



Planning Commission Meeting Agenda

Regular Meeting Thursday, January 14, 2016– 6:30PM
City Hall Council Chambers 300 Chief Eddie Hoffman Highway

MEMBERS

Joy Shantz
Chair
Term Expires
12/2017

John Guinn
Vice-Chair
Term Expires
12/2016

Nikki Hoffman
Council Rep.
Term Expires
10/2017

Kathy Hanson
Committee Member
Term Expires
12/2017

Cliff Linderth
Committee Member
Term Expires
12/2017

Lorin Bradbury
Committee Member
Term Expires
12/2017

Kurt Kuhne
Committee Member
Term Expires
12/2017

Ted Meyer
Ex-Officio Member

Betsy Jumper
Recorder

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – (5 Minute Limit)
- IV. APPROVAL OF MINUTES OF THE DECEMBER 10, 2015 MEETING
- V. APPROVAL OF THE AGENDA
- VI. NEW BUSINESS
 - A. Donlin Creek Gold Mine and Possible Impacts to Bethel (Discussion item)
 - B. Exploring the Topic of Bethel Becoming a Borough (Discussion item)
 - C. Mapping (Discussion item)
 - D. Upcoming Zoning Process (Discussion item)
 - E. Review of Conditional Use Permit – Uses for each Zoning District (Discussion item)
- VII. PLANNER'S REPORT
- VIII. COMMISSIONER'S COMMENTS
- IX. ADJOURNMENT

City of Bethel, Alaska

Planning Commission Meeting

Dec. 10, 2015

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on Thursday, Dec. 10, 2015, at 6:30 PM at the City Hall Chambers in Bethel, Alaska. Chair Shantz called the meeting to order at 6:30 pm.

II. ROLL CALL

Compromising a quorum of the Commission, the following members were present for roll call: John Guinn, Joy Shantz, Lorin Bradbury, Kurt Kuhne, Kathy Hanson, and Nikki Hoffman. Cliff Linderoth was excused. Also present was Planning Director Ted Meyer, Recorder Betsy Jumper and Port Director Pete Williams.

III. PEOPLE TO BE HEARD: Nobody wished to be heard.

IV. APPROVAL OF AGENDA

MOTION TO APPROVE THE AGENDA OF DEC. 10, 2015

MOVED:	Kathy Hanson	To approve the agenda for the meeting of December 10, 2015.
SECONDED:	Lorin Bradbury	
VOTE ON MOTION All in favor 6 yes and 0 opposed. Motion carries.		

V. APPROVAL OF MINUTES FROM THE NOV. 12, 2015 PLANNING MEETING

MOTION TO APPROVE THE MINUTES

MOVED:	John Guinn	To approve the Nov. 12, 2015 minutes.
SECONDED:	Nikki Hoffman	
VOTE ON MOTION All in favor 6 yes and 0 opposed. Motion carries.		

VI. NEW BUSINESS: A. Introduction of Mr. Ted Meyer, Planning Director. Ted introduced himself to the Planning Commission and gave an overview of his experiences and history in Alaska and planning and is looking forward to being in Bethel.

B. City of Bethel owned Property – Lot 1B, Block 7, Plat Number 82-23. The physical address is 251 East Avenue (ACTION ITEM). Port Director Pete Williams presented the history of the building and what the Port would like to use the building for to the Planning Commission.

MOTION MADE TO RECOMMEND TO CITY COUNCIL THAT THE PORT OFFICE USE THE SHOP.

MOVED:	Lorin Bradbury	To recommend to Council the Port Office use the shop for repairing vehicles, storing boats, etc.
SECONDED:	Kathy Hanson	

