of the date of the decision. The notice shall set out the right of the subdivider to appeal the decision to the planning commission.

17.18.070 Waiver of final platting procedures.

A. Upon application for a waiver of final plat accompanied by the waiver application fee and the fees for recording the waiver documents and plat, the preparation, submission for planning commission approval, and recording of a final plat after planning commission approval of the abbreviated preliminary plat shall be waived on satisfactory evidence that all conditions of the abbreviated preliminary plat approval have been met and that all lots, tracts and parcels created by the subdivision are five acres or larger.

B. On determination that the application meets the requirements for a final plat waiver, the platting officer shall sign the waiver and file the application, waiver and preliminary plat in the district recorder's office.

C. The approval of a final plat waiver does not waive any requirements for construction of improvements nor any other standards or requirements of this chapter.

D. Preparation, submission for approval and recording of a plat shall not be required when the land is subdivided by a judicial order when such order and transaction are satisfied and completed and filed with the district recorder.

Chapter 17.20 Minor Replats

17.20.010 Purpose and authority.

17.20.020 Substandard lots.

17.20.030 Lot line adjustments.

17.20.040 Notice.

17.20.050 Hearing.

17.20.060 Decision.

17.20.070 Certification.

17.20.010 Purpose and authority.

A. It is the purpose of this chapter to establish procedures and standards for processing changes to plats where the application of all the requirements of BMC chapter 17.12 and 17.16, or 17.18 are unnecessary.

B. Upon a determination by the platting officer that a replat meets the requirements of BMC 17.20.020 or 17.20.030, the platting officer may waive specific requirements of BMC 17.12 and 17.16 or 17.18 governing survey, drawings, documents and other submission content requirements as may be unnecessary for the replat. The platting officer may require different, additional, or modified submissions as may be suitable for a particular replat.

17.20.020 Substandard lots.

The standards applicable to the subdivision of land may be waived by the platting officer for the replat of substandard lots if the following conditions are met:

A. One or more lots involved in the replat are substandard lots, as defined in BMC title 16;

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B. Because of separate ownerships, unavailability of sufficient additional land and similar reasons, it is not reasonable to require the replat of the lot in a manner that will bring the lot into conformance with all the requirements applicable to the lot;

C. One or more of the conditions that make the lot substandard under the present code would be reduced or eliminated under the proposed replat;

D. The number of substandard lots after the replat may not be more than before the replat; except, if one or more conforming lots would be made nonconforming under the proposed replat, the platting officer may waive the foregoing requirement of this subsection D only if:

1. the number of conforming lots that will be made nonconforming is the minimum that could be reasonably included to minimize or eliminate the existing nonconformity, and
2. the new nonconforming conditions do not create a significant violation of the purposes and policies for the standard violated;

E. Overall, the benefits to the public from the reduction or elimination of the prohibited conditions would outweigh the disadvantages of any increase in the number or extent of prohibited conditions. The creation of a new condition that violates the applicable provisions of the city code, or expansion of an existing prohibited condition, is strongly discouraged and shall be permitted only for compelling reasons. A new condition that constitutes a new violation of an applicable provision of the city code shall be specifically noted on the documents to be recorded and shall be treated as a nonconforming condition as of the date of recording of the platting officer's certificate executed pursuant to BMC 17.20.070.

F. The number of lots after the replat will not exceed the number of lots before the replat;

G. All replatted lots will have legal and practical access;

H. No vacations or dedications will occur or be required; and

I. The arrangement and development of the replatted lots will not create drainage problems or adversely affect existing drainage.

17.20.030 Lot line adjustments.

A. The platting officer may waive unnecessary requirements of form and content of preliminary and final plat submissions if the platting officer determines at a preliminary consultation with the subdivider that:

1. No more than four existing lots are involved in the replat;
2. All lots resulting from the replat will conform to the applicable standards of BMC titles 17 and 18 and that setback, yard, height, barrier, buffer and other standards and restrictions in titles 15 and 18, or imposed under a permit, that are dependent upon property line location, will not be violated by existing structures or uses;

3. No additional lots will be created;

4. No vacation or dedication is required to accommodate the replatted lots;

5. No waiver, variance, or other relaxation of the standards and requirements of the

Bethel code will be required to permit a reasonable development and use of the lots that are created by the replat.

B. Replats under this section may involve only the relocation or deletion of existing lot boundary lines.

17.20.040 Notice

Upon receipt of the required fee and a submission that the platting officer determines meets the requirement for a submission under this chapter, notice of the replat request, including a sketch or drawing showing the proposed replat, shall be mailed to the owners of property abutting the lots within the replat, including owners of property separated by a street from the lots to be replatted, and posted in three public places within the city. Notice shall also be provided to the director of public works and any utility or

government agency the platting officer believes may be affected by the replat. The notice shall state the date by which written comments must be received which may not be sooner than 14 calendar days from the date notice is mailed. The notice shall also contain the provisions of BMC 17.20.050(A)(1).

17.20.050 Hearing.

- A. No hearing shall be held unless,
 - 1. within seven (7) calendar days of the date notice is mailed, persons who own 25% or more of the lots whose owners are entitled to notice under BMC 17.20.040 file with the platting officer a written request for a hearing on the replat, or
 - 2. the platting officer determines a hearing should be held.
- B. If a hearing is to be held, the platting officer shall schedule a hearing on the replat and shall give notice of the hearing as provided in BMC 17.04.025. The notice shall state that the hearing shall be before the platting officer.
- C. The platting officer shall conduct the hearing and receive oral testimony as well as written and documentary evidence. The hearing shall be recorded. The platting officer shall consider all evidence submitted at the hearing as well as the written comments and other material submitted prior to the hearing. Material submitted prior to the hearing shall be available for public inspection prior to the hearing.

17.20.060 Decision.

- A. After the hearing, or after the date by which written comments are to be received if no hearing is held, the platting officer shall determine whether the replat meets the conditions of BMC 17.20.020 or 17.20.030, as applicable, whether modification of the requested replat must be made to meet the conditions, or whether additional information is required before a decision can be made. Upon a determination that the replat should be approved, the platting officer shall issue a written decision approving the replat, stating the facts found that support the approval. A decision that the replat must be denied shall be in writing and state the facts supporting the denial. A replat may be approved subject to specified conditions which must be met before a certification under BMC 17.20.070 will be issued.
- B. The decision shall be mailed to all persons who provided written comments or materials and to those who testified at any hearing that was held.
- C. The decision may be appealed to the planning commission by the applicant or any person who provided written comments or materials or who testified at any hearing that was held. The appeal shall be filed with the platting officer within ten (10) calendar days of the date of the decision and shall be governed by the provisions BMC 18.72.010 C through G except that the platting officer shall have the duties of the land use administrator described in BMC 18.72.010.

17.20.070 Certification.

After the expiration of the period of time during which an appeal of the platting officer's decision may be filed, and upon the receipt of a certificate to plat, the sketch, drawing, survey, and other documents requested by the platting officer and a determination that all conditions of approval have been met, the platting officer shall issue a certificate of replat to which shall be attached a legible and recordable sketch, survey, or other drawing, showing the replatted lots. The drawing shall also contain notes required by the platting officer and this chapter, a reference to the name and recording information of the plat showing the arrangement of the replatted lots immediately prior to the replat, the date of the replat drawing and a descriptive title or name of the drawing. The platting officer shall add to the drawing a reference to the replat certificate by date and number if numbered. The replat certificate shall verify that the replat attached was approved pursuant to the Bethel Municipal Code. The certificate shall make reference to the attached drawing by name and date and shall be dated and signed by the platting officer and sealed by the city clerk. The executed certificate and the attached drawing and any other appropriate documents shall be recorded by the city in the Bethel recording office and a conformed copy obtained for the city platting records.

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Chapter 17.24 Subdivision Design, Improvements and Dedications

Article I General

- 17.24.010 Comprehensive plan and zoning code compliance.
- 17.24.020 Preservation of physical features.

Article II Streets

- 17.24.030 Street classification.
- 17.24.040 Access and dedication.
- 17.24.050 Circulation system design.
- 17.24.060 Street construction.
- 17.24.070 Street signs.
- 17.24.080 Street lighting.

Article III Lots and Blocks

- 17.24.110 Lots--proportion.
- 17.24.120 Lots--drainage.
- 17.24.130 Lots--area.
- 17.24.140 Lots--frontage.
- 17.24.150 Lot, block and tract identification.
- 17.24.160 Blocks--two-tiered arrangement.
- 17.24.170 Blocks--length, width and shape.
- 17.24.180 Environmental compatibility.

Article IV Easements

- 17.24.200 Easements--non-utility.
- 17.24.210 Easements--utility.
- 17.24.220 Easements--drainage.

Article V Water Improvements

- 17.24.228 Water development phasing districts established.
- 17.24.230 Water supply facilities, water development phasing district 1.
- 17.24.235 Water supply facilities, water development phasing district 2.
- 17.24.240 Water supply facilities, water development phasing district 3.
- 17.24.245 Oversizing facilities.
- 17.24.250 Community systems.

Article VI Sewer Improvement

- 17.24.258 Sewer development phasing districts established.
- 17.24.260 Sewer facilities, sewer development phasing district 1.
- 17.24.265 Sewer facilities, sewer development phasing district 2.
- 17.24.270 Sewer facilities, sewer development phasing district 3.
- 17.24.275 Oversizing facilities.
- 17.24.280 Community systems.

Article VII Recreation, Open Space and Other Facilities

- 17.24.280 Recreation and open space dedication.

Article VIII Public Improvements Guarantee

17.24.300 Guarantee of improvements.

Article I General

17.24.010 Comprehensive plan and zoning code compliance.

17.24.020 Preservation of physical features.

17.24.010 Comprehensive plan and zoning code compliance.

Subdivisions shall be designed to accommodate the type of land use designated by the zoning code for the area of the proposed subdivision. If the comprehensive plan and the current zoning are not consistent, the design shall, to the extent possible, be such as to accommodate both land use designations.

17.24.020 Preservation of physical features.

Existing features which would add value to residential development of the city as a whole, such as watercourses, beaches, recreation areas, historic and cultural sites, and similar irreplaceable assets, shall be preserved in the design of the subdivision.

Article II Streets

17.24.030 Street classification.

17.24.040 Access and dedication.

17.24.050 Circulation system design.

17.24.060 Streets--construction.

17.24.070 Street signs.

17.24.080 Street lighting.

17.24.030 Street classification.

A. Public streets within the city shall be designated by planning commission resolution as arterial, collector or local. The designation shall be based on projected traffic demands after twenty years of development consistent with the comprehensive plan.

B. In determining the correct designation, the planning commission shall consider:

1. Present traffic load and nature of the traffic on the street.
2. Anticipated future traffic load and nature of the traffic on the street.
3. The proposed function or designation of the street in the comprehensive plan.
4. Plans or proposals of the Alaska Department of Transportation and Public Facilities

that may affect the use of the street.

5. Standards and guidelines in the comprehensive plan and of professional engineering associations.

Greatest weight shall be given to the designation proposed in the comprehensive plan.

C. A designation made or proposed in any element of the comprehensive plan shall govern in the absence of a designation in the planning commission resolution.

17.24.040 Access and dedication.

A. Access by dedicated right-of-way shall be provided to all subdivisions and to all lots, tracts and parcels within subdivisions except as provided in subsection (K) of this section. Access shall be physically reasonable. In addition, dedicated rights-of-way to provide for pedestrian circulation shall be provided in locations and in a manner so as to provide adequate circulation for pedestrians in such locations as the planning commission shall specify. Blocks shall not be unreasonably long so as to impede movement of pedestrian traffic.

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B. The creation of reserve strips shall not be permitted adjacent to a street or other public right-of-way in such a manner as to completely deny access from adjacent property to such a right-of-way unless the street is an arterial or collector street.

C. All dedicated street rights-of-way shall be at least sixty feet wide unless the planning commission requires a wider way be dedicated. In addition, a notation that all streets, alleys and pedestrian ways are dedicated to the public shall be placed on the plat.

D. Cul-de-sacs shall be dedicated to a minimum radius of seventy feet with a return radius of seventy feet.

E. A temporary turnaround shall be dedicated at the dead-end of all streets likely to be extended in the future. The turnaround shall have a minimum radius of sixty feet with a return radius of sixty feet. When the street is extended, the excess right-of-way shall be vacated. A notation to this effect shall be placed on the final plat.

F. Alleys may be required for service access, offstreet loading and offstreet parking access purposes in subdivisions of land zoned for industrial, commercial or multi family apartment residential use. Dead-end alleys are prohibited. Alley rights-of-way shall be dedicated to a minimum width of twenty feet.

G. Pedestrian rights-of-way shall be dedicated to a minimum width of ten feet; except, where the pedestrian way is for the purpose of providing pedestrian access to public facilities such as schools, parks, playgrounds or other nearby roads, the minimum dedicated width is twenty feet.

H. Arterial and collector streets shall be dedicated in an amount equal to sixty feet of the proposed right-of-way width if the entire street is within the proposed subdivision and the subdivision has access to the street.

I. Half streets shall not be allowed, except, whenever a parcel to be subdivided borders an existing half street, the other part of the half street shall be dedicated within such parcel unless

1. such dedication is deemed unnecessary or undesirable by the planning commission,
2. the failure to dedicate will not cause the trafficway to be offset from the center line of the right-of-way or any extension thereof, and
3. the existing half street is of sufficient dedicated width to permit construction of a street meeting the current street construction standards.

J. Where a subdivision abuts or contains an existing or a planned arterial or collector street, the planning commission may require the dedication of a frontage street for the adequate protection for adjoining properties and to afford separation of through and local traffic. Lots that abut an arterial or collector shall not have access to the arterial or collector and a note prohibiting such access shall be placed on the plat.

K. Every subdivision, to the greatest extent practicable, shall be accessible to the public street system by a dedicated street. Subdivisions with access only by easement may be allowed only when there is no public access to the proposed subdivision through land owned or previously owned by the applicant if the subdivider can, to the board's satisfaction, guarantee that adequate, perpetual access by public easement to the subdivision will always be available. Access by easement shall meet the dimensional and construction standards of dedicated streets. Agreements between affected land owners that guarantee easement access shall be submitted with the preliminary plat. A recordable easement in favor of the city for all street purposes, including utility uses, shall be submitted with the final plat, shall be referenced on the plat and recorded with the plat. Access to lots within a subdivision may not be by easement.

L. Dedications or easements for trails shall be provided in accordance with this subsection.

1. When an existing trail identified as a trail in the comprehensive plan, or on a separate trails map or plan adopted by the city council passes through any part of a parcel that is being subdivided, a trail easement or right-of-way shall be dedicated; provided, the location of the trail may be changed to accommodate reasonable requirements of the subdivider so long as the new location is as safe and convenient as the original location. A relocated trail shall be constructed by the subdivider to a condition equal to the condition of the trail section being replaced. If the planning commission requests the trail be

relocated to improve safety or convenience, the city may agree to construct the relocated section of the trail if funds are available for such purpose.

2. When an existing trail is interrupted by a parcel being subdivided or is diverted around the parcel, the planning commission shall require a trail easement or dedication through the parcel if the relocation of the trail would improve the safety and convenience of the trail use. The city may agree to construct the relocated trail if funds are available for such purpose.

3. The width of a trail easement or dedication shall be sufficient to accommodate the traditional use made of the trail.

4. A trail that has not regularly been used for motorized vehicle traffic may be limited by plat note to non-motorized uses.

5. The area occupied by a dedicated trail may be counted by the subdivider as developable open space under the requirements of BMC 17.24.280.

17.24.050 Circulation system design.

A. The circulation system shall be designed to:

1. Discourage through traffic in residential subdivisions;
2. Require the minimum number of streets and intersections necessary to provide convenient and safe access to property;
3. Be arranged so as to maximize the number of building sites at or above the grades of the streets;
4. Avoid a combination of steep grades and curves;
5. Be arranged in proper relation to topography so as to result in usable lots, safe streets, reasonable gradients and minimum damage to terrain and existing vegetation;
6. Use land in the most efficient way;
7. Be properly related to all existing and proposed special traffic generators such as industrial, business and shopping districts, schools and churches; to population densities; and to the pattern of existing and proposed land uses;
8. Complement drainage patterns;
9. Preserve natural features such as watercourses, geology, etc.
10. Allow for the efficient provision and extension of public utilities and services;
11. Implement the transportation element of the comprehensive plan.
12. Permit the trafficway to be centered within the right-of-way.
13. Provide safe sight distances and intersections.
14. Facilitate pedestrian traffic through the dedication of pedestrian trails or rights-of-way to provide access to public and other facilities and through the middle of long blocks.
15. Continue arterial, collector and local streets from adjacent existing subdivisions wherever possible.
16. Minimize the potential for wind damage in areas where extreme wind conditions exist.

B. The city engineer shall develop and issue standards for street layout design including, but not limited to, standards for sight distances, corner roundings, street intersection angles and other elements of street layout design that affect the safety and efficiency of streets. Unless the city engineer has issued more stringent standards, the following apply as the minimum layout design standards for street arrangement:

1. Multiple cul-de-sac or dead-end streets extending from a single entrance are not permitted.
2. Cul-de-sac and dead-end streets shall not be more than six hundred feet in length.
3. The number of intersections, especially between streets of different classification, shall be kept to a minimum.

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4. Streets shall intersect at ninety degrees or close thereto and in no case less than seventy-five degrees. The distance between intersection centerlines shall not be less than one hundred fifty feet.

5. No intersection shall be located near the brow of a hill or where an embankment blocks vision.

6. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of the street; otherwise the points of intersection shall be at least 150 feet apart.

17.24.060 Street construction.

A. All streets, including cul-de-sacs, temporary turnarounds and alleys, shall be constructed by the subdivider in accordance with construction standards developed and issued by the city engineer. For purposes of this section, the construction required includes, as a minimum, the driving surfaces, shoulders, ditches, culverts and other surface drainage, and cuts and fills. It also includes curbs, gutters, parkways, sidewalks, boardwalks and other street related improvements required by the planning commission. Unless the city engineer has issued a more stringent standard, the following apply as the minimum construction standards:

1. The maximum allowable grade of any street is ten percent except, the grade at intersections may not exceed plus or minus one half of one percent for a distance of 50 feet from the edge of the improved driving surface of the intersected street.

2. Minimum drainage grade on all streets and alleys shall be two percent.

3. Embankments shall not be less than a three-to-one slope.

4. All slopes shall be seeded.

5. Within the improved driving surface of a street, there shall be a minimum of six inches of compacted C1 gravel rolled to ninety percent compaction.

6. All local streets shall have a minimum of two 14 foot travel lanes and 3-foot shoulders for a total surface width of 34 feet.

7. In areas where on-street parking is deemed appropriate and needed by the planning commission, shoulder width shall be increased to 7 feet for a total surface width of 44 feet.

8. Arterial and collector streets shall have a minimum of two 14-foot travel lanes and 4-foot shoulders for a total surface width of 36 feet.

9. The travel lanes of arterial and collector roads shall have an improved surface that meets the city engineer's specifications and is approved by the public works director.

10. Cul-de-sacs and temporary turnarounds shall have an improved driving surface of at least a 60-foot radius plus a two foot shoulder. Alleys shall have an improved driving surface for the entire dedicated width of the alley. Additional driving surface width, parking lanes and shoulders proposed by the developer or required by the planning commission shall be constructed under the standards issued by the city engineer.

11. Where construction is required by the planning commission, pedestrian trails, boardwalks and sidewalks shall be constructed to a width of six feet or such greater width as the planning commission may require.

12. All streets, including cul-de-sacs and temporary turnarounds, shall be constructed so as to have a minimum height of thirty-six inches from the ground at any point.

13. Trafficways shall be centered within rights-of-way except where the Alaska Department of Transportation and Public Facilities has offset the trafficway, or when unusual physical circumstances dictate otherwise.

B. All streets shall be designed and built with proper coordination between height and culvert placement to assure that the street is not threatened by runoff from surrounding areas and that the street does not impede water runoff.

C. The construction requirements for arterial and collector streets set out in subsections A 8 and 9 apply only

1. to the part of the arterial or collector that is within the subdivision, and
2. the subdivision has direct or close access to the street, and
3. the city contributes to the cost of construction in an amount equal to the estimated cost of construction in excess of the estimated cost of constructing the street to local standards.

If conditions C1 and C2 are met, but the city fails or refuses to meet the requirements of subsection C3, the subdivider shall construct the street to local street standards. The cost estimates shall be those of the city engineer.

17.24.070 Street signs.

The subdivider shall install street name signs at all street intersections and at such other locations as the director of public works may require and shall install traffic regulation signs in accordance with the standards adopted by the Alaska Department of Transportation and Public Facilities. The content, form, color, location, materials, installation and other matters relating to street name and traffic regulation signs shall be in accordance with the applicable provisions of BMC 17.50 and with the standards issued by the city engineer to the extent not controlled by the standards adopted by the Alaska Department of Transportation and Public Facilities.

17.24.080 Street lighting.

The subdivider shall install street lights at all intersections and at such intermediate locations as the city engineer may require. The location, standards, light fixtures, electrical components, base construction and other matters relating to the lights and their installation shall be in accordance with standards issued by the city engineer, but may not be less than required by national electrical and safety codes adopted by the State of Alaska. All street lights shall be connected to the electric utility lines by the subdivider; provided, upon a determination by the city that the street lights meet the applicable standards and upon acceptance of the lights by the city, the operation and maintenance of the street lights become the city's responsibility.

Article III Lots and Blocks

17.24.110 Lots--proportion.

17.24.120 Lots--drainage.

17.24.130 Lots--area.

17.24.140 Lots--frontage.

17.24.150 Lot, block and tract identification.

17.24.160 Blocks--two-tiered arrangement.

17.24.170 Blocks--length, width and shape.

17.24.180 Environmental compatibility.

17.24.110 Lots--proportion.

Lots should be designed with a suitable proportion between length and width. Lots should be as near to rectangular as possible.

17.24.120 Lots--drainage.

Lots shall be laid out so as to provide positive drainage away from all building sites. Individual lot drainage shall be coordinated with the general drainage pattern for the area.

17.24.130 Lots--area.

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Minimum lot area shall be nine thousand square feet unless a larger area as is required, or a lesser area as is permitted in the zoning district in which the property lies.

17.24.140 Lots--frontage.

- A. The minimum frontage on a public right-of-way shall be forty feet with the exception of the lots fronting on a cul-de-sac which shall be a minimum of twenty-five feet.
- B. Access streets at both the front and rear of any lot shall not be permitted.
- C. Reverse frontage (access road only to the rear of any lot) shall not be permitted and a note to this effect shall be placed on the plat.

17.24.150 Lot, block and tract identification.

- A. All blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions;
- B. All lots in each block shall be consecutively numbered. Tracts shall be lettered in alphabetical order.
- C. The area within a subdivision that is not dedicated or divided into lots, blocks or tracts is the remainder parcel and is not identified by any other name, letter or number.

17.24.160 Blocks--two-tiered arrangement.

Blocks shall be designed to provide two tiers of lots, except where lots back onto an arterial or collector street, natural feature or subdivision boundary; provided, this provision does not authorize individual lot access to an arterial or collector.

17.24.170 Blocks--length, width and shape.

- A. The lengths, widths and shapes of blocks shall be such as are appropriate to the locality, zoning, type of development contemplated and the topography and physical characteristics of the land.
- B. The area, depth and width of properties in areas zoned for commercial or industrial purposes shall be adequate to provide for the offstreet service, loading and parking facilities required by the type of use and development contemplated.
- C. Residential blocks should generally not be less than three hundred feet wide nor more than one thousand three hundred twenty feet long.

17.24.180 Environmental compatibility.

Blocks shall be designed to minimize the effect of development on the environment. Environmental factors may be considered as justification by the platting authority for variation from any of the standards in sections 17.24.130 and 17.24.140 but may not reduce a standard below that required for zoning district in which the property lies, nor may it be reduced to the extent that a zoning variance would be required to permit a reasonable use of the property.

Article IV Easements

17.24.200 Easements--non-utility.

17.24.210 Easements--utility.

17.24.220 Easements--drainage.

17.24.200 Easements--non-utility.

Easements that are offered by the subdivider and accepted by the planning commission or which are required by the planning commission shall be provided and dedicated and shall be controlled by the city.

17.24.210 Easements--utility.

A. Utility easements shall be provided and dedicated. Except to the extent the director of public works approves a lesser width for a city water or sewer utility easement, all easements shall be at least twenty feet wide and shall include the unrestricted right of ingress thereto and egress therefrom for construction and maintenance purposes by utilities. Proof of coordination between the subdivider and the public works department and applicable utility companies shall be submitted with the preliminary plat.

B. Utility facilities may be placed in a utility easement only under the terms of a permit issued pursuant to BMC 17.04.070B.

17.24.220 Easements--drainage.

A. The planning commission shall not approve any plat for subdivision which does not make adequate provision for stormwater and floodwater drainage channels and basins. The drainage system shall be separate and independent of any sanitary sewer system.

B. Where a subdivision is traversed by a watercourse, such as a drainageway, channel or stream, there shall be provided a watercourse easement conforming substantially to the lines of such watercourse. Whenever possible it is desirable that the drainage be maintained by an open channel with adequate width for maximum potential volume of flow. Such area shall not be filled or built upon and a note to this effect shall be placed on the plat. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within rights-of-way, perpetual, unobstructed easements at least twenty feet in width for such drainage facilities shall be provided in a manner satisfactory to the planning commission. Watercourse easements shall be carried to natural watercourses or to other drainage facilities.

C. The subdivider shall construct facilities required to carry away by pipe or open ditch any spring, flood, storm or surface water that may exist either previously to or as a result of the subdivision. Such drainage facilities shall be located in a right-of-way where feasible, or in perpetual, dedicated, unobstructed easements.

D. Where a watercourse separates the building area of a lot from the street by which it has access, the subdivider shall install a culvert or other structure to provide access across the watercourse or a note shall be placed on the plat prohibiting any development of the lot until an adequate culvert or other structure has been installed.

E. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.

F. Where it is anticipated that the additional runoff incident to the development of the subdivision will increase the load on an existing downstream drainage system the planning commission shall withhold approval of the subdivision until an engineer certifies either that the existing downstream system has adequate capacity to accommodate the increased load that is likely to occur during high water runoff periods when all lots within the subdivision are developed or that specified improvements to the downstream system will be required to accommodate the increased loads. The subdivider shall construct the required downstream system improvements as a condition of final plat approval and shall acquire and dedicate or convey to the city such easements downstream as may be required to assure access to the downstream system and improvements.

G. Whenever a plat is submitted for an area which has been designated as a flood-hazard area the planning commission may approve such subdivision only when it has determined that all the provisions of the city regulations requiring compliance with requirements of the National Flood Insurance Program have been met and that reasonable development of each lot within the flood hazard area may be accomplished without a waiver or variance from the requirements of BMC chapter 15.08.

H. When a proposed drainage system will divert water across private land outside the subdivision appropriate drainage easements or enforceable agreements to convey such easements shall be secured and submitted with the preliminary plat.

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I. Drainage and utility easements shall be separate and independent of each other unless a shared easement is agreed to by the city administration and all utilities.

J. The subdivider shall install all culverts and pipes and construct all improvements necessary to ensure that the drainage system for the subdivision will function without overflow during high water runoff periods. Thaw pipes meeting city specifications shall be installed in all culverts that are 40 feet or longer. Upon the recommendation of the director of public works, the commission may require the installation of thaw pipes in other culverts. A final plat may not be approved unless, prior to the installation of each culvert required as a part of the subdivision, the director of public works has inspected and approved the ditch and compacted bed excavated and prepared for the culvert.

Article V Water Improvements

17.24.228 Water development phasing districts established.

17.24.230 Water supply facilities, water development phasing district no. 1.

17.24.235 Water supply facilities, water development phasing district no. 2.

17.24.240 Water supply facilities, water development phasing district no. 3.

17.24.245 Oversizing facilities.

17.24.250 Community systems.

17.24.228 Water development phasing districts established.

A. There is established water development phasing district 1 consisting of areas 1A, 1B, 1C, 1D, 1E, 2A, 2B, 2C, 2D, 2E, 3A, 3B, 3C, 4A and 4B as those areas are shown on Figure 11, revised September 2000, of the 1997 Comprehensive Plan.

B. There is established water development phasing district 2 consisting of areas 3D, 5A, 5B and 5C as those areas are shown on Figure 11, revised September 2000, of the 1997 Comprehensive Plan.

C. There is established water development phasing district 3 consisting of the area of the city lying outside water development phasing districts 1 and 2.

17.24.230 Water supply facilities, water development phasing district 1.

A. Within water development phasing district 1, a final plat may not be approved unless all lots created by the subdivision are served by a piped water system except as otherwise specifically permitted under this section. The piped water system may be either an existing city piped water system or a community system meeting city specifications constructed by the subdivider and operated by the subdivider or a property owners' association. If all or any part of the lots to be created by the subdivision are not already served by a city piped water system, and there is a city water main within 500 feet of a street or utility right-of-way within the subdivision, the subdivider shall be responsible for extending the main to the subdivision and installing the water distribution system, including fire hydrants and the water connection to each lot. The subdivider shall reimburse the city for all costs incurred by the city in making the connection between the existing city main and the main to the subdivision.

B. The requirements of subsection A do not apply to the extent that all or a portion of the water distribution system required will be built by the city or by another governmental agency for the city within two years of the date of the approval of the preliminary plat. To qualify for the exception under this subsection, the subdivider must provide a certification from the city manager that the portion of the water distribution system for which the exception is sought is a capital project approved by the city council and is currently scheduled for completion by a date that is within two years of the date of preliminary plat approval; further if the project is to be constructed by the city, the director of finance shall provide a certification that all funds to meet the estimated cost of construction of the approved capital project have been appropriated by the city council, that all local sources of the funds appropriated have been allocated to the appropriation, and

that all grants, loans and other sources of funding are or will be available through currently executed grants, loan commitments, agreements or other instruments. If the project is to be constructed by a governmental agency for the city, the subdivider shall provide certifications or written assurances from the agencies that substantially fulfill the requirements for certifications by the manager and finance director under this subsection B.

C. If the subdivider is exempted from construction of part of the required water system, the part of the water distribution system that will not be constructed within two years by the city or governmental agency shall be constructed by the subdivider and all unused openings sealed. The subdivider shall deposit with the city the city engineer's estimate of the cost of connecting the subdivision distribution system to the city main when a city main becomes available. No charge may be made by the city for the cost of connecting the subdivision to a city main when such a deposit has been made. Trucked water may be provided to lots within the subdivision until piped city water is available to the lots, at which time developed lots shall connect to the piped city system.

17.24.235 Water supply facilities, water development phasing district 2.

A. Within water development phasing district 2, a final plat may not be approved unless all lots created by the subdivision are served by an active or dry piped water system as provided in this section. The piped water system may be either

1. the existing city piped water system,
2. a dry piped water system, or
3. a community piped water system meeting city specifications constructed by the

subdivider and operated by the subdivider or a property owners' association.

B. If all or any part of the lots created by the subdivision are not already served by the city piped water system, and there is a city water main within 500 feet of a street or utility right-of-way within the subdivision, the subdivider shall be responsible for extending the city main to the subdivision and installing the water distribution system within the subdivision, including fire hydrants and the water connection to each lot. The subdivider shall reimburse the city for all costs incurred by the city in making the connection between the existing city main and the main to the subdivision.

C. A dry piped water system consists of a complete piped water distribution system within the subdivision with all openings sealed. The requirements of BMC 17.24.250 A, B, C and F apply to a dry piped water system. If a dry piped water system is provided, no parcel within the subdivision may be developed unless it meets all requirements for trucked water service. Within 270 days of the connection of the dry piped system to the city system, each developed parcel within the subdivision shall connect to the piped system and trucked water shall not be available to lots within the subdivision after the expiration of the 270 day period. A note shall be placed on the plat explaining the existence of the dry system and the requirements for trucked service and connections to the city system when city piped water becomes available.

17.24.240 Water supply facilities, water development phasing district 3.

Within water development phasing district 3, a final plat may not be approved unless the subdivider provides a community piped water system operated by the subdivider or a property owners' association or the city piped water system is available within the subdivision. Plats that create lots, blocks or tracts that would have to be served by on-lot, hauled or city trucked water shall not be approved unless the plat explicitly prohibits any development of the parcels created until a piped city or a piped community water system is available.

17.24.245 Oversizing facilities.

The city may require water mains and other parts of the system being constructed by the subdivider for a city, dry piped or a community system to have a capacity greater than would otherwise be required to meet the fire flow and domestic supply requirements of for the subdivision. If the city imposes an oversize requirement on the subdivider, the city shall agree to reimburse the subdivider for the difference between the

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cost of the oversized system and the system that is adequate solely to meet the domestic and fire flow requirements of the subdivision; provided, the cost of increased capacity to be provided to meet requirements of other land owned in whole or in part by the subdivider shall be borne by the subdivider, and not the city.

17.24.250 Community systems.

A community piped water system provided under the requirements of BMC 17.24.230 through 17.24.250 shall:

- A. Be designed and engineered to be compatible with the city system when it is connected to the city system;
- B. Meet city standards and specifications, including fire flow requirements;
- C. Include fire hydrants and the connection to each lot;
- D. Include a water source, treatment, storage, pumping, distribution and ancillary facilities;
- E. Be operated by the subdivider or a property owners' association pursuant to covenants and other instruments approved by the planning commission; and
- F. When the city system becomes available to the subdivision, be transferred to the city without further consideration and shall be connected to the city system; provided, the city may assess to each property and each customer of the subdivision system a pro rata share of the cost of connecting to the city system, if not previously paid, and the cost of any repairs or modifications required to bring the subdivision system up to the city standards, to make the subdivision system compatible with the city system, and to decommission and remove the unneeded parts of the community system.

Article VI Sewer Improvements

17.24.258 Sewer development phasing districts established.

17.24.260 Sewer facilities, sewer development phasing district no. 1.

17.24.265 Sewer facilities, sewer development phasing district no. 2.

17.24.270 Sewer facilities, sewer development phasing district no. 3.

17.24.275 Oversizing facilities.

17.24.280 Community systems.

17.24.258 Sewer development phasing districts established.

A. There is established sewer development phasing district 1 consisting of areas 1A, 1B, 1C, 1D, 1E, 2A, 2B, 2C, 2D, 2E, 3A, 3B, 3C, 4A and 4B as those areas are shown on Figure 11, revised September 2000, of the 1997 Comprehensive Plan.