VOTE ON MOTION	All in favor 6 yes and 0 opposed. Motion carries.
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VII. COMMISSIONER'S COMMENTS: **Kathy**—no comments; **Nikki**—glad to be here, this is a very short and sweet meeting and I like the idea of putting a time limit on any extra meetings we may have and I'm glad everyone's here, it's nice to see new faces. Also, the marijuana commission is meeting frequently; I don't know if we'll be meeting as often, but I think if we did, I would be in favor of added meetings with a time limit, just an option, so we don't get burnt out. And, was the Planning Commission satisfied with Council representation about the recommendations of Ordinance 15-32?; **John**—no comments; **Lorin**—I'll mention the Port in relation to Donlin Creek Gold mine, how many acres they would need for example—this topic came up in a Chamber of Commerce meeting-- and I feel this should be discussed with the Planning Commission. Also, the potential for a borough should be discussed as well. Let's be proactive and get moving on it. **Kurt**—I would like those 2 things to be on a future agenda as well (Donlin and borough). The main thing I would like to comment on is the concern I have with Donlin, and the YKHC hospital expansion-- 400 new jobs with the hospital and 3000 with Donlin which potentially may create more development here. How can the City promote development of land? In this town you can let your land sit, and there's no reason to develop it because there's no taxes. In other places you lose money if you don't do something with your land. So, in the near future I would like to see how we can forward think this in getting the administration involved too. Also, in regards to more meetings in the future, I'm not opposed for a temporary period of time. **Joy**—I am very happy to welcome Mr. Meyer to the Planning Director position, much needed and welcome to Bethel. Also, something I wanted to say at the last meeting was Happy Veteran's Day to John—thank you for your service. Another comment is, and I've heard so much about it the past few days, is about the AVEC tower being right on the snow machine trail, and the concern for safety, that somebody might not see the wires. My idea was to make it a giant Christmas tree and light that baby up, that'd be beautiful. It could be like White Alice, a navigational aid. This just illustrates the importance of involving the Planning Commission. This did not come to us-- we were completely skirted and circumvented on that. And, if it would have come to us, we have a lot of minds here that we could put it together and say, look, maybe that's not the best place. These decisions coming to the Planning Commission/and or other Commissions and Committees, are so important. As a Councilmember, if you get something that doesn't have a recommendation—it's the Councilmember's responsibility to say this needs to go to the Commission or the Committee. Don't act on it until all the minds (there's a wealth of knowledge and experience) have been tapped.

VIII. ADJOURNMENT

MOVED:	Kurt Kuhne	Motion to adjourn the meeting at 7:45.
SECONDED:	Kathy Hanson	
VOTE ON MOTION	6 yes and 0 opposed. Motion carries.	

The next meeting will be on January 14, 2016

ATTEST: _____, Joy Shantz, Chairman
 _____, Betsy Jumper, Recorder

LOCAL GOVERNMENT IN ALASKA

prepared by Local Boundary Commission Staff
Alaska Department of Community and Economic Development
updated March 2004

Section 1 – Alaska has just two types of municipal government – cities and organized boroughs.

Unlike most other states that typically have local government structures consisting of many overlapping local government service providers, Alaska's system of local government is simple, efficient, and effective. It consists of just two types of municipal government as described below.

A. Cities.

Federal law did not allow the incorporation of city governments in Alaska until 1900. The City of Skagway was the first city government incorporated in Alaska.

A city government is a municipal corporation and political subdivision of the State of Alaska. City governments are subject to the "limitation of community" doctrine. (See *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 100 (Alaska 1974).) The doctrine requires the area taken into the boundaries of a city to be urban or semi-urban in character.

On average, the corporate boundaries of cities in Alaska encompass just over 27 square miles. However, there are wide variations in the size of individual cities. The City of Skagway encompasses the largest area (466 square miles), while the City of Kiana encompasses the smallest area (0.3 square miles).

Current State law restricts the inclusion of large geographical regions or large unpopulated areas in cities. [3 AAC 110.040(b) - (c); 3 AAC 110.130(c) - (d)]. A city is part of the borough in which it is located. [Art. X, § 7, Ak. Const.]

Presently, there are 145 city governments in Alaska. In 2003, those cities were inhabited by 159,255 individuals or 24.5 percent of Alaska's total population of 648,818.

The 2003 population of cities ranged from a high of 29,486 (City of Fairbanks) to a low of 30 (City of Kupreanof).

B. Organized Boroughs.

Prior to statehood, federal law prohibited the creation of counties in Alaska

Like a city, an organized borough in Alaska is a municipal corporation and political subdivision of the State of Alaska. However, organized boroughs are regional governments – much larger than cities.

Article X, Section 3 of Alaska's Constitution requires that the entire state be divided into boroughs, organized or unorganized. It also requires that each borough embrace a maximum area and population with common interests.

Article X, § 1 of Alaska's Constitution calls for minimum numbers of local governments. Together, Sections 1 and 3 of Article X promote large boroughs embracing natural regions.

Presently, there are 16 organized boroughs in Alaska. On average, organized boroughs encompass just over 17,400 square miles (644 times the average size of cities). Like cities, the size of individual organized boroughs varies considerably. The largest organized borough is the North Slope Borough (94,770 square miles), while the Bristol Bay Borough is the smallest (850 square miles)



In 2003, Alaska's 16 organized boroughs were inhabited by 567,343 individuals, or 87.4 percent of the total population of the state. Of the 567,343 residents of organized boroughs in Alaska, 97,044 (17.1 percent) also lived within a city government during 2003.