B. There is established sewer development phasing district 2 consisting of areas 3D, 5A, 5B and 5C as those areas are shown on Figure 11, revised September 2000, of the 1997 Comprehensive Plan.

C. There is established sewer development phasing district 3 consisting of the area of the city lying outside sewer development phasing districts 1 and 2.

17.24.260 Sewer facilities, sewer development phasing district 1.

A. Within sewer development phasing district 1, a final plat may not be approved unless all lots created by the subdivision are served by a piped sewage collection and disposal system except as otherwise specifically permitted under this section. The piped system may be either an existing city piped system or a community piped system. If all or any part of the lots to be created by the subdivision are not already served by a city piped system, and there is a city sewer main, lateral or collector within 500 feet of a street or utility right-of-way within the subdivision, the subdivider shall be responsible for extending the sewer line to the subdivision and installing the sewage collection system, including pumps, auxiliary facilities and a connection to each lot, all meeting city specifications and standards. The subdivider shall reimburse the city

for all costs incurred by the city in making the connection between the existing city line and the line to the subdivision.

B. The requirements of subsection A do not apply to the extent that all or a portion of the system required will be built by the city or by another governmental agency for the city within two years of the date of the approval of the preliminary plat. To qualify for the exception under this subsection, the subdivider must provide a certification from the city manager that the portion of the system for which the exception is sought is a capital project approved by the city council and is currently scheduled for completion by a date that is within two years of the date of preliminary plat approval; further if the project is to be constructed by the city, the director of finance shall provide a certification that all funds to meet the estimated cost of construction of the approved capital project have been appropriated by the city council, that all local sources of the funds appropriated have been allocated to the appropriation, and that all grants, loans and other sources of funding are or will be available through currently executed grants, loan commitments, agreements or other instruments. If the project is to be constructed by a governmental agency for the city, the subdivider shall provide certifications or written assurances from the agencies that substantially fulfill the requirements for certifications by the manager and finance director under this subsection B.

C. If the subdivider is exempted from construction of part of the required sewer system, the part of the system that will not be constructed within two years by the city or governmental agency shall be constructed by the subdivider and all unused openings sealed. The subdivider shall deposit with the city the city engineer's estimate of the cost of connecting the subdivision sewer system to the city system when a city line becomes available. No charge may be made by the city for the cost of connecting the subdivision to a city line when such a deposit has been made. City trucked sewage collection services may be provided to lots within the subdivision until piped city collection is available, at which time developed lots shall connect to the piped city system.

17.24.265 Sewer facilities, sewer development phasing district 2.

A. Within sewer development phasing district 2, a final plat may not be approved unless all lots created by the subdivision are served by an active piped sewage collection and disposal system or a dry piped collection system is constructed. The active piped system may be either the existing city piped system or a community piped collection and disposal system meeting city specifications constructed by the subdivider and operated by the subdivider or a property owners' association.

B. If all or any part of the lots created by the subdivision are not already served by the city piped system, and there is a city sewer main, lateral or collector within 500 feet of a street or utility right-of-way within the subdivision, the subdivider shall be responsible for extending the city line to the subdivision and installing the sewage collection system within the subdivision, including pumps, ancillary facilities and a connection to each lot, all meeting the city specifications and standards. The subdivider shall reimburse the city for all costs incurred by the city in making the connection between the existing city line and the line to the subdivision.

C. A dry piped collection system consists of a complete piped sewage collection system within the subdivision with all openings sealed. The requirements of BMC 17.24.280 A, B, C and F apply to a dry piped collection system. If a dry piped collection system is provided, no parcel within the subdivision may be developed unless it meets all requirements for trucked sewage collection service. Within 270 days of the connection of the dry piped collection system to the city system, each developed parcel within the subdivision shall connect to the piped system and trucked sewage collection shall not be available to lots within the subdivision after the expiration of the 270 day period. A note shall be placed on the plat explaining the existence of the dry system and the requirements for trucked service and connections to the city system when city piped service becomes available.

17.24.270 Sewer facilities, sewer development phasing district 3.

A. Within sewer development phasing district 3, a final plat may not be approved unless the subdivider provides a community piped sewage collection and disposal system operated by the subdivider or

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a property owners' association or the city piped sewage system is available within the subdivision. Plats that create lots, blocks or tracts that would have to be served by on-lot, hauled or city trucked sewage collection and disposal shall not be approved unless the plat explicitly prohibits any development of the parcels created until a piped city or a piped community sewage collection and disposal system is available.

17.24.275 Oversizing facilities.

The city may require sewer lines, pumps, mains and other parts of the system being constructed by the subdivider for a dry or a city or community system to have a capacity greater than would otherwise be required to meet the requirements of the subdivision. If the city imposes an oversize requirement on the subdivider, the city shall agree to reimburse the subdivider for the difference between the cost of the oversized system and the system that is adequate solely to meet the requirements of the subdivision; provided, the cost of increased capacity to be provided to meet requirements of other land owned in whole or in part by the subdivider shall be borne by the subdivider, and not the city.

17.24.280 Community systems.

A community piped sewage collection and disposal system provided under the requirements of BMC 17.24.260 through 17.24.280 shall:

- A. Be designed and engineered to be compatible with the city system when it is connected to the city system;
- B. Meet city standards and specifications;
- C. Include the connection to each lot;
- D. Include pumping, holding and ancillary facilities;
- E. Be operated by the subdivider or a property owners' association pursuant to covenants and other instruments approved by the planning commission; and
- F. When the city system becomes available to the subdivision, be transferred to the city without further consideration and shall be connected to the city system; provided, the city may assess to each property and each customer of the community system a pro rata share of the cost of connecting to the city system, if not previously paid, and the cost of any repairs or modifications required to bring the subdivision system up to the city standards, to make the subdivision system compatible with the city system, and to decommission and remove unneeded parts of the community system.

Article VII Recreation, Open Space and Other Facilities

17.24.280 Recreation and open space dedication.

17.24.280 Recreation and open space dedication.

In cases where the amount of land to be subdivided into lots and tracts is two acres or greater or where the subdivision of land will create six or more lots and tracts, an area equal to at least ten percent of the area of the lots and tracts to be created shall be set aside for developed and undeveloped open space. The amount to be set aside may be adjusted upward or downward, as appropriate, for conditions such as population density, existing municipal facilities, topography, socioeconomic characteristics of the prospective population, and other appropriate site and development-specific factors. The open space shall be subject to the following provisions of this section:

- A. The planning commission shall determine how much of the open space shall be designated for development. The area of each parcel of open space designed for developed open space shall be of such minimum dimensions as to be functionally usable.
- B. Open space parcels shall be convenient to the residential or other lots they are intended to serve and shall be sited with sensitivity to noise generation and surrounding development.

C. At least 80 percent of the required open space area offered shall be suitable for recreation and not be undevelopable land such as wetlands, swamp areas, floodways, drainage ways, excessively steep areas and other areas that are not useful for recreational use in their natural state.

D. The planning commission may require the installation of recreational facilities, taking into consideration:

1. The character of the open space land;
2. The estimated age and the recreational needs of persons likely to reside or be in the development;
3. Proximity, nature and excess capacity of existing municipal recreation facilities; and
4. The cost of the recreational facilities.

E. As a general principle, undeveloped open space should be left in its natural state. Undeveloped open space shall not be used for a commercial enterprise nor may a fee be charged by a private person for admittance to the open space.

F. The open space may be set aside by means of conveyance to a governmental entity, dedication by plat, conveyance to an established private non-profit corporation, or to a homeowner's, condominium, or cooperative association. The subdivider may select the means of setting aside the open space, subject to the requirements of this section.

1. A conveyance must be accepted by the grantee and must contain appropriate restrictions, covenants and affirmative obligations including:

- a. a prohibition against further subdivision of the open space lot or tract without approval of the city council by ordinance;
- b. a covenant against the use of the parcel for other than open space and recreation purposes;
- c. a covenant that the use for open space and recreation continues in perpetuity and that no other uses may be made of the land unless approved by the city council by ordinance;
- d. as to undeveloped open spaces, a covenant that undeveloped open space shall not be used for a commercial enterprise nor may a fee be charged by a private person for admittance to the open space;
- e. a clause providing that provisions of the conveyance run with the land and are binding on successors-in-interest;
- f. such other provisions as may be necessary to implement additional requirements imposed by the planning commission; and
- g. a provision that prevents any change to the terms of the instrument without approval of the city council.

2. If the open space is to be owned and maintained by a property or homeowners' condominium or cooperative association, the developer shall submit with the application for the preliminary plat approval the draft declaration of covenants and restrictions and other instruments that will govern the association. These instruments shall contain provisions that include, but are not necessarily limited to, the following:

- a. the association must be established before any subdivision lots or units are sold;
- b. membership must be mandatory for each lot owner, unit owner or member and any successive buyer;
- c. the open space restrictions must continue in perpetuity and not be just for a period of years;
- d. the association must be responsible for the area, including costs of liability insurance, taxes, and the maintenance of the space, recreational and other facilities;
- e. owners or members must pay their pro rata share of the cost, and the assessment levied by the association may become a lien on the owner's or members' property or interest in the association documents;

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f. the association must be able to adjust the assessment to meet changed needs;
and

g. the provisions of the instrument may not be changed except upon the approval of the city council.

G. The entity to which the open space land is conveyed, or the city if the land is dedicated by plat, shall be responsible for its continuing upkeep and proper maintenance.

H. A note shall be placed on the plat imposing the restrictions set out in subsection (F)(1)(a) through (g) and setting out the name of the entity to which the open space is conveyed if it is not dedicated by plat. Reference to the book and pages at which all deeds, declarations and other instruments affecting the open space are recorded shall be noted on the plat.

Article VIII Public Improvements Guarantee

17.24.300 Guarantee of improvements.

17.24.300 Guarantee of improvements.

A. To guarantee the installation of all public improvements required by this title which are not accepted at the time the final plat is submitted for approval and the posting of the warranty required for improvements when accepted by the city, the subdivider shall submit a public improvements guarantee satisfactory to the city and approved as to form and content by the city attorney.

B. The guarantee shall be in an amount determined as follows:

1. The subdivider shall submit a construction cost estimate prepared by a registered engineer familiar with the land in the subdivision and any land outside the subdivision upon which public improvements are required to be made by the subdivider. The cost estimate shall describe the work to be done in sufficient detail to permit the platting officer and the planning commission to determine that the work that is the basis of the cost estimate covers all of the public improvements as required. The description of the work shall be in detail and shall contain a schedule of commencement and completion sufficient to permit the city engineer to make an estimate of cost and to evaluate the reasonableness of the schedule.

2. The platting officer shall determine whether the description of the work adequately covers the public improvements required by the planning commission and this title. The description, schedule and cost estimate shall be returned to the subdivider for the correction of deficiencies in the description.

3. Upon a determination of the platting officer that the description of work and schedule meet the requirements of the planning commission and this title, the description, cost estimate and schedule shall be provided to the city engineer who shall make such upward adjustments to the cost estimate and schedule as he believes more accurately reflect the costs of the work and the time for completion or shall accept the submitted estimates if he believes they do not underestimate the costs and time involved. The city engineer shall then increase the adjusted or accepted cost estimates by an additional amount as set out below based on the adjusted or accepted schedule:

- a. 25%, if all work is to be accomplished in the current construction season or in the first full construction season following approval of the preliminary plat;
- b. 30%, if the work is to be accomplished in the next two consecutive full construction seasons;
- c. 35%, if the work is to be accomplished in the next three consecutive full construction seasons.

For purposes of this section, the construction season begins on May 1 and ends on October 31 of each year.

4. The amount of the guarantee shall be the adjusted amount determined and increased under subsection (B)(3) of this section.

5. The public improvement guarantee shall be in the form of a cash bond, a performance bond issued by a surety authorized to do such business in Alaska, a deposit in an escrow or a joint account under the exclusive and total control of the city, a letter of credit that remains in effect until released by the city, or a demand note secured by a first deed of trust on real property with a value of 150% or more of the amount of the note as determined by an independent, fee appraiser chosen or approved by the city. The cost of the appraisal shall be a liability of the subdivider and shall be paid to the appraiser by the subdivider. The subdivider shall reimburse the city for all costs incurred by the city for review by the city attorney of instruments and other documents submitted in connection with the guarantee and for all costs incurred by the city for the engineering review of the cost estimate and schedule.

6. All required improvements shall be completed and in a condition to be accepted by the city within 24 months of the date of final plat approval; provided, for a large subdivision or for other good reasons shown, the Planning Commission may permit completion within up to 36 months of the date of approval of the final plat. For good cause shown, the planning commission may grant extensions; provided, the guarantee documents are amended to cover the additional period of the extension. In no event may the total time permitted by the planning commission for completion of improvements exceed a total of the greater of 48 months or four consecutive full construction seasons. An extension for a total completion time greater than 48 months or four full construction seasons, but not to exceed 60 months, may be granted by the city council by a non-code ordinance.

7. If all required improvements have not been satisfactorily completed and accepted by the city and a warranty bond or guarantee in an amount equal to 10% of the improvements guarantee amount been posted on the accepted improvements within the time required, the city shall proceed to realize on the public improvements guarantee. The city shall use the net proceeds of the guarantee to complete the required improvements to the extent it is able with the proceeds. The city is not obligated to expend any city funds nor to complete the improvements if there are insufficient net proceeds realized from the guarantee. The city may reimburse itself at a reasonable rate for overhead and other indirect costs allocable to the process of realizing on the guarantee and administration of the contracts and other city activities arising out of the city's construction of required improvements. Funds remaining from the net proceeds after all costs of completing the required improvements have been met shall be returned to the subdivider, or the grantor if a deed of trust was given, after a deduction is made equal to 10% of the cost of improvements previously accepted by the city but for which the required 10% warranty guarantee has not been provided. This warranty amount shall be held in trust and returned to the subdivider or grantor, as appropriate, at the conclusion of the warranty period, less amounts used by the city to repair required improvements constructed by the subdivider.

8. Upon a determination of the city engineer or his designee that required improvements have been completed in accordance with city specifications, and upon the deposit with the city of a warranty guarantee equal to 10% of the public improvement guarantee amount, the city shall release an amount of the public improvement guarantee equal to the cost of the improvement if doing so does not reduce the remaining guarantee amount below the amount required to guarantee the construction of the remaining required improvements and provide the warranty amount on the remaining improvements. The warranty may be in any form authorized for the public improvements guarantee. The warranty shall guarantee the workmanship and materials of the improvement accepted for one year from the date the improvement is accepted. The warranty shall be released upon the request of the subdivider after the expiration of one year and a determination by the city engineer that the workmanship and materials in the improvement are satisfactory and the improvement is in good condition; provided, if weather or other conditions make an adequate inspection impractical, the inspection and release may be postponed until an adequate inspection can be made.

Chapter 17.28 Monuments

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17.28.005 Location of subdivision, control monuments.

17.28.010 Monument specifications

17.28.020 Where required.

17.28.030 Tied to survey, shown on plat.

17.28.040 Approval before recordation

17.28.005 Location of subdivision, control monuments.

A registered land surveyor shall establish or confirm the prior establishment of at least two permanent control monuments on the boundaries of the land being subdivided.

17.28.010 Monument specifications.

A. A permanent control monument shall consist of an aluminum or brass cap at least two and one-half inches in diameter securely and mechanically attached to a pipe that is at least 30 inches in length with a minimum outside diameter of two inches. The pipe shall be footed by splitting for several inches and spreading the halves into a flange or by securely attaching a commercially manufactured foot. If the pipe is non magnetic, the monument cap must contain a magnetic insert as an integral part of its composition.

B. Monuments other than permanent control monuments shall consist of a brass or aluminum cap, not less than one and one-half inches in diameter, permanently fastened to the top of a galvanized ferrous pipe of not less than one-half inch inside diameter. Such monuments shall be driven to refusal or thirty inches, whichever comes first.

C. A monument shall not extend above the surface if located in a roadway and shall not extend more than four inches above the surface in other locations and shall be planted in such a manner that it cannot be removed by frost.

D. The cap of each monument set as a part of the subdivision shall be stamped with the registration number of the surveyor, the date set, and the monument designation as shown on the final plat.

E. The city engineer may authorize or require different monument materials, additional information to be stamped on caps, and may prescribe methods of planting monuments and other standards to govern subdivision monumentation.

17.28.020 Where required.

All exterior boundaries of the subdivision shall be monumented. Interior boundaries of the subdivision shall be monumented at lot corners, block corners, right-of-way lines, angle points of curves, and street intersections.

17.28.030 Tied to survey, shown on plat.

A. Each point of monumentation shall be tied into the subdivision survey, and shall be shown on the plat and located by bearings and distances. The basis of bearing shall be clearly stated on the plat. Magnetic bearings shall not be used.

B. All curve data shall be shown on the plat for the line affected and shall be tabulated with proper reference.

17.28.040 Approval before recordation.

All monuments shall be properly set in the ground and approved by a registered land surveyor prior to the time the final plat is submitted for approval by the planning commission.

Chapter 17.32 Plat Vacations

17.32.020 Petition of landowners, required for vacation.

17.32.030 Petition of landowners, filing.

17.32.040 Review and approval.

17.32.045 Approval, council consent.

17.32.050 Title to vacated area.

17.32.060 Payment for vacated area.

17.32.020 Petition of landowners, required for vacation.

No platted street, section line easement, access easement or similar right-of-way shall be vacated, except upon petition of the city, the state, a public utility or owners of the majority of the land fronting the part of the right-of-way sought to be vacated. No other area dedicated by plat, government survey or patent shall be vacated except upon the petition of the city, the state, a public utility, or the owners of a majority of the land affected by the vacation.

17.32.030 Petition of landowners, filing.

The petition for a vacation shall be filed with the planning department. It shall be accompanied by the required fee and a copy of the existing plat showing the proposed vacation.

17.32.040 Review, notice and procedures.

A. The information to be provided in and the procedure for reviewing petitions for a vacation shall be identical to that for plats of new subdivisions. Both a preliminary and a final plat shall be submitted for review; provided, the requirements for the construction of improvements shall not apply unless new alternate access or other facilities are to be provided as a condition of granting the vacation.

B. Notice of the hearing shall be given as provided in BMC 17.04.025.

17.32.045 Approval, council consent.

A. The planning commission shall not approve the vacation of a dedicated area unless it finds, from evidence before it,

1. that the vacation is not primarily for a private purpose, and either
2. that the area is no longer necessary for public use or the public welfare, or
3. that the public welfare will be enhanced by the vacation.

The planning commission may approve the vacation of a part of the dedicated purposes or uses while leaving other dedicated uses in place and it may impose new uses and purposes on the area subject to the vacation so long as the new uses or purposes are not more burdensome than those vacated.

The findings shall be set out in a resolution approving the vacation. The approval of the vacation becomes effective on the 31st day after the adoption of the approving resolution unless the approval is vetoed by the city council. If the vacation approval becomes effective, a final plat shall be submitted showing the vacation and any new or reserved public purpose required by the city council. Upon a determination by the platting officer that the final plat conforms to the requirements of this title, the platting officer shall execute the certificate of vacation and the plat shall be filed in the district recorder's office; provided, if the plat effects any subdivision action other than the vacation or the reservation of the vacated area for another public purpose, the final plat shall be approved by the planning commission.

B. The resolution approving the vacation shall be immediately transmitted to the city council. The city council may, by motion or resolution, consent to or veto the vacation. The failure of the council to take action on the vacation within 30 days of the date the planning commission resolution was adopted constitutes council consent to the vacation as approved by the planning commission.

C. If the council determines that all or a portion of the area approved by the planning commission for vacation should be devoted to another public purpose, the council may, by motion or resolution approved within 30 days of the planning commission approval, consent to the vacation and reserve the area for such other public purpose as long as the new purpose is not more burdensome than the purposes vacated.

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17.32.050 Title to vacated area.

A. The title to the street or other similar public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area which lies on one side of the boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square or a lot, block or tract dedicated to a public use is vacated, the title to it vests in the city.

B. If the city council or planning commission has determined that all or a portion of the area to be vacated should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (A) of this section but remains in the city.

17.32.060 Payment for vacated area.

If the city acquired the street or other public area vacated for legal consideration or by express dedication and acceptance by the city other than as a subdivision platting requirement, planning commission approval does not become effective until the fair market value of the street or public area has been deposited with the city to become city money on final vacation.

Chapter 17.36 Variances

17.36.010 Authority, procedure.

17.36.020 Petition.

17.36.030 Standard of hardship.

17.36.040 Findings required.

17.36.050 Conditions.

17.36.070 Written findings of fact.

17.36.010 Authority, procedure.

The planning commission may grant variances to requirements of this title, except public improvement requirements, when the strict application of the requirements would create an undue hardship. Variances may be granted only pursuant to this chapter. Variances to requirements to construct or install improvements shall not be granted.

17.36.020 Petition.

A petition for a variance shall be submitted in writing by the subdivider with the preliminary plat. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner. The petition shall show how each requirement of BMC 17.36.030 is met.

17.36.030 Standard of hardship.

The planning commission may approve a variance from the requirements of this title only upon a finding that the strict application of the requirements of this title will result in undue hardship, which

1. will prevent the petitioner from making any reasonable use of the parcel, and
2. arises out of a physical peculiarity of the parcel that was not caused by any prior private subdivision that created the parcel.

For the purposes of this chapter, "undue hardship" means conditions where reasonable development of a tract in compliance with the requirements of this title is rendered impossible because of a physical

limitation that does not exist on other parcels in the city. "Undue hardship" does not include financial hardship.

17.36.040 Findings required.

In granting a variance the planning commission may grant only so much of a relaxation of the requirements of this title as are necessary to permit some reasonable use of the parcel, and it may, in addition, prescribe additional conditions that it deems necessary to or desirable for the public interest. In making its findings, the planning commission shall take into account the nature of authorized uses of land, the existing and authorized use of land in the vicinity, the effect of the proposed variance on the extension of public facilities, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed variance upon possible and existing land uses, traffic, safety, fire and flood hazards and other conditions in the vicinity. No variance shall be granted unless the planning commission finds that

1. there are special physical conditions affecting said property, and
2. that the special physical conditions are peculiar to the property, and
3. the special conditions were not created by a prior private subdivision of the property, and
4. because of the special conditions, the strict application of the provisions of this chapter would deprive the applicant of all reasonable uses of the parcel.

17.36.050 Conditions.

In approving variances, the planning commission may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements of this title.

17.36.070 Written findings of fact.

The chairperson of the planning commission shall be responsible for assuring that findings of fact are written in every instance that a variance is granted or denied. The findings of fact shall be a written document signed by the planning commission chairperson and made a part of the official record of the meeting at which granted. The findings shall include:

- A. The specific requirement in this title for which a variance is sought;
- B. A description of the feature of the parcel that makes it peculiar if the variance is granted;
- C. Facts that were considered relevant to the granting or denial of the variance. The facts must be in the record made and include facts from public testimony and documents submitted by the staff, the applicant and members of the public;
- D. The specific characteristic of the variance sought or granted and how it differs from the requirements of this title;
- E. The reasons that support the commission determination that a variance was justified or not justified.

17.36.080 Appeal.

The grant or denial of a variance may be appealed by the applicant, the manager, the platting officer or any person adversely affected by the grant to the board of adjustment under the procedures set out in BMC 18.72.020 except, the platting officer shall be substituted for the land use administrator in the procedures set out in that section.

Chapter 17.40 Enforcement

17.40.010 Duty of platting officer.

17.40.020 Unlawful conveyance.

17.40.030 Unlawful recordation.

17.40.040 Enforcement actions.

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17.40.010 Duty of platting officer.

It is the duty of the platting officer to enforce this title and to bring to the attention of the planning commission any violations or lack of compliance with this title.

17.40.020 Unlawful conveyance.

The owner or agent of the owner of any parcel of land, tract or lot that was not created by an approved final plat, a government patent or a U.S. survey, shall not convey by sale, gift, or other transfer or by lease, or agree or enter into a contract to sell, transfer or lease, any such parcel before the final plat of such subdivision has been approved and recorded by the planning commission in accordance with the provisions of this title. A person who violates this requirement shall be punishable upon conviction by a fine of not more than one thousand dollars for each lot, tract or parcel conveyed or leased or which is subject to the agreement to sell, transfer or lease. Any such conveyance, lease, agreement or contract is illegal and void *ab initio*. A lease for the purpose of this chapter is a lease with a term of twenty years or more, including all extension and renewal terms that may be exercised by the lessee.

17.40.030 Unlawful recordation.

A person shall not record a plat or seek to have a plat recorded unless it bears the approval of the planning commission. A person who violates this requirement is punishable upon conviction by a fine of not more than one thousand dollars.

17.40.040 Enforcement actions.

A. Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of the provisions of this chapter or other provisions of this title, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, to void any plat filed or recorded in violation of this chapter, and to void any conveyance, agreement or contract that violates the provisions of this chapter and those remedies shall be in addition to the penalties and other remedies described in this chapter.

B. In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of the provisions of this title.

Chapter 17.50 Property Numbering and Street Names

17.50.010 Number map.

17.50.020 Street names.

17.50.030 Final subdivision plats.

17.50.040 Street name signs.

17.50.050 Numbering blocks.

17.50.060 Numbering individual property.

17.50.070 Exceptions.

17.50.090 Maintenance of numbers.

17.50.100 Numbers for future buildings.

17.50.110 Unlawful to deface number.

17.50.120 Penalties.

17.50.130 Notification of number change.

17.50.010 Number map.

The property numbering map entitled "Property Number Map" is hereby adopted as the official property numbering map of the City of Bethel, Alaska. All property numbers assigned shall be assigned in

accordance with the numbering map and no other property numbers shall be used or displayed in the City of Bethel unless in accordance with the official numbering map. The property numbering map shall be kept on file in the office of the city clerk.

17.50.020 Street names.

Street names shall be determined by planning commission resolution. The planning commission shall review the proposed street names for duplication of names, appropriateness of names, and for overall compliance with the street naming and numbering policy. The planning commission may modify or amend the street name proposed on a plat as it deems necessary in order to bring it into compliance with the street naming and numbering system. The decision of the commission may be appealed to the board of adjustment under the procedures set out in BMC 18.68 within fifteen (15) days after action by the planning commission.

17.50.030 Final subdivision plats.

The approved street names and property numbers shall be included in all final maps and plats.

17.50.040 Street name signs.

Street name signs will be uniform in appearance.

17.50.050 Numbering blocks.

A. On the official property numbering map, Ridgecrest Drive, from Ptarmigan Street to Sixth Avenue, is designated the north-south axis. The east-west axis is designated as follows: First Avenue to the east of the State Highway intersection and the State Highway west of the First Avenue intersection.

B. All avenues, streets, and alleys running generally north and south shall be numbered from east-west axis consecutively to the corporate limits of the extremities of such avenues, streets, or alleys. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner.

C. Whenever possible, one-hundred (100) numbers shall be allowed to each block. New blocks shall be numbered each 500 feet of ground or existing streets shall be assigned the number nearest the 500 foot interval.

17.50.060 Numbering individual property.

A. One whole number shall be assigned for every 33 feet of ground whether improved property or vacant lot on every street within the corporate limits, excluding U.S.S. 3790 from south of the bridge (Lousetown) and U.S.S. 870 (Mission Lake), which will be assigned whole numbers every 25 feet.

B. Odd numbers shall be assigned to the west side of all north-south streets and even numbers on the east side. On east-west streets, odd numbers shall be assigned on the south side and even numbers on the north side. In the case that a street does not run north-south or east-west, the direction to which a street is closest shall be used for the purpose of odd-even numbering.

17.50.070 Exceptions.

Block 9, Northwest Addition of U.S. 3770 (City Subdivision) and the Tundra Ridge Subdivision shall retain their present numbers.

17.50.090 Maintenance of numbers.

Every owner of improved property shall be responsible for displaying in a conspicuous place on said property the number assigned. The owner, occupant or person in charge of a house or building shall affix the number assigned within sixty days of the date of written notice from the city to do so. Within sixty days of the date of written notice from the city to do so such person shall remove any numbers affixed to the house or building which may be confused with the number assigned.

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17.50.100 Numbers for future buildings.

Each building in which the principal use of a lot takes place shall be assigned a number in accordance with the property numbering map and the owner of said building or structure shall be responsible for the purchase and display of such numbers as set forth in 17 50.090 of this title.

17.50.110 Unlawful to deface number.

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this ordinance, except for repair or replacement of such number.

17.50.120 Penalties.

In the event that the owner or occupant or person in charge of any house or building fails to comply with the terms of this ordinance by failing to affix the number assigned within sixty (60) days after notification or by failing within said period of sixty (60) days to remove any numbers affixed to such house or building which may be confused with the number assigned thereto, the owner shall be subject to denial of utilities in addition to any other penalty that may be imposed for violation of this chapter for failure to comply with the numbering ordinance.

17.50.130 Notification of number change.

Official notification of any change in property number shall be sent to property owners thirty (30) days before the effective date of the change.

SECTION 8. Title 18. Title 18 of the Bethel Municipal Code is repealed and reenacted to read:

TITLE 18 ZONING

- Chapter 18.04 General Provisions**
- Chapter 18.08 Establishment of Districts and Official Land Use Map**
- Chapter 18.12 Definitions**
- Chapter 18.16 Site Plan Permits**
- Chapter 18.20 Preservation District - P District**
- Chapter 18.24 Public Lands and Institutional District - PLI District**
- Chapter 18.28 Open Space District - OS District**
- Chapter 18.32 Residential District - R District**
- Chapter 18.34 Neighborhood Commercial – NC District**
- Chapter 18.35 Downtown Commercial – DC District**
- Chapter 18.36 General Use District - GU District**
- Chapter 18.40 Industrial District - I District**
- Chapter 18.48 Supplemental Regulations**
- Chapter 18.52 Planned Development (PD) Regulations and Procedures.**
- Chapter 18.56 Mobile Home Parks**
- Chapter 18.60 Conditional Use Permit (CUP) Standards and Procedures**
- Chapter 18.64 Variances**
- Chapter 18.68 Board of Adjustment**
- Chapter 18.72 Appeals**
- Chapter 18.76 Amendments and Changing Land Use Specifications**
- Chapter 18.80 Nonconforming Lots, Structures and Uses**
- Chapter 18.84 Enforcement, Penalties and Remedies**

Chapter 18.04 General Provisions

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 Notice

18.04.090 City held harmless.

18.04.010 Title

This title may be referred to as the "City of Bethel Land Use Code."

18.04.020 Purpose.

The provisions of this title are for the purpose of implementing the comprehensive plan and 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 use, structure and land, including water areas.

B. No structure or land shall be used or occupied and no structure or part thereof shall be erected, moved, or altered except in conformity with the provisions of this title.

18.04.040 Authority.

The provisions of the City of Bethel Land Use Code and the Official Map are adopted pursuant to the authority granted under Alaska Statute 29.35.260(c).

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. The provisions of this title shall apply equally to private and public property except to the extent prohibited by law.

B. When the restricted status of a native allotment or other property exempt from local land use regulation is changed to unrestricted status, or loses its protection from local land use regulations, because of sale or official government action, the property becomes subject to the provisions of this title.

C. Water areas, including frozen waterways, shall be subject to the regulations of the land use district of the land immediately adjacent to the subject water area unless the water area has been given a land use designation that is different from that of the immediately adjacent land.

18.04.060 Conflict.

Whenever the requirements of this title 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 Notice.

A. Unless otherwise specifically provided in this title, notice of hearings required under this title shall be given as provided in subsections B through G of this section. When a hearing is required under BMC chapter 18.76, notice of that hearing shall be given as provided BMC 18.76.030.

B. To the extent applicable, notice shall contain the following:

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1. The name of the owner of the parcel that is the subject of the application and the name of the person who made the application if not the owner;
2. A description of the action sought in the application;
3. A description of the location and a legal description of the subject parcel; and
4. The date, time and place of the hearing

The notice may contain any other information the land use administrator believes to be appropriate or that the planning commission may require.

C. Notice shall be published at least once in a newspaper of general circulation in the city at least 6 days before the hearing

D. Notice shall be mailed to the owners of each parcel of property any part of which is within 600 feet of the exterior boundary of the parcel that is the subject of the application.

1. The name and address of the owner of each parcel that is to receive mailed notice and that receives sewer or water service from the city shall be provided to the land use administrator by the public works department. The name and address of each other owner that is to receive mailed notice shall be provided to the land use administrator by the applicant. An application is not complete until the applicant has submitted the list of the names and addresses of all such other owners. The applicant, its agents and successors, shall save, hold harmless and defend the city, its officers and employees, from and against all claims and suits based in whole or in part on the failure of the city to provide mailed notice to a person to whom mailed notice was required to be sent under this subsection if the applicant provided an incorrect address or no address for a person whose address it was the applicant's responsibility to provide. The name and address of the person shown in the records of the Bethel district recorders office as the current owner of the relevant parcel shall be presumed to be correct.

2. Mailed notice shall be deposited in the U.S. Mail, postage paid, at least 5 days before the hearing.

3. Mailed notice may include maps or other additional material that is not included in the published or posted notice.

E. At least 5 calendar days before the hearing, notice shall be posted on the public bulletin board at city hall and at three other public places where other notices are regularly posted

F. The failure of the city to fully meet each requirement of this section shall not be the basis for invalidating an action taken under this title if there was substantial compliance with at least one of the forms of notice required under this section.

G. Failure of the city to fully meet each requirement for notice under any other section of this title shall not be a basis for invalidating an action taken under this title if there was substantial compliance with the other requirements.

18.04.090 City held harmless.

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

Chapter 18.08 Establishment of Districts and Official Land Use Map

18.08.010 Adoption of districts and land use map.

18.08.020 Adoption of Official Map.

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.

The following land use districts are established within the City of Bethel.

- Preservation P District
- Public Lands and Institution PLI District
- Open Space OS District
- Residential R District
- Neighborhood Commercial NC District
- Downtown Commercial DC District
- General Use GU District
- Industrial I District

These districts shall be bounded and defined as shown on the Official Land Use Map on file in the city planning office.

18.08.020 Adoption of Official Map.

A. There is adopted the City of Bethel Official Land Use Map dated July 10, 1990. The Official Map shows the boundaries of the land use districts governed by this title.

B. The Official Map may be amended by ordinance and each amendment shall be shown on the map with notations identifying the ordinance and the effective date of the ordinance amending the map.

C. Prior to making each change to the Official Map a copy of the map shall be made and preserved for historical purposes. The date the copy is made shall be written in hand upon the copy and signed by the land use administrator.