Organized boroughs encompass about 43 percent of the geographic area of Alaska. State law provides that the part of Alaska outside organized boroughs comprises a single unorganized borough. As it is presently configured, the unorganized borough encompasses 374,843 square miles. The unorganized borough was inhabited by 81,475 residents in 2003. Additional information about the unorganized borough is provided later in this publication.

Section 2 – Classification of Cities and Boroughs.

A. Cities.

There are three different classifications of city governments in Alaska – home-rule, first-class, and second-class cities. A community must have at least 400 permanent residents to form a home-rule or first-class city.

First and second-class cities are general law cities – State law defines their powers, duties, and functions. General law is distinct from home-rule. Home-rule cities have all legislative powers not prohibited by law or charter. Details about the differences between the two types of government are provided in Section 3.

Table 1 lists the number of cities of each classification and indicates whether those cities are inside or outside an organized borough. The classification and location of cities are significant in terms of the powers and duties of city governments in Alaska as addressed in Section 3.

Classification	Within Organized Boroughs		Within the Unorganized Borough		Total	
	Number of Cities	2003 Population	Number of Cities	2003 Population	Number of Cities	2003 Population
Home-rule Cities	7	60,604	5	12,124	12	72,728
First-class Cities	7	22,068	13	16,733	20	38,801
Second-class Cities	34	14,372	79	33,354	113	47,726
Total	48	97,044	97	62,211	145	159,255

B. Organized Boroughs.

The word “borough” has its origins in 5th century Europe. It means “place organized for local government purposes.” A number of countries and a number of states in the US have boroughs; however, they are unlike boroughs in Alaska.

There are five different classifications or types of organized boroughs in Alaska. These are unified home-rule, non-unified home-rule, first-class, second-class, and third-class.¹ First, second, and third-class boroughs are general law governments.

Table 2 lists the number of boroughs according to classification. Details about the distinctions among the different classifications of boroughs are provided in Section 3.

Classification	Number	2003 Population
Unified Home-rule	3	314,177
Non-unified Home-rule	6	21,095
First-class	0	0
Second-class	7	232,071
Third-class	0	0
Total	16	567,343

¹ A “unified municipality” is an organized borough (unified home rule borough). A unified municipality is defined as such by the Local Boundary Commission in 3 AAC 110.990(1). Alaska’s Constitution recognizes only two types of municipalities, cities and boroughs (Art. X, Sec. 2). The legislature consistently treats unified municipalities as boroughs. For example, State statutes utilize the same standards for incorporation of a borough as they do for incorporation of a unified municipality (AS 29.05.031). By contrast, the legislature has established separate standards for incorporation of a city (AS 29.05.011). Newly formed unified municipalities and boroughs are entitled to identical organization grants and other transitional assistance (AS 29.05.190; 29.05.210), whereas newly formed cities are entitled to substantially lower levels of organization grants and different transitional assistance. AS 29.06.410 describes the powers of a unified municipality to include all powers granted to a home-rule borough. Additionally, all of the existing unified municipalities in Alaska recognize themselves as boroughs in that each is governed by an assembly. Art. X, Sec. 4 of Alaska’s Constitution reserves the term “assembly” for the governing body of a borough, whereas Art. X, Sec. 8 of Alaska’s Constitution reserves the term “council” for the governing body of a city. Lastly, none of the unified municipalities exhibits characteristics that are exclusive to city governments.

While the third-class borough classification remains in law, there are no third-class boroughs. Moreover, State law expressly prohibits the formation of new third-class boroughs. Therefore, this publication does not address the powers of a third class borough or other aspects of a third class borough.

Section 3 – Alaska’s Cities and Organized Boroughs – both General Law and Home-rule – Enjoy Broad Powers.