D. The Official Map, together with all relevant ordinances, legal descriptions, maps and explanatory materials shall be kept on file in the city planning office.

E. The Official Land Use Map, adopted under this section, as amended, and required to be located in the city planning office, is the final authority as to the land use district within which any land, water area or structure lies.

18.08.030 Map Changes.

No changes shall be made to the Official Map or to explanatory or other relevant materials except in conformity with the procedures set forth in this title. Any unauthorized change by any person is 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 or number of changes and additions, the City planning commission may by resolution, adopt a new Official Map which shall supersede the prior Official Map. The new Official Map may correct drafting or other errors or omissions in the prior Official Map, but no such correction shall have the effect of amending any ordinance that adopts or amends the Official Map. The new Official Map shall be signed by the mayor, attested by the city clerk, and bear the seal of the city under the following words: "City of Bethel Official Land Use Map, originally adopted on July 10, 1990, as amended, and as reissued on _____, _____ pursuant to Planning Commission Resolution No. _____, adopted on _____, _____."

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 land use administrator shall make the determination of the location applying the following rules and such rules as are set out in other provisions of this title:

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;

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- C. Boundaries indicated as approximately following the 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 as 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 or lines indicated in 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 Map, or in other questions of map interpretation not covered by BMC 18.08.050, the planning commission shall interpret the district boundaries.

Chapter 18.12 Definitions

18.12.010 Interpretation.

18.12.010 Interpretation.

Words and terms used in this title are defined in BMC chapter 16.12.

Chapter 18.16 Site Plan Permits

18.16.010 Site plan permit required.

18.16.010 Site plan permit required.

A person shall not make an improvement to land or a structure or commence, change, relocate or expand a use of land or a structure except as authorized by a valid site plan permit issued pursuant to BMC chapter 15.12.

Chapter 18.20 Preservation District - P District

18.20.010 Intent.

18.20.020 Permitted and 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 structures.

18.20.010 Intent.

A. The Preservation District is intended to apply to significant wetlands and drainage ways that should be preserved as open areas or to which careful attention must be given to development that would disturb the wetlands or affect the drainage ways.

B. When uncertainty exists concerning the actual physical location of the P District boundary line, as shown on the Official Map, the land use administrator shall inspect the area of uncertainty and shall determine the physical location of the P District boundary and may be guided by the boundaries of the General Permit 83-4 and the location or actual presence of wetlands and drainage ways.

C. It is the intent of the city that the boundaries of the P District be consistent with boundaries of General Permit 83-4 issued by the Army Corps of Engineers, and that amendments to the Official Map will be made when the boundaries of the General Permit are changed.

18.20.020 Permitted and principal uses and structures.

The following are permitted and principal uses and structures in the P District:

- 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 that does not require the use of fill material.

18.20.030 Conditional uses.

- A. The following uses and structures are permitted under the terms of a conditional use permit.
 - 1. Subsistence, recreational, and accessory uses and structures that require fill.
 - 2. Trail, walkways, boardwalks, and roads that require the use of fill.
 - 3. Agricultural uses.
 - 4. Single family, duplex, triplex and apartment residential uses; provided, the use of freezer vans as residential units is prohibited.
 - 5. Planned unit development.
 - 6. Commercial uses permitted as a principal use in the GU district
 - 7. Public and institutional uses permitted as principal uses in the PLI district.
 - 8. Landing strips and air taxi services.
- B. Any conditional use that requires dredge or fill activity in an area designated by the Army Corps of Engineers as a significant wetlands requires an approved Corps of Engineers individual permit before final planning commission approval.

18.20.040 Minimum lot size and dimensions.

- A. A lot may not contain less than 7000 square feet.
- B. Unless a specific waiver of the minimum frontage requirement was given when the lot was platted, a lot may not have a street frontage of less than forty feet; except, a lot that fronts on a cul-de-sac may have not less than twenty-five feet fronting on a public street.
- C. The minimum lot size for an apartment is 10,000 square feet for the first four units and an additional 1000 square feet for each additional unit.

18.20.050 Minimum setback requirements.

Structures, other than minor structures, in the P District shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.
- B. Side yard: 10 feet.
- C. Rear yard: 10 feet.
- D. Twenty-five feet from the mean high water mark of any drainage or lake.

18.20.060 Maximum height of structures.

The height of a structure in the P district is not restricted except as may be limited under airport height restrictions applied under BMC 18.48.250 – 270.

Chapter 18.24 Public Lands and Institutional District - PLI District

18.24.010 Intent.

18.24.020 Permitted and principal uses and structures.

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18.24.030 Conditional uses.

18.24.040 Minimum lot size.

18.24.050 Minimum setback requirements.

18.24.060 Maximum height of structures.

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 and principal uses and structures.

The following are permitted and principle uses and structures in the PLI District:

- A. Greenbelts and lands reserves.
- B. Trails and boardwalks.
- C. Sewer facilities and water supply facilities.
- D. Utility facilities.
- E. Any accessory use or structure associated with the principal use or structure on the lot.

18.24.030 Conditional uses.

The following structures and uses are permitted under the terms of a conditional use permit:

- 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.
- 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 charitable organizations and similar quasi-public organizations of a non-commercial nature.
- H. Governmental office buildings.
- I. Radio and television transmission towers and antennas, not including amateur radio and citizen band radio antennas that are accessory to a residential use.
- J. Recreation uses.
- K. Governmental service shops, maintenance and repair centers, and equipment storage yards.
- L. Private roads and parking areas.
- M. Animal control facility.
- N. Other public buildings and uses.
- O. Landing strips and air taxi services.
- P. Other uses and structures that are compatible with existing development and support or supplement existing development.

18.24.040 Minimum lot size.

The minimum lot size in the PLI district is 7000 square feet.

18.24.050 Minimum setback requirements.

Structures, other than minor structures, in the PLI district shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.
- B. Side yard: 10 feet.
- C. Rear yard: 10 feet.
- D. 25 feet from the mean high water mark of any drainage or lake.

18.24.060 Maximum height of structures.

The height of a structure in the PLI district is not restricted except as may be limited under airport height restrictions applied under BMC 18 48.250 - 270.

Chapter 18.28 Open Space District - OS District

18.28.010 Intent.

18.28.020 Permitted and 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 and principal uses and structures.

The following are permitted and principal uses and structures in the OS District:

- 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.

The following structures and uses are permitted under the terms of a conditional use permit.

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

18.28.040 Minimum lot size.

The minimum lot size in the OS District is 7000 square feet.

18.28.050 Minimum setback requirements.

Structures, other than minor structures, in the OS District shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.

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- B. Side yard: 10 feet.
- C. Rear yard: 10 feet.
- D. Twenty-five from the high water mark of any drainage or lake.

18.28.060 Maximum height of structures.

The height of structures in the OS District is not restricted except as may be limited under the airport height restrictions under BMC 18.48.250-270.

Chapter 18.32 Residential District - R District

18.32.010 Intent.

18.32.020 Permitted and 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 structures.

18.32.080 Noise.

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 and principal uses and structures.

The following are permitted and principal uses and structures in the R District.

- A. Trails and boardwalks.
- B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves.
- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van for any purpose is specifically prohibited; except, during the construction or substantial improvement of the primary structure on a lot, a freezer van used solely for storage of construction materials and equipment may be located on the lot for a period not to exceed 12 months unless, for good cause shown, the time is extended in writing by the land use administrator.
- H. The facilities of sewer, water and other utilities required to serve the lots in the district.
- I. Home occupations, but not more than two per dwelling unit.

18.32.030 Conditional uses.

The following uses and structures are permitted in the R District under the terms of a conditional use permit.

- A. Triplex and residential apartment buildings .
- B. Planned unit developments.
- C. Professional offices.
- 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 and antennas, not including amateur radio and citizen band radio antennas that are accessory to a residential use.
- H. Food and beverage sales.
- I. Personal services.
- J. The facilities of sewer, water and other utilities required to serve lots outside the district.

18.32.040 Minimum lot size.

The minimum lot size in the R District is 9000 square feet; provided, the minimum lot size for an apartment is 10,000 square feet for the first four units and an additional 1000 square feet for each additional unit.

18.32.050 Minimum setback requirements.

Structures, other than minor structures, in the R District shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.
- B. Side yard: 10 feet; provided, for lots that were lawfully platted prior to 1985 with less than 7,000 square feet, seven feet shall be provided for side yards.
- C. Rear yard: 10 feet; provided, for lots that were lawfully platted prior to 1985 with less than 7,000 square feet, seven feet shall be provided for rear yards.
- D. Twenty-five feet from the mean high water mark of any drainage or lake.

18.32.060 Maximum height of structures.

The height of structures in the R District is not restricted except as may be limited under the airport height restrictions under BMC 18.48.250-270.

18.32.080 Noise.

No loud noise, whether of public or private origin, shall be permitted within this land use district during the hours from 11:00 p.m. to 6:00 a.m. "Loud noise" is defined as a decibel level that exceeds 80 dBa Max at the property line of the parcel within the R District that is receiving the noise. Specific examples of loud noise include a person or persons speaking loudly or yelling, operating a garbage disposal, or honking a vehicle horn within 20 feet. This provision applies to all noise sources, whether generated inside or outside the R District, but does not apply to noise associated with aircraft arriving at or departing from the airport or emergency equipment or signals operated by a government agency.

Chapter 18.34 Neighborhood Commercial - NC District

Sections:

18.34.010 Intent

18.34.020 Permitted and principal uses and structures

18.34.030 Conditional uses

18.34.040 Minimum lot size

18.34.050 Minimum setback requirements

18.34.060 Maximum height of structures

18.34.010 Intent

The intent of Neighborhood Commercial district is to establish and maintain places for limited retail sales and services that are accessible and convenient to nearby residents. The NC district is applied to areas serving only

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a limited, local market and is intended to permit only those uses which do not create adverse impacts that are incompatible with nearby residences.

18.34.020 Permitted and principal uses and structures

The following are permitted and principal uses and structures in the NC District

- A. Trails and boardwalks.
- B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves.
- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van as a residential unit is specifically prohibited, but its use as an accessory structure for storage is not prohibited.
- H. The facilities of sewer, water and other utilities required to serve the lots in the district.
- I. Professional offices
- J. Food and beverage sales
- K. Personal services

18.34.030 Conditional uses

The following uses and structures are permitted under the terms of a conditional use permit.

- A. Triplexes and residential apartment buildings.
- B. Planned unit developments
- C. Parks, playfields, and playgrounds
- D. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens, and meeting rooms.
- E. Public and private schools
- F. Food and beverage service
- G. Auto service stations
- H. Radio and television transmission towers and antennas, but not including amateur radio and citizen band radio antennas that are accessory to a permitted use.
- I. The facilities of sewer, water and other utilities required to serve the lots outside the district.
- J. Other commercial uses that are consistent with the intent of the NC District.

18.34.040 Minimum lot size.

The minimum lot size in the NC District is 7,000 square feet.

18.34.050 Minimum setback requirements.

Structures, other than minor structures, in the NC District shall be set back from property line to provide the yards as follows:

- A. Front yard: 15 feet
- B. Side yard: 10 feet.
- C. Rear Yard: 10 feet.
- D. Twenty-five feet from the mean high water mark of any drainage or lake.

18.34.060 Maximum height of structures.

The height of structures in the NC District is not restricted except as may be limited under the airport height restrictions under BMC 18.48.250-270.

Chapter 18.35 Downtown Commercial - DC District

Sections:

- 18.35.010 Intent**
- 18.35.020 Permitted and Principal Uses and Structures**
- 18.35.030 Conditional Uses**
- 18.35.040 Minimum Lot Size**
- 18.35.050 Minimum Setback Requirements**
- 18.35.060 Maximum Height of Structures**

18.35.010 Intent

The intent of the Downtown Commercial District is to create a concentrated area of retail, financial, and public institutional facilities in order to encourage the development of interrelated uses and functions, reduce pedestrian walking distance between activities, and ensure the development of compatible pedestrian oriented uses in the Downtown Commercial District.

18.35.020 Permitted and principal uses and structures

The following are permitted and principal uses and structures in the DC District.

- A. Greenbelts and lands reserves.
- B. Trails and boardwalks.
- C. Sewer facilities and water supply facilities.
- D. Utility facilities.
- E. Any accessory use or structure associated with the principal use or structure on the lot.
- F. Parks, playfields, and playgrounds.
- G. Museums, historic and cultural exhibits.
- H. Educational institutions, including public, private or parochial academic schools, colleges, and universities.
- I. Hospitals, sanitariums, children's homes, group homes, nursing homes, convalescent homes, homes for the aged, and similar homes.
- J. Cemeteries.
- K. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens and meeting rooms.
- L. Headquarters or administrative offices for charitable organizations and similar quasi-public organizations of a non-commercial nature.
- M. Governmental office buildings.
- N. Radio and television transmission towers and antennas, not including amateur radio and citizen band radio antennas that are accessory to a residential use.
- O. Recreation uses.
- P. Governmental service shops, maintenance and repair centers, and equipment storage yards.
- Q. Private roads and parking areas.
- R. Animal control facility.
- S. Other public buildings.
- T. Landing strips and air taxi services.
- U. Other uses and structures that are compatible with existing development and support or supplement existing development.
- V. Commercial uses and structures permitted in the GU District.

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W. Any use or structure that is accessory to the principal use or structure on the lot.

18.35.030 Conditional uses.

The following structures and uses are permitted in the DC District under the terms of a conditional use permit:

- A. Planned unit developments.

18.35.040 Minimum Lot Size.

A lot in the DC District may not contain less than 5,000 square feet.

18.35.050 Minimum setback requirement.

Structures, other than minor structures, in the DC District shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.
- B. Side yard: zero feet, except as provided in subsections D and E.
- C. Rear yard: zero feet, except as provided in subsection E.
- D. If the lot is a corner lot, the setback from the side street is 25 feet from the street right-of-way or 5 feet if the width of the lot is 50 feet or less.
- E. When a side or rear interior property line abuts a residential district, buildings and other permanent structures shall be set back 25 feet from that property line, plus one foot for each 3 feet of structure height greater than 12 feet.
- F. Twenty-five feet from the mean high water mark of any drainage or lake.

18.35.060 Maximum height of structures.

The height of structures in the DC District is not restricted except as may be limited under BMC 18.35.050E or under the airport height restrictions under BMC 18.48.250-270.

Chapter 18.36 General Use District - GU District

18.36.010 Intent.

18.36.020 Permitted and 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.

18.36.010 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 GU District.

18.36.020 Permitted and principle uses and structures.

The following are permitted and principal uses and structures in the GU District:

- A. Trails and boardwalks.
- B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves

- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van as a residential unit is specifically prohibited, but its use as an accessory structure for storage is not prohibited.
- H. The facilities of sewer, water and other utilities.
- I. All uses listed as conditional uses in the PLI District
- J. Triplexes and apartment buildings.
- K. Commercial uses and structures, including:
 1. Delicatessens, meat, seafood, and other food specialty 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 store.
 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, bunk houses 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.

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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 builders 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 finishing 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.

18.36.030 Conditional uses.

The following uses and structures are permitted in the GU District under the terms of a conditional use permit:

- A. Industrial uses permitted in the I District.
- B. Radio and television towers and antennas, but not including amateur radio and citizen band radio antennas that are accessory to the principal use of the lot.
- C. Landing strips and air taxi services.
- D. Planned unit developments.

18.36.040 Minimum lot size.

The minimum lot size in the GU District is 7000 square feet.

18.36.050 Minimum setback requirements.

Structures, other than minor structures, in the GU district shall be set back from property lines to provide yards as follows:

- A. Front yard: 15 feet.
- B. Side yard: 10 feet.
- C. Rear yard: 10 feet.
- D. Twenty-five feet from the mean high water mark of any drainage or lake.

18.36.060 Maximum height of structure.

The height of a structure in the GU district is not restricted except as may be limited under airport height restrictions applied under BMC 18.48.250 - 270.

Chapter 18.40 Industrial District - I District

18.40.010 Intent.

18.40.020 Permitted and principal uses and structures.

18.40.030 Conditional uses.

18.40.040 Minimum lot size.

18.40.050 Minimum setback requirements.

18.40.060 Maximum height of structures.

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.

18.40.020 Permitted and principal uses and structures.

A. Commercial uses permitted as principal uses in the GU District, except that all residential uses and structures are prohibited unless specifically authorized in this section.

B. One dwelling unit occupied by the owner, the manager or a watchman of a principal use on the lot.

C. Any accessory use or structure associated with the principal use or structure on the lot.

D. Industrial uses, including:

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. Irethane 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.

18.40.030 Conditional uses.

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The following uses and structures are permitted in the I District under the terms of a conditional use permit:

- A. Planned unit developments.

18.40.040 Minimum lot size.

The minimum lot size in the I District is 7000 square feet.

18.40.050 Minimum setback requirements.

Structures, other than minor structures, in the I District shall be set back from property lines to provide the following yards:

- A. Front yard: 15 feet.
- B. Side yard: 10 feet.
- C. Rear yard: 10 feet.
- D. Twenty-five feet from the high water mark of any drainage or lake.

18.40.060 Maximum height of structures.

The height of a structure in the I District is not restricted except as may be limited under airport height restrictions applied under BMC 18.48.250 - 270.

Chapter 18.48 Supplemental Regulations

Article I Zero Lot Line Development

18.48.030 Zero lot line development.

Article II Offstreet Parking and Loading

18.48.150 Purpose of offstreet parking, loading and driveway requirements.

18.48.160 Offstreet parking requirements.

18.48.170 Parking area location.

18.48.180 Offstreet parking design standards.

18.48.190 Disabled parking standards.

18.48.200 Driveway standards.

18.48.210 Loading standards

Article III Height Restrictions

18.48.250 Air navigation hazards, purpose.

18.48.260 Height restrictions.

18.48.270 Airport height map.

Article I Zero Lot Line Development

18.48.030 Zero lot line development.

A. The purpose of this section is to allow more flexibility in site design and to provide for increased open or yard space.

B. The planning commission may approve a residential zero lot line development following the conditional use procedures pursuant to Chapter 18.60. Except as provided in C of this section, the development requirements shall be in conformance with all other requirements of the district. The required yard on the side of the lot opposite the property line on which the party wall rests shall be increased by the

amount of yard otherwise required adjacent to the party wall property line. A site plan permit is required prior to construction of a structure exempted from a yard requirement under this section.

C. Single family, duplex and triplex residential structures may be exempted from a side or the rear 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 adjacent to the party wall lot line is not necessary for drainage, access, circulation, parking or for use as a buffer area from adjacent uses.

Article II Offstreet Parking and Loading

18.48.150 Purpose of offstreet parking and driveway requirements.

The purpose of offstreet parking, loading and driveway requirements is to establish and maintain areas for efficient and convenient driveway access and parking for residential, civic, commercial and industrial uses, and to provide a safe means for discharging people and products from ground transportation. Sections 150 through 210 of this chapter may be referred to as the offstreet parking and loading code.

18.48.160 Offstreet parking requirements.

A. No parking area provided for the purpose of complying with the provisions of this code shall be eliminated, reduced, or converted to another use unless equivalent facilities are provided in conformance with this chapter and approved by the planning department on a site plan permit. New structures or uses on a lot must provide parking space as required by this chapter. Additions or expansions to any structure or a change in use on a property shall be accompanied by parking facilities to replace parking lost or to achieve conformance with this chapter.

B. Space computations for any parking requirements that result in fractional requirements shall be increased to the next higher whole number.

C. Parking requirements for types of structures or uses not specifically listed in this section shall be determined by the land use administrator based on comparable uses listed in this chapter or on standards recommended by a professional planning or engineering organization.

D. Offstreet parking space shall be provided as set out in this subsection:

1	Single family and duplex	2 spaces per dwelling unit
2	Multifamily, including triplex	1.5 spaces per dwelling unit
3	Religious assembly	1 space per 4 seats or 8ft bench in the main assembly
4	Library, cultural exhibits	1 space per 400 square feet gross floor area
5	Primary and secondary schools	1 space per classroom plus 1 space per administrative employee, and 1 space per 6 students design capacity or 1 space per 4 seats/8 feet of bench in the main auditorium, whichever is greater
6	College/trade school	1 space per 1 faculty FTE plus 1 space per 5 student FTE design capacity
7	Stadium/fairground	1 space per 4 seats or 1 space per 8 feet of bench, whichever is greater
8	Other public assembly, recreation, or entertainment	1 space per 4 seats or 1 space per 8 feet of bench, or 1 space per 100 square feet of gross floor area, whichever is greater
9	Hospital	1 space per two beds

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10	Professional/administrative offices	1 space per employee plus 1 space per 400 square feet gross floor area
11	Medical offices and clinics	1 space per employee plus 1 space per 200 square feet gross floor area
12	Retail sales and service	1 space per 300 square feet gross floor area
13	Retail sales and service of large items such as furniture and appliances	1 space per 750 square feet gross floor area
14	Personal service	1 space per 300 square feet gross floor area
15	Shopping center/department store	5 spaces per 1,000 square feet gross floor area except, restaurant space shall be provided as set out in subsection 16
16	Restaurant	1 space per 100 square feet gross floor area
17	Motel, hotel, bed-and-breakfast, boarding and lodging facilities	1 space per guestroom
18	Warehouse, wholesale, distribution, manufacturing	1 space per employee plus 1 space per commercial vehicle plus 1 space per 700 square feet of patron service area
19	Heavy industrial	1 space per each 1.5 employees

18.48.170 Parking area location.

- A. Required parking facilities for long term residential uses shall be located on the same lot as the use the parking facilities are intended to serve.
- B. Required parking facilities shall be located on the same lot as the use such parking facilities are intended to serve or, except for uses other than long term residential use on a lot under the same ownership if such parking is located adjoining or in close proximity to the actual use or uses served, and there is a safe, convenient pedestrian connection between the lots.
- C. Except for long-term residential uses, required parking facilities of two or more uses, structures or contiguous lots or parcels may be satisfied by the same parking facilities used jointly if the parking facility meets the total requirement for all uses and situations; provided, an overlap of up to 20 percent of the highest overlapping single user's requirement may be permitted if, but only for so long as, the hours of operation of the overlapping users do not overlap and the right of joint use is evidenced by a deed, lease, contract, or similar written instrument establishing the joint use which remains effective for so long as the users' requirements must be met by overlapping use.

18.48.180 Offstreet parking design standards.

- A. All offstreet parking spaces shall be no less than 9 feet by 20 feet in size, except that (1) all parallel parking spaces shall be no less than 9 feet by 22 feet in size.
- B. The aisle width between parking spaces shall be no less than:
 - (1) 16 feet between rows of parking spaces angled 30 degrees or less;
 - (2) 18 feet between rows of parking spaces angled at greater than 30 degrees but not greater than 60 degrees;
 - (3) 25 feet between rows of parking spaces angled at greater than 60 degrees;
 - (4) 12 feet for one-way aisles and 24 feet for two-way aisles between parallel parking spaces.
- C. Each parking space shall have access to a circulation isle which shall access a street or alley.
- D. Maneuvering and access aisle area shall be sufficient to permit vehicles to enter the space in a forward motion except that residential and employee parkers may back in from alleys.

E. Parking lots with four or greater stalls shall have an improved surface approved by the city engineer; provided, the overall finished grade of a parking lot shall not exceed a 5 percent slope.

F. The lot shall be graded so that it will drain as required by the city engineer.

G. All boundaries of the lot directly abutting public or private property shall have a landscaped setback of at least 8 feet or shall have a suitable barrier to prevent vehicle encroachment beyond the property line.

H. Neither the landscaped setback required in subsection G. nor any landscaping or sign shall block the visibility of drivers exiting across a public sidewalk or entering a public street. If located closer than 8 feet to the nearest sidewalk or 20 feet from the nearest improved edge of the street, any closed fence, wall, ground-mounted sign, bush, or hedge line shall not exceed 24 inches in height along any side having a driveway exit across a sidewalk or to a street.

I. Parking facilities available for night use by employees or patrons shall be lighted during the night hours of use.

J. Covered parking spaces shall have a vertical clearance of at least 7'6" above the parking lot surface for all uses except residential.

18.48.190 Disabled parking standards

A. Parking lots which contain 6 to 25 required spaces shall provide 1 space for restricted use of disabled persons. Parking lots that contain 26 to 50 required spaces shall contain 2 spaces for restricted use of disabled persons. Parking lots which contain more than 50 required spaces shall contain 1 additional space for restricted use of disabled persons for each additional 100 parking spaces or fraction thereof that are required.

B. Parking spaces required by this section shall be at least 9 feet wide and shall have an adjacent aisle that is at least 6 feet wide. Two adjacent parking spaces that meet the requirement of this section may share an aisle.

C. A sign shall be posted for each disabled person parking space. The sign shall be clearly visible, and be marked with the international symbol of handicap access.

D. All other design considerations must comply with the Americans With Disabilities Act.

18.48.200 Driveway standards.

A. Driveways serving residential uses on lots served by piped sewer and water shall have a minimum width of not less than 9 feet when serving 4 or fewer dwelling units and a driveway width of not less than 16 feet when serving 5 or more dwelling units or in lieu thereof, 2 separate driveways not less than 9 feet in width.

B. Driveways serving other than residential uses on lots served by piped sewer and water shall have a minimum width of 15 feet to accommodate one-way traffic and a minimum width of 25 feet to accommodate two-way traffic.

C. Driveways serving any use on a lot that is not served by both piped water and piped sewer shall have a minimum width of not less than 25 feet unless the land use administrator determines that practical considerations such as lot frontage, proximity to a street intersection, lot size, lot topography, drainage patterns, the location of preexisting structures or the proposed principal structure and other considerations require a lesser width be provided. Before authorizing a lesser width, the land use administrator shall obtain and consider the recommendations of the director of public works.

D. Parking areas for two or more vehicles shall be designed to prevent or discourage cars from backing out into a public street, public or private pedestrian walk, or public alley, in order to leave the area or to maneuver out of the parking space. Parking lots shall be designed and improved so as to prevent ingress and egress at any point other than designated entrance or exit drives.

E. Access driveways to parking areas containing 4 or more spaces shall be located and designed as follows:

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(1) Parking area entrance and exit driveways shall be located a minimum of 50 feet from the nearest street intersection, as measured from the centerline of the driveway to the nearest line of the nearest travel lane of the intersecting street.

(2) Driveways crossing the street property line of a single lot shall be limited to one entrance and one exit driveway along the frontage of a single street. The centerline of the driveways on the same lot shall be separated by a minimum of 30 feet.

(3) A combined entrance and exit driveway shall be perpendicular to the street centerline for a distance of twenty-five feet from the street property line.

E. Driveways that cross drainageways are subject to the requirements of BMC 15.12.040(B)(3) and 15.12.050(A)(11).

18.48.210 Loading standards.

A. Structures that are constructed, altered or used which receive or distribute materials or merchandise by truck shall provide offstreet loading berths as follows:

Gross Floor Area of Structure in Square Feet	Number of Required Berths
1 – 4,999	0
5,000 – 19,999	1
20,000 – 50,000	2
Greater than 50,000	2 plus one for each additional 50,000 square feet

B. A loading berth shall contain a space not less than 10 feet wide and 50 feet long, and have an overhead clearance of not less than 14 feet. In no case shall a loading berth be designed such that any truck using the berth would interfere with a public street or occupy any area designated to meet offstreet parking requirements.

Article III Height Restrictions

18.48.250 Air navigation hazards, purpose.

Sections 18.48.250 through 18.48.270 of this chapter may be referred to as the air navigation hazards regulations or the airport height restrictions. It is the purpose of these sections to promote the safety of aircraft using public airports for landing and departures by providing a mechanism whereby the city's regulation of land use within the vicinity of a public airport may complement the height restrictions established by the Federal Aviation Administration.

18.48.260 Height restrictions.

A. No structure may exceed the lower of the height or elevation limit provided in other parts of the Bethel Municipal Code or the height, elevation or elevation limit as determined from the applicable airport height map that meets the requirements of Section 18.48.270.

B. A development proposed for a site within the boundaries of any approach surface or approach zone shown on an approved airport height map may not be approved if any structure in the proposed development exceeds the height or elevation restriction shown on the airport height map for that location; provided, if the Federal Aviation Administration or the airport operator provides a certification or other statement that the proposed development does not exceed the federal height limitations applicable to that location or provides a waiver, variance or other form of a permit authorizing the intrusion of the structure into the prohibited air space, the structure may be approved with respect to the limitations on height or elevation set out in Sections 18.48.250 through 18.48.270.

18.48.270 Airport height map.

A. The owner or manager of a public airport may prepare for filing with the planning department and approval of the land use administrator a proposed airport height map. A proposed airport height map becomes an approved airport height map upon the written approval of the map as meeting the requirements of this section by the land use administrator set out upon or appended to the map.

B. The map shall be prepared in a manner that shows the airspace zones as defined and set forth in Federal Aviation Regulations, Part 77, subpart C, that are applicable to the airport. The map may consist of more than one sheet, shall be to scale and shall accurately show the following:

1. The exterior boundaries of the applicable air space zones.
2. The name or other identification of each of the airspace zones.
3. A legend that provides a description of the location of each zone or surface,

including a reference to the paragraph in the Federal Aviation Regulations that describes the zone or surface.

4. The reference points within or outside the airport from which distance, elevation, height, bearing, vertical angle or other measurements are made in describing the airspace zones or surfaces.

5. Existing topography, if available.

6. Existing subdivisions, streets, roads and other rights of way, U.S. Surveys, section lines and similar features of land that will be useful in determining the location of a proposed development with respect to the boundaries of any airspace zone.

C. The map required by subsection A of this Section shall accurately show the airspace zones. Airspace zones that have a sloping surface shall be shown in 10 foot increments unless the land use administrator requires more frequent contour lines close to the airport or permits larger increments in areas farther from the airport. Separate maps may be submitted for the different airspace zones. Before submission to the land use administrator for final approval, the map must have been certified by the Federal Aviation Administration as accurately depicting the requirements of the relevant Federal Aviation Regulations, Part 77, subpart C. Upon reasonable intervals, and upon learning of a change in the airport or applicable regulations, the land use administrator may request Federal Aviation Administration review and recertification of the airport height map.

Chapter 18.52 Planned Unit Development.

18.52.010 Intent.

18.52.020 Application.

18.52.030 Hearing and notification.

18.52.040 General provisions.

18.52.050 Residential planned unit developments.

18.52.060 Business planned unit developments.

18.52.070 Industrial planned unit developments.

18.52.010 Intent.

A planned unit development (PUD) is intended to allow flexibility in the land use code and to achieve the creation of a more desirable environment than would be possible through a strict application of the land use code. An applicant does not have a right to approval of a PUD permit, but has a right only to have the planning commission give fair consideration to an application for a PUD. The planning commission has discretion to deny a PUD application if it is not convinced the proposed development is compatible with principal permitted uses, existing neighborhood development, the environment, the comprehensive plan or maintenance of compatible and efficient development patterns.

The planning commission shall evaluate a proposed planned unit development in accordance with the following criteria:

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- A. Creative use of the land, imaginative architectural design, a consolidation of usable open space and recreation areas and the preservation of natural features.
- B. The mixing of compatible land uses, residential densities and housing types within the neighborhood.
- C. The efficiency of the configuration of utilities, vehicular and pedestrian circulation and parking facilities.
- D. Enhancement of the surrounding environment.
- E. Maintenance of population densities and lot coverage that are consistent with available public services and the comprehensive plan.

18.52.020 Application.

- A. The applicant shall complete a PUD permit application on a form provided by the planning department in which the applicant shall state and describe in narrative:
 - 1. A legal description and street address of the parcel.
 - 2. The names and addresses of the owners of the parcel and of the applicant.
 - 3. A description of the proposed PUD.
 - 4. A map or plat of the general area surrounding the parcel, with notations of the uses and structures that exist on abutting and nearby lots.
 - 5. A detailed map or plat of the development parcel showing existing and proposed streets, lots, building locations, uses contour lines and other relevant features.
 - 6. Potential impacts on pedestrian and vehicular traffic circulation and safety.
 - 7. Potential output of noise, fumes, dust, wastes and other forms of potential environmental pollution.
 - 8. Special features and restrictions designed to minimize negative impacts and to ensure the public health, safety and welfare of the residents.
 - 9. A complete site plan permit application for the proposed use, including fill placement, quantities and contours and drainage plans.
 - 10. If any part of the project is located in a flood hazard area or in an area where the project may adversely affect drainage or floods in a flood hazard area, the proposal shall address the relevant matters and standards covered by BMC 15.04.160 through 15.04.180.
 - 11. The names and addresses of all persons who own property within 600 feet of the boundaries of the parcel.
- B. A fee shall be included as established by resolution of the city council.

18.52.030 Hearing and notification.

- A. Upon receipt of a complete application for a PUD permit, the land use administrator shall set a date for 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 PUD shall be provided as set out in BMC 18.04.070.
- C. The public hearing shall be conducted substantially as provided in BMC 18.60.050(A) - (C).

18.52.040 General provisions.

All residential, business and industrial planned unit developments shall meet the following minimum standards. In addition, the planning commission may require compliance with such other design standards relating to the construction, design and placement of buildings, landscaping, streets, roadways, pathways,

drainageways and other site design features as it may deem necessary. The commission shall develop and publish guidelines to assist developers in meeting such standards.

A. The minimum site area for a planned unit development shall be 2.0 acres for PUDs located entirely in the I, GU, DC or NC districts. If any portion of a proposed PUD is located within the PLI or R districts, the minimum site area shall be 5.0 acres. The minimum site area for a PUD within the P district shall be 100 acres.

B. Building design and site development which involve grading for the placement of structures, parking areas, driveways and roadways shall be depicted on a site plan and shall be described in the written documents and shall specifically address drainage.

C. Major internal streets which are intended to serve a planned unit development shall be functionally connected to existing or proposed streets to provide adequate ingress and egress. The street system by which the PUD will access the core area of the city shall meet the minimum street standards issued by the city engineer.

D. A planned unit development shall be in accordance with the comprehensive plan.

E. All areas not devoted to buildings, structures, drives, walks, offstreet parking facilities or other authorized installations shall be planted with visual enhancement landscaping.

F. All developments shall meet fire safety requirements established by the city fire department.

G. If any part of the development is in a flood hazard area or in a location that would affect flooding or drainage in a flood hazard area, the planning commission shall address the applicable standards and matters under BMC 15.04.160 through 15.04.180 and shall impose such requirements as necessary to ensure that flood hazards and potential flood damage will be minimized and that the development will not adversely affect flooding situations in the flood hazard area; the planning commission shall impose such requirements as appropriate to minimize or eliminate the adverse effects of the development on floods and potential flood damages, whether within or outside the development.