A. Provisions Applicable to all Local Governments in Alaska.

Article X of Alaska's Constitution establishes the framework for local government in Alaska. Section 1 of the local government article states the following with respect to the purpose and construction of the constitutional provisions regarding local government:

The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. *A liberal construction shall be given to the powers of local government units.* (emphasis added)

All local governments in Alaska – general law cities, home-rule cities, general law boroughs, and home-rule boroughs – enjoy broad powers. The Alaska Supreme Court has noted with respect to the constitution provision for a liberal construction of the powers of local government as follows:

The constitutional rule of liberal construction was intended to make explicit the framers' intention to overrule a common law rule of interpretation which required a narrow reading of local government powers.²

² The rule, called Dillon's rule states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

Merriam v. Moody's Executors, 25 Iowa 163, 170 (1868). The minutes of the constitutional convention reveal that the liberal construction clause of Article X, Section 1 was intended to assure that general law municipalities, as well as those having home-rule powers, would not be governed by this rule, but would have their powers liberally interpreted. The following colloquy between delegates Hellenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called "Dillon's Rule", or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the

(*Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 [Alaska 1978])

B. General Law Cities and Boroughs.

As noted in Section 2, general law local governments derive their powers from laws enacted by the State legislature. The constitutional principle of liberal construction of local government powers is reflected in the laws enacted by the legislature granting powers to general law governments.

Among the statutes are the following provisions:

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

In 1983, the Alaska Supreme Court addressed Article X, Section 1 along with the similar version of the two statutes noted above that was in effect at the time. The Court concluded that a second-class (general law) borough had powers beyond those expressly stated in law. Specifically, the Court concluded that even though State statutes did not specifically authorize a second-class borough to dispose of land by lottery, that power was "fairly implied." (*Gilman v. Martin*, 662 P.2d 120, 124 [Alaska 1983])

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it utilized in *Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974). The court made no distinction as to the deference due to an enactment by a home-rule municipality as compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman v.*

maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

.....

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 – 96.

Martin clearly enhanced the powers of general law municipalities in Alaska.

Those powers were further enhanced to a great degree in 1985 when the State legislature eliminated the enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and the enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists of powers were replaced with the broadest possible grant of powers to general law municipalities; i.e., "...any power not otherwise prohibited by law." [AS 29.35.200(a) & (c); 210(c) & (d); 220(d); 250(a); 260(a)]

The statutory grant of powers to general law municipalities has no general limitations such as '...any municipal power' or ...'any local government power' which would imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of Article X, § 1, *Liberati v. Bristol Bay Borough*, *Gilman v. Martin*, and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of Article X, § 1 reads "A liberal construction shall be given to the powers of local government units" instead of, "A liberal construction shall be given to local government powers." The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a "local government power" as envisioned by the courts across the nation, then the court need not apply a liberal construction to it. The actual language of Alaska's Constitution does not lend itself as easily to such an interpretation and, coupled with the language of the Title 29 grants ("any power not otherwise prohibited by law"), would make it difficult for a court (in a well briefed case) to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

As a practical matter, under the present language of Title 29, the nature of the powers to which a general law municipality has access are substantially the same as those to which a home-rule municipality has access, bearing in mind the specific Title 29 limitations that apply to general law municipalities.

C. Distinctions Among General Law Boroughs.

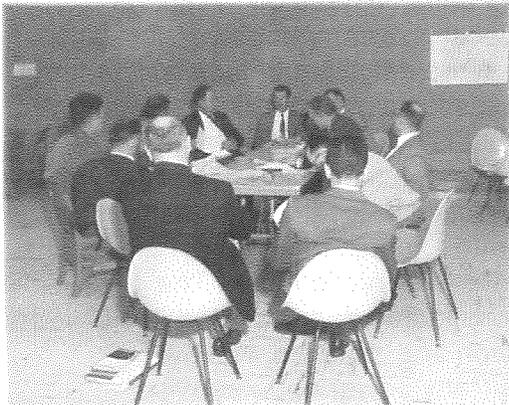
A principal distinction between a first-class borough and a second-class borough relates to the authority to assume powers. A first-class borough may exercise any power not prohibited by law on a non-areawide basis (i.e., in the area of the borough outside cities) by adopting an ordinance. In contrast, a second-class borough must gain voter approval for the authority to exercise many non-areawide powers.

D. Home-Rule Cities and Boroughs.

While general law local governments in Alaska have broad powers, home-rule local governments have even greater powers. Article X, Section 11 of Alaska's Constitution provides that:

A home-rule borough or city may exercise all legislative powers not prohibited by law or by charter.