18.52.050 Residential planned unit developments.

Planned unit developments in the R district shall be limited to residential planned unit developments. In addition to meeting the standards set forth in the general provisions for all PUD's, residential PUD's shall meet the following minimum standards:

A. The number of dwelling units per acre allowable on the gross usable area of a residential PUD shall be determined by the planning commission. However, in no event may the number of dwelling units per acre exceed 4 units per acre.

B. A minimum of 30 percent of the site shall be reserved as usable open space. At least one-half of such usable open space shall be contiguous, and no portion of the required open space may be less than 2,000 square feet in area or less than 30 feet in its smallest dimension. A minimum of 12 percent and a maximum of 50 percent of required open space shall consist of yards which shall be reserved for the residents of individual dwellings. In multistory buildings, balconies or decks may be used in lieu of yards provided that the total area of all balconies or decks and yards is not less than the total yard area that would otherwise be required.

C. Permitted uses shall be limited to residential and accessory uses, convenience establishments and personal or professional services. A residential PUD may not include the storage or use of mobile homes, freezer vans, Quonset huts or similar structures. Any nonresidential use must be specifically authorized as to its exact location, type and size. In no event shall the floor area of nonresidential uses exceed ten percent of the total internal floor area of the PUD.

D. Any nonresidential use permitted in a residential PUD shall be compatible with the residential nature of the development. Parking areas which are intended to serve nonresidential uses shall be separated from those designed to serve residential areas. Unless commercial and residential uses are combined within a single structure, commercial uses shall be separated from dwelling units by a heavily landscaped buffer zone having a minimum width of 30 feet.

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- E. Pedestrian paths shall connect residential uses and nonresidential uses within a residential PUD.
- F. Buffer landscaping shall be planted along each boundary of the planned unit development adjoining a nonresidential district or a right-of-way designated for collector or greater capacity.
- G. Any two adjacent buildings within a PUD shall be separated from each other by a distance equal to one-half the height of the taller building.
- H. Streams shall, except for necessary bridges and crossings, be separated from streets, parking areas and structures with a landscaped buffer zone having a minimum width of 50 feet.
- I. Walls and ceiling-floor assemblies which are common to any two dwellings shall have a minimum STC acoustic rating of 55 and a minimum fire rating of one hour.
- J. Each required parking space for residential uses shall be provided with an electrical outlet.
- K. Any PUD which will involve the formation of a horizontal property regime under the terms of AS 34.07.030 et seq. or any mandatory homeowners' or similar association must submit for review by the commission the articles of incorporation and bylaws of any such association prior to the sale of any property subject to the association. The planning commission may require any provisions necessary to ensure that the provisions and intent of this title are met.

18.52.060 Business planned unit developments.

A business PUD may be allowed upon property in the I, GU, DC and NC districts. A PUD in any such district may include only those uses which are permitted principal uses and structures in any of the districts listed in this subsection, provided that no use involving outdoor storage of inventory, hotel uses or wholesale uses shall be permitted where it would not otherwise be permitted in the district in which the PUD is located. In addition to meeting standards set forth in the general provisions for all PUD's, a business PUD shall meet the following minimum standards.

- 1. Parking lots and loading areas shall conform to sections 18.48.150 through 18.48.210.
- 2. Buffer landscaping shall be planted along each boundary of a business planned unit development that adjoins a residential district.
- 3. A business PUD shall provide for safe and convenient pedestrian circulation.
- 4. Principal vehicular access points shall permit smooth traffic flow with controlled turning movements and to minimize hazards to vehicular or pedestrian traffic. Access points shall be located in relation to major thoroughfares so that traffic congestion will not be created by the proposed development.
- 5. The maximum number of residential dwelling units per acre allowable within a business PUD shall be determined by the following schedule. If a business PUD is designed to include residential uses, the area to be devoted to such uses shall be identified on the PUD site plan, and the allowable density shall be calculated based only upon the areas indicated for residential use:

<i>Land Use District</i>	<i>Dwelling Units per Acre (gross area)</i>
I	4
GU	4
DC	4
NC	4

18.52.070 Industrial planned unit developments.

An industrial PUD may be allowed upon property the I district. An industrial PUD may include only such uses as are permitted principal uses and structures in the district in which the proposed PUD is located. In addition, a residential PUD may be allowed in the I district; provided, however, that any residential uses must be situated on an area of at least ten acres including dedicated streets, and screening landscaping shall

be planted along each boundary of the residential planned unit development, except for vehicular and pedestrian ingress and egress points. A residential PUD which is located in the I district must conform to all of the standards required for a residential PUD in the R district. In addition to meeting standards set forth in the general provisions for all PUD's, an industrial PUD shall meet the following minimum standards:

1. Screening landscaping shall be planted along each boundary of an industrial planned unit development adjoining a residential district.
2. Principal vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and to minimize hazards to vehicular or pedestrian traffic. Access points shall be located in relation to major thoroughfares so that traffic congestion will not be created by the proposed development.

Chapter 18.56 Mobile Home Parks

18.56.010 Minimum area required.

18.56.020 Parking.

18.56.030 Access.

18.56.040 Spacing between structures.

18.56.050 Open Space.

18.56.010 Minimum area required.

The minimum area required for a mobile home park 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, but does not include any required open space.

18.56.020 Parking.

Two parking spaces per unit shall be provided.

18.56.030 Access.

Each mobile home or manufactured home space must be accessed either by public right-of-way or an interior access lane that is adequate for year round use by emergency vehicles and by water delivery and sewage evacuation trucks unless piped water and sewer are provided. Such access shall be level and kept sufficiently free of ice and snow so that emergency and service vehicles will have access to water and sewage holding tanks and will not be stranded during periods of ice or snow buildup.

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.

A mobile home park that requires a parcel of land with a gross usable area greater than two acres must reserve an additional usable area for open space for recreation that is equal to at least 10% of the area required under section 18.56.010.

18.56.060 Structural requirements.

A mobile home or manufactured home may not be located in a mobile home park unless it is a certified mobile or manufactured home and bears a seal or certification that it was built in compliance with the standards of the National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. § 401).

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Chapter 18.60 Conditional Use Permit (CUP) Standards and Procedures

18.60.010 Authorization.

18.60.020 Application.

18.60.030 Hearing and notification.

18.60.040 Staff review.

18.60.050 Planning commission review.

18.60.060 Standards for Planning commission decision.

18.60.061 Lapse of Approval.

18.60.010 Authorization.

The planning commission may grant a conditional use permit for those uses or structures authorized as a conditional use in the applicable land use district chapter of this title, subject to the standards provided in this chapter. An applicant does not have a right to a conditional use permit, but has a right only to have the planning commission give fair consideration to an application for a conditional use. The planning commission has discretion to deny a conditional use permit application if it is not convinced the proposed use is compatible with principal permitted uses, existing neighborhood development, the environment, the comprehensive plan or maintenance of compatible and efficient development patterns.

18.60.020 Application.

- A. The applicant shall complete a conditional use permit application on a form provided by the planning department in which the applicant shall state and describe in narrative:
1. A legal description and street address of the parcel.
 2. The names and addresses of the owners of the parcel and of the applicant.
 3. A description of the proposed conditional use.
 4. A map or plat of the general area surrounding the parcel, with notations of the uses and structures that exist on abutting and nearby lots.
 5. Potential impacts on pedestrian and vehicular traffic circulation and safety.
 6. Potential output of noise, fumes, dust, wastes and other forms of potential environmental pollution.
 7. Special features and restrictions designed to minimize negative impacts and to ensure the public health, safety and welfare of the residents.
 8. A complete site plan permit application for the proposed use, including fill placement, quantities and contours and drainage plans.
 9. If any part of the project is located in a flood hazard area or in an area where the project may adversely affect drainage or floods in a flood hazard area, the proposal shall address the relevant matters and standards covered by BMC 15.04.160 through 15.04.180.
 10. The names and addresses of all persons who own property within 600 feet of the boundaries of the parcel.
- B. A fee shall be included as established by resolution of the city council.

18.60.030 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. 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 provided as set out in BMC 18.04.070.

18.60.040 Staff review.

A. The land use administrator shall review the conditional use permit application and the accompanying site plan permit application for completeness and request any additional material required. Upon determining that the application is complete, the land use administrator shall prepare a staff report with analysis and recommendations. The report shall specifically address drainage on the parcel. The land use administrator may recommend any conditions reasonably necessary for the proposed use to permit the conclusions required under subsection B of this section. The written staff report containing the analysis, proposed conditions and conclusions shall be provided to the planning commission with their meeting materials one week prior to the public hearing.

B. The land use administrator may make a recommendation for approval only when the proposed use and conditions clearly support the following conclusions:

1. The proposed conditional use will not be detrimental to the general public health, safety or welfare or to the environment;
2. The conditional use meets the standards otherwise applicable to a use in the applicable land use district;
3. There are adequate existing or proposed sewage capacity, transportation facilities, parking area, drainage facilities and water supply to serve the proposed conditional use without causing a substantial negative impact on the existing level of services provided by such public facilities;
4. The conditional use conforms to the intent and purposes of the land use code that are set out in BMC 16.04.010;
5. The use and structures proposed are of an appropriate character and scale for the neighborhood in which the project will be located, including parts of the neighborhood that may lie outside the land use district within which the parcel is located;
6. The conditional use is in accordance with and furthers the goals and policies of the comprehensive plan;
7. The proposed use will not subject surrounding properties nor vehicles and pedestrians using nearby streets and ways to hazardous or substantially increased traffic conditions.
8. There is a demonstrated need for the conditional use limited primarily to the area proposed, or, if the use will generally serve a larger area, then a demonstration that the use is essential to the city generally, and because of a feature of the property, the general need can be met by the property, but cannot be met as a principal permitted use on other property in the city.
9. The use, under the conditions proposed, will be compatible with existing and principal uses authorized and will not cause negative impacts on nearby property, including impacts from drainage, that exceed the impacts that would ordinarily be expected from principal permitted uses of the property that is the subject of the application.
10. If any part of the project is located in a flood hazard area or in an area where the project may adversely affect drainage or floods in a flood hazard area, the conditions proposed adequately address the relevant matters and standards covered by BMC 15.04.160 through 15.04.180.

18.60.050 Planning commission review.

A. The applicant or an authorized representative shall 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 failure of the applicant or an informed, authorized representative to be available at the hearing.

B. The planning commission shall consider the matter at a public hearing. The commission shall consider the application, the land use administrator's staff report, any written comments from members of the public submitted prior to the public hearing, and oral comments made at the public hearing.

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C. 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.
2. Planning department staff shall present a staff report and recommendations regarding the subject project.
3. The planning commissioners shall ask staff any questions they may have regarding the staff review and recommendations.
4. 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 and matters raised by the staff or the commission.
5. Planning commissioners may ask the applicant any questions they may have about the project.
6. The neighbors or any other interested persons will be given the opportunity to speak. The chairperson will read all written comments submitted regarding the proposed project or copies shall be provided to each commission member. Information provided should be limited to facts. Persons who have given testimony previously during the hearing may comment on any new information limiting comments to new information only. The chairperson may limit repetitious testimony based on time constraints or other situations which may arise.
7. Members of the planning commission may ask any questions of neighbors or other interested persons.
8. The applicant shall be given the opportunity to rebut factual matters raised by the staff, neighbors and other interested persons.
9. After the applicant has given rebuttal evidence and summarized, the staff shall be given an opportunity to comment on evidence presented and to make new or amended recommendations.

D. 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 or commission discussion 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 and between any of these steps.

E. The commission shall make a decision based upon the standards specified in BMC 18.60.060. The commission may impose any conditions reasonably necessary for the proposed use to comply with the standards listed in BMC 18.60.060. If the planning commission does not adopt the land use administrator's recommendations and conclusions, it must support its findings with a statement of findings and conclusions, which shall be included in the official minutes of the hearing and in the resolution approving or disapproving the conditional use.

18.60.060 Standards for Planning commission decision.

A. The planning commission may approve a request for a conditional use permit only if it makes findings, supported by the record, as are set out in BMC 18.60040(B)(1) through (9).

B. 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:

1. to ensure the public health, safety, and welfare of residents; and
2. to minimize or eliminate adverse impacts on residential property.

C. 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 and to maintain consistency with the comprehensive plan and the purposes of this title as set out in BMC 16.04.010.

D. 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 is 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 is the completion of 50% or more of the total authorized improvements as specified on the subject permit as measured by cost. If the conditional use permit is primarily for a use not involving substantial improvements to the land, the permit is "exercised" when the use commences and continues for 30 days or more.

B. A conditional use permit approval subject to lapse may be extended by the planning commission for an additional period of up to one year, provided that prior to the expiration date, a written request for extension is submitted to the planning commission and good cause for the extension is shown.

Chapter 18.64 Variances

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. A variance from the dimensional standards of this title may be granted by the planning commission after reviewing the record made at the hearing and the findings, conclusions and recommendations of the planning department if it is shown that all the standards set out in subsection B have been met. Any variance granted shall be the minimum variance that will make possible a use of the land or structure that is a principal permitted use or structure in the land use district. Nonconforming uses and violations which exist in any land use district, will not set a precedent to be considered in evaluating grounds for any variance.

B. A variance may be granted only if it is shown that all of the following standards are met:

1. Special physical conditions exist which are peculiar to the land involved and which are not applicable to other land in the same district;
2. Strict application of the provisions of this title would deprive the applicant of all uses of the land permitted to other properties in the same district under the terms of this title;
3. The special conditions and circumstances do not result from the actions of the applicant or a predecessor-in-interest and such conditions and circumstances do not merely constitute financial hardship or inconvenience;
4. Granting the variance would be consistent with the intent and purpose of the comprehensive plan and titles 15, 16, and 18 of this code and would not be 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 that is not permitted 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.

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18.64.020 Application.

An applicant for a variance shall submit a site plan permit application as described in BMC Chapter 15.12. The variance application shall be submitted to the planning department. The 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 requirements listed in 18.64.010(B). The application shall include a fee, as established by resolution of the city council plus the cost of required newspaper and radio notice.

18.64.030 Hearing.

- A. 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 a complete application is received.
- B. Notice of the 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. The applicant shall pay for the cost of newspaper and radio notice.

18.64.040 Staff evaluation.

- A. 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.
- B. The land use administrator shall make a recommendation for approval or disapproval of the variance consistent with the findings and conclusions set out in the written staff report with respect to each standard set out in BMC 18.64.010(B).

18.64.050 Planning commission decision.

- A. 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 a scheduled variance application even if the applicant or an authorized representative is not present at the public hearing.
- B. The planning commission shall consider the matter at a public hearing. The commission shall consider the variance application, the land use administrator's staff report any written comments from members of the public submitted prior to the public hearing, and any oral testimony and written materials provided at the public hearing.
- C. The planning commission hearing on a variance request shall be conducted substantially as provided in BMC 18.60.050(A) - (C).
- D. The planning commission shall render a decision no later than the meeting following the public hearing. The commission may approve the variance only if it finds that all the standards set out in BMC 18.64.010(B) and each finding is supported by substantial evidence in the record. The decision shall be in writing and shall be mailed to the applicant and to each person who participated in the hearing.
- E. The decision of the planning commission may be appealed to the board of adjustment pursuant to BMC 18.72.020 if filed within 10 days of the date of the decision.

18.64.060 Lapse of approval.

A. Unless a longer time is 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 is determined as the completion of 50% or more of the total authorized improvements as determined by cost.

B. A variance approval subject to lapse may be extended by the planning commission for an additional period of up to one year, provided that prior to the expiration date, a written request for extension is submitted to the planning commission and good cause for the extension is shown.

Chapter 18.68 Board of Adjustment

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 its proceedings.

18.68.020 Powers and duties.

The board of adjustment shall hear and decide appeals from the decisions of the planning commission on requests for conditional uses, planned unit developments, variances, and on other decisions of the planning commission for which an appeal to the board of adjustment is authorized under the Bethel Municipal Code.

Chapter 18.72 Appeals

18.72.010 Appeal of decision of planning department.

18.72.020 Appeal of decision of planning commission.

18.72.010 Appeal of decision of planning department.

A. An appeal from any action or decision of the planning department or the land use administrator may be filed by a property owner affected by said action or decision. An appeal may also be filed by any property owner 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 action and 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. Any appeal filed by the applicant for the permit shall be filed within ten (10) calendar days from the date of the action or decision of the planning department or land use administrator. Any appeal filed by any other person shall be filed within ten (10) calendar days from the date of the action or decision of the planning department or land use administrator; provided, if the appeal relates to a site development or change in use subject to a site plan permit issued under BMC title 15, the appeal must be filed no later than the 10th day that the site plan permit has been continuously displayed on the property that is subject to the permit in accordance with BMC 15.12.130 of this title if the appellant is a person other than the permit applicant. If the deadline date falls on a weekend or holiday, the deadline shall be extended to the next city business day. If any appeal to the planning commission is not filed within the time specified in this subsection, the action or decision is final and is not subject to appeal or challenge in another forum.

C. Notice of public hearing on the appeal shall be provided as set out in BMC 18.04.070. The notice shall include a brief description of the appeal. Written notice and a copy of the appeal shall be

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provided immediately to the person who owns the property that is the subject of the permit or action being appealed.

D. 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 or planning department. The planning commission shall only consider the following evidence when considering the appeal:

1. The permit application or other application or action that is the subject of the appeal;
2. The correspondence, permit issued and other materials sent from the land use administrator to the permit holder and to any other party to the appeal;
3. The correspondence and materials received from any source regarding the application or actions.
4. The letter or request submitting the appeal to the planning commission;
5. The planning department summary of the application and the statement of findings supporting the action of the land use administrator;
6. Written comments received prior to the appeal hearing;
7. Verbal testimony taken under oath at the appeal hearing; and
8. Arguments of parties to the appeal.

E. The planning commission may deny or grant the appeal in the form of a motion. A statement of findings and conclusions based on the evidence presented 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 commission renders its decision unless a timely appeal is filed to the board of adjustment.

F. Within two business days after the date of the commission decision, the planning department shall produce a written decision containing the statement of the commission's findings, conclusions and order. The decision shall be signed by the member of the commission who presided at the hearing or a commission member who voted on the prevailing side if the presiding member is not available and shall be mailed immediately to the appellant and any other interested parties. A statement of the date by which an appeal to the board of adjustment must be filed with the city clerk shall be included along with a statement of the amount of the appeal fee that must be paid upon filing the statement of appeal.

G. 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 unless the land use administrator determines that the public health, safety or welfare would be threatened if the action appealed is stayed. Any action taken by the planning department or land use administrator shall remain in effect and any land use in violation of such action continues to be a violation and subject to the penalties described in Chapter 18.84 until the violation ceases or the planning commission grants the appeal.

18.72.020 Appeal of decision of planning commission.

A. An appeal from any action or decision of the planning commission, except the grant or denial of an application for a land use code text amendment or an Official Map amendment, may be filed by the applicant for the action, the manager, the land use administrator, or any property owner affected by the action or decision. The appeal shall be filled with the board of adjustment by submitting a written statement of appeal to the city clerk with a copy sent to the land use administrator. The written statement of appeal shall specify the order, findings or conclusions of the commission that are being disputed, and the grounds for the appeal.

B. The filing of an appeal to the board of adjustment 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.

C. 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 of the planning commission is final.

D. Notice of the board of adjustment hearing on the appeal shall be mailed to the applicant, the land use administrator and to each person who appeared and gave evidence in the proceedings before the planning commission and shall be published once a week for at least two consecutive weeks in a newspaper of general circulation within the City of Bethel with the last publication occurring at least 3 days before the hearing. 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 contain the time and place of the hearing, a brief description of the appeal, and shall invite written arguments on the appeal from persons who appeared in or provided written or oral evidence or statements in the proceeding before the planning commission. Written arguments must be received by the clerk's office at least 7 days before the hearing.

E. The ~~City Clerk~~ shall schedule the board of adjustment hearing no sooner than the later of 15 days after the completion of the record on appeal or twenty (20) calendar days from the date the appeal is filed and no later than fifty (50) calendar days after the appeal is filed. The planning department shall prepare the record on appeal which shall consist of all documents, maps, plans, applications, correspondence and other material that was before the planning commission in the course of its consideration of the matter appealed, minutes of the commission, meetings at which the matter was before the commission, a copy of the decision appealed and a verbatim transcript of the proceeding before the commission.

F. The board of adjustment shall deny, grant, or deny in part and grant in part the appeal based on the evidence in the record and shall provide a written decision that contains a statement of its findings and conclusions as determined by a majority of its membership. In an appropriate case, the board may remand the matter to the planning commission for further proceedings. If the board denies the appeal, it may confirm or modify the findings and conclusions of the planning commission. The board's decision will be effective upon the date the mayor or the person presiding at the board hearing signs the findings and conclusions. The date signed shall be set out on the decision. Appeals of a decision made by the board of adjustment shall be filed in the Superior Court of the State of Alaska in accordance with the applicable appellate rules of court. The decision shall contain a statement required by the appellate rules of court of the rights and limitations of a person to appeal the decision

Chapter 18.76 Amendments to the Official Map and Land Use Code

18.76.005 Status of actions

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.

18.76.005 Status of actions.

Requests for amendments to the text of the Land Use Code or amendments to the Official Map are requests for legislative actions. The actions of the planning commission in recommending for or against requested amendments is legislative and policy-making in nature. An applicant who is a property owner does not have a right to a requested amendment, but has only the right to have the application heard by the planning commission and, if a timely request is filed upon a rejection by the planning commission, to have an

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ordinance that would implement the requested amendment transmitted to the city council for its consideration for rejection or introduction and hearing. The requirement for planning commission hearings is to provide an opportunity for broad public input and does not create a due process right in the applicant or a property owner. The requirements for findings, support and reasons is for the purpose of communicating the commission rationale for the policy decision it made or followed in taking its action on the applications. The lack of findings, support or reasons does not invalidate a planning commission action under this chapter. The requirements for hearings, findings, support and reasons do not change the nature or substance of the proceeding under this chapter from legislative to quasi-judicial or quasi-administrative.

18.76.010 Initiation of text amendments and land use map modifications.

A. An amendment to any portion of the text of this title or of the Official Land Use Map 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.
4. The manager.

18.76.020 Application.

A. 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 further the goals and objectives and better implement the comprehensive plan. The application shall also include the fee as established by resolution by city council.

B. An application for an amendment to the Official Land Use Map to change a district designation or boundary shall contain:

1. A description of the land area to be redesignated, the requested new designation, along with the existing designation of the area proposed for redesignation and of the areas on all adjacent sides of the area proposed for redesignation;
2. A written statement of justification for the redesignation setting out the facts that show that the redesignation proposed is consistent with the comprehensive plan and furthers its goals and objectives, and showing that one or more of the following conditions exist:
 - (a) changing area conditions;
 - (b) error in original land use designation;
 - (c) demonstrated suitability of the area for the uses that would be authorized as principal and conditional uses under the new designation and the compatibility of the potential new uses with established uses within the existing district and property abutting the area proposed for redesignation.
3. A description of the structures and uses within three hundred (300) feet of the boundary of the proposed area of change, in all directions, and the effects of the potential uses upon the adjacent areas.
4. The fee as established by resolution of the city council.

C. A request by the city council, the planning commission or the manager for an amendment to the text or map need not meet the fee or content requirements of subsections A and B but must clearly describe the amendment requested.

18.76.030 Hearing and notification.

A. Upon receipt of a complete application for an amendment to the text of this title or to the Official Map, 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 or map amendment shall be published once a week for at least two consecutive weeks preceding the public hearing in a newspaper of general circulation in the City of Bethel or posted at city hall and in at least three public places at least two weeks before the public hearing. If notice is published in a newspaper, the last publication shall be on the day of the hearing or any day that is within 14 days of the hearing. The notice shall also be delivered to a local radio station five days prior to the scheduled hearing for use on public announcements. The notice shall include a brief description of the amendment or redesignation. Failure to provide one or more of the forms of notice does not invalidate action of the planning commission on the matter so long as there is substantial compliance with either the posting or the publication requirement.

C. If an amendment of the Official Map is involved and the area proposed for redesignation is small or involves only a few lots, the planning administrator should, but is not required to, send written notice of the hearing to owners of land that is within 300 feet of the boundaries of the area proposed for redesignation and may send notice to owners of land beyond the 300 foot boundary.

18.76.040 Staff review.

A. The planning department shall evaluate the application for amendment to the text of this title and shall conduct such investigations as may be relevant. 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 and will further specific goals and objectives of the 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. The planning department shall make such investigations as are relevant and evaluate the proposed amendments to the Official Map. The department shall submit its analysis and recommendations to the planning commission along with findings consistent with its recommendations. The department may only recommend approval of the map amendment if it makes and supports the following findings:

1. The proposed redesignation will be consistent with and further the goals and objectives of the comprehensive plan;
2. If applicable, that 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 designation;
3. The principal and conditional uses permitted in the proposed redesignated area will be compatible with the principal and conditional uses permitted in the surrounding area for a 1000' radius considering factors such as distance, topography, materials screening, actual and potential development, comprehensive plan designations, and other relevant factors;
4. The area proposed to be redesignated either constitutes an expansion of 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 principal and conditional uses permitted in the proposed redesignation.

18.76.050 Planning commission hearing.

A. The land use administrator or other representatives of the planning department and interested persons shall be heard at the hearing on the amendment application. The planning commission may adjourn

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the hearing from day to day. After the hearing is closed, the commission shall consider the merits of the application. The commission shall only consider:

1. The application for text or map amendment and accompanying materials submitted by the applicant;
2. The planning department's report which shall include the analysis, findings and recommendation of the planning department;
3. Written comments and material submitted prior to the public hearing; and
4. Verbal comments made and written materials received at the public hearing

B. The planning commission may approve the application, modify and approve the application, or deny the application. Notwithstanding other quorum or voting requirements that may apply to planning commission actions, a commission approval or recommendation of approval of a text or map amendment application is effective only if the motion receives the number of affirmative votes equal to a majority of the authorized membership of the commission.

C. If the planning commission approves the application without modifications it shall set out its findings and the factual support for its findings. For this purpose, it may adopt, or modify and adopt, the findings and support of the planning department as its own findings and support. The commission findings must meet the requirements of section 18.76.040(A) or (B), as appropriate, if it recommends approval of the application.

D. The planning commission may modify the application and approve the application as modified. If it approves the application as modified, it shall set out its findings and the factual support for its findings. It may incorporate from the planning department's findings and support those findings and support that are appropriate to the modified application approved by the commission. The commission findings must meet the requirements of section 18.76.040 A or B, as appropriate, if it recommends approval of a modified application.

E. If the planning commission approves the application or a modified application, the planning department shall draft and forward to the manager for introduction at the next regular city council meeting an ordinance making the amendments as approved by the commission. If the approved application was for a map amendment, there shall be included as an attachment or exhibit to the ordinance a map or drawing that accurately depicts the area that is subject to the redesignation. The application and all reports, recommendations, maps, correspondence and other documentary evidence shall be provided to the city council with the application and the planning commission's findings and support.

F. If the planning commission denies the application, the members of the commission that voted against the proposal shall set out the deficiencies and negative factors of the proposal that they believe justify the denial.

G. If the planning commission recommends denial of any proposed text or map amendment (including a failure to recommend), the denial will be considered a final decision of the planning commission. Within ten days of the date of the decision, the applicant may file a written application with the city clerk requesting that the proposed amendment be considered by the city council. The city clerk shall then request the land use administrator to submit an ordinance that would effect the proposed amendment and any additional application materials for the proposed amendment, including the written record before commission and the commission decision and findings. The ordinance and materials shall be forwarded to the city council which may, in its discretion, take such action on the ordinance as it believes appropriate.

18.76.060 City Council Hearing.

An ordinance transmitted to the city council pursuant to this chapter may be rejected by the council or introduced and set for a public hearing. The ordinance is subject to the procedural requirements of other ordinances.

Chapter 18.80 Nonconforming Lots, Structures and Uses

18.80.010 Intent.

18.80.020 Date of construction.

18.80.030 Nonconforming lots of record.

18.80.040 Nonconforming structures and uses of land.

18.80.050 Conversion of nonconformity.

18.80.010 Intent.

Within the land use districts there may be nonconforming lots of record, structures, uses of land and uses of structures that were lawful upon the effective date of the provisions of this title or an amendment thereto but which are made unlawful by the adoption of the provision of this title or an amendment thereto. It is the intent of this chapter to permit these preexisting lawful nonconformities to continue until they are removed, abandoned, substantially damaged, or sold but not to encourage their perpetuation. Such nonconformities should be discontinued or brought into conformity with the current requirements of this title at the earliest possible time. As used in this chapter, "current" refers to the requirements applicable after the effective date of the applicable provision of this title or an amendment thereto.

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 structure which was lawfully constructed or lawfully under construction prior to the effective date of the applicable provision of this title or amendment thereto 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 effective date of the applicable provision of this title or amendment thereto may be the site upon which currently permitted principal and accessory uses and structures may be erected in compliance with the current provisions of this title. This provision applies even though such lot fails to meet the minimum lot size or dimensions applicable in the district, unless the nonconforming lot and an abutting lot are under common ownership or were under common ownership at any time following the effective date of the applicable provision of this title or amendment thereto and the combination of the lots would make a conforming lot or a lot with less nonconformity. A nonconforming lot that abuts a conforming or nonconforming lot under common ownership at any time after the effective date of the applicable provision of this title or amendment thereto that caused the lot to be nonconforming may not be used unless the nonconformity has been cured or minimized by a replat of the lot. The nonconformity may be cured or minimized by a replat that combines the nonconforming lot with an abutting lot or with sufficient area from an abutting lot to cure or minimize the nonconformity.

18.80.040 Nonconforming structures and uses of land.

A. A nonconforming use of land or a structure shall not be enlarged to occupy a greater or different area than occupied when the use became nonconforming nor may the use be changed to a different prohibited use or altered in a way which increases its nonconformity. An alteration increases the nonconformity if it increases the negative impact of the use on neighboring property. An increase in the intensity, volume or period of the use may cause an increase in the nonconformity.

B. Should a nonconforming structure be damaged by any means to an extent of more than 75% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this title.

C. A structure that is nonconforming because of an encroachment into a required setback or yard area or because it exceeds a floor area ratio, or similar restriction may not be expanded in any manner.

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that increases the area, depth, height or volume of the part of the structure within the prohibited area or space or in any other manner that increases the nonconformity. The conforming part of a structure may be enlarged so long as the addition to the structure conforms to all the requirements of this title.

D. A nonconforming use that ceases for 12 continuous months may not be continued or reestablished.

18.80.050 Conversion of nonconformity.

The right to continue a nonconformity is not transferable. Any person acquiring an interest in any nonconforming lot, structure, or use, shall either bring the nonconforming lot, structure, or use into conformance within two (2) years from the date the interest was acquired or apply for and be granted a conditional use permit or a variance, if applicable, within two years of the date the interest was acquired. The right to continue a nonconformity terminates two years after the interest is acquired and may not thereafter be continued or reestablished unless and until converted to a permitted conditional use or a variance, if justified, granted by the planning commission pursuant to an application that was filed within two years of the date of acquisition.

Chapter 18.84 Enforcement, Penalties and Remedies

18.84.010 Enforcement officer.

18.84.020 Complaint.

18.84.030 Correction of violations.

18.84.040 Enforcement, violations and penalties.

18.84.010 Enforcement officer.

This title shall be administered and enforced by the land use administrator.

18.84.020 Complaint.

A. 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 the complaint and take action to have the violation corrected if such a violation is found to exist.

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

18.84.030 Correction of violations.

A. Upon the land use administrator finding a violation of any of the provisions of this title, the land use administrator shall notify the owner, manager or lessee of the property, or person responsible for the violation in writing and shall order the necessary correction within a period of ninety (90) days or such earlier time as may be reasonable. The land use administrator may order remedial action immediately upon a determination by the public works director, the police chief or the fire chief that there is an immediate and significant danger to life, limb or property. The owner and the person to whom the order is directed, if other than the owner, shall comply with the order and each such person is liable for failure to comply. Failure to comply is a violation of this section. The issuance of an order of correction does not suspend, reduce or eliminate the violation that is the subject of the order. Such violation continues until corrected.

B. The land use administrator may order:

1. The discontinuation of unlawful uses of land or structures;
2. The removal or abatement of unlawful structures or any unlawful additions or alterations thereto;

3. The discontinuation of construction or other preparatory activity leading to an unlawful structure or an unlawful use of a land or structure;

4. When appropriate to ensure compliance with this title, the suspension or revocation of site plan permits, conditional use permits, variances or other city land use entitlements.

18.84.040 Enforcement, violations and penalties.

In addition to enforcement under the provisions of this chapter, civil and criminal actions may be taken as provided in BMC 16.04.050 for violations, threatened violations, and enforcement of this title.

SECTION 9. Planning commission membership. The repeal and reenactment of BMC 2.24 under section 4 of this ordinance does not change the term or membership of any current member of the planning commission.

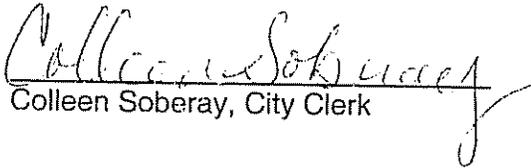
SECTION 10. Transition to disc plans requirement. Until January 1, 2002, in lieu of the requirements of BMC 17.12.030(B)(16) and BMC 17.16.110(A)(4) that drawings be submitted on disc, the subdivider may request the city make the disc copy from the submitted drawings. The subdivider shall reimburse the city for all costs incurred in making the copies and the city may treat a submission as incomplete until the disc copy and reimbursement have been received by the planning department. The city shall not be liable for drawings or discs lost by the U.S. Postal Service or other delivery service used to transport discs or drawings.

SECTION 11. Effective Date. (a) Except as provided in subsection (b), this ordinance shall become effective April 10, 2001.

(b) Bethel Municipal Code sections 17.24.228 through 17.24.280 enacted under Section 7 of this ordinance shall become effective on January 1, 2002 for all subdivisions that have not received preliminary plat approval by that date.

ENACTED THIS 10th DAY OF APRIL 2001, by a vote of 7 in favor and 0 opposed.

ATTEST:


Colleen Soberay, City Clerk


Stanley "Jundy" Rodgers, Mayor