Adoption of a home-rule charter promotes maximum local self-government to the greatest extent possible. Tom Morehouse and Vic Fischer, recognized experts in Alaska local government, wrote the following account of the views of the constitutional convention delegates with regard to this matter:



Committee on Local Government meeting during the Alaska Constitutional Convention, February 1956

An oft-repeated theme of the [Alaska Constitutional] convention, and one of the stated purposes of the local government article, was provision of maximum local self-government to the people of Alaska. . . . Home rule was held to be the vehicle for strengthening both state and local governments by permitting the people to deal with local problems at the local level. It was also to be the means for promoting local government adaptation in a state with great variations in geographic, economic, social, and political conditions.

This home rule philosophy was not believed to be inconsistent with a strong state role in local affairs. As the above discussion indicates, the exercise of state authority was considered essential in matters of incorporation and boundaries, i.e., the creation of local governments and their areas of jurisdiction were

felt to be matters ultimately of state responsibility. When properly established, however, their internal organization and operations were to be primarily local concerns, particularly in the case of home rule units. Moreover, a “strong state role” also meant that the state would support local governments with financial aid and technical assistance.

Before Alaska became a state, there was little self-determination either at territorial or local levels. Federal law prescribed the powers of the territorial legislature, severely limiting the scope and types of local government that could be established and restricting the powers that could be exercised by incorporated cities. Throughout its deliberations, therefore, the Local Government Committee emphasized the need for effective constitutional provisions for home rule.

(Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, p. 56 [1971].)

In 1963, the Alaska Supreme Court ruled as follows:

By constitutional provision cities have “the powers and functions conferred by law or charter.” (footnote omitted) The meaning of this provision is that where a home rule city is concerned the charter, and not a legislative act, is looked to in order to determine whether a particular power has been conferred upon the city. It would be incongruous to recognize the constitutional provisions stating that a home rule city “may exercise all legislative powers not prohibited by law or by charter” and then to say that the power of a home rule city is measured by a legislative act.”

(*Lien v. City of Ketchikan*, 383 P.2d 721, 723 [Alaska 1963])

In 1974, the Alaska Supreme Court ruled that the prohibitions referred to in Article X, Section 11 can be either in express or implied terms. Specifically, the Court stated:

The prohibition must be either by express terms or by implication such as where the statute and ordinance are so substantially irreconcilable that one cannot be given its substantive effect if the other is to be accorded with weight of law.

(Jefferson v. State, 527 P.2d 37, 43 [Alaska, 1974])

There are 138 sections of the current Alaska Statutes that specifically refer to home-rule local governments. Most of those (106) are found in Title 29 of the Alaska Statutes dealing with municipal government. The remaining 32 are scattered in 20 other titles of the Alaska Statutes.

Section 4. The Duties of Cities and Boroughs Depend Upon Classification. City Duties also vary in terms of Location Within or Outside of Organized Boroughs.

All local governments have certain fundamental duties such as conducting elections and holding regular meetings of the governing bodies. Beyond this, the duties of municipalities in Alaska vary considerably.

All organized boroughs as well as home-rule and first-class cities in the unorganized borough must operate municipal school districts. Second-class cities in the unorganized borough and cities in organized boroughs are not authorized to do so.

All organized boroughs, along with home-rule and first-class cities in the unorganized borough must also exercise planning, platting, and land use regulation. Second-class cities in the unorganized borough are permitted, but not required, to exercise those powers. Home-rule, first-class, and second-class cities in organized boroughs may exercise planning, platting, and land use regulation powers only if those powers have been delegated to them by the borough.

Organized boroughs also have the duty to collect municipal property, sales, and use taxes levied within their boundaries.

Otherwise, municipal powers are exercised at the discretion of local governments. Second-class cities are not obligated by law to provide any particular service.

Organized boroughs may provide services on three jurisdictional levels. These are (1) areawide (i.e., throughout the entire borough); (2) nonareawide (i.e., in that part of the borough outside of cities); and (3) service area (the size and configuration of service areas may vary, they may even include territory within the boundaries of city governments under certain circumstances).³

3

“Service area” means an area in which borough services are provided that are not offered on an areawide or nonareawide basis, or in which a higher or different level of areawide or nonareawide services are provided. Borough service areas are not local governments, service area boards lack legislative and executive powers.

Alaska's Constitution (Article X, § 5) and Alaska Statutes (AS 29.35.450) prohibit the creation of new service areas if services can be provided by an existing service area, annexation to a city, or incorporation of a new city.

Tables 3 and 4 provide additional information concerning the powers and duties of the various types of cities and boroughs.

Section 5 – The Unorganized Borough is Unlike an Organized Borough.

Unlike cities and organized boroughs, the unorganized borough is not a municipal corporation or political subdivision of the State of Alaska.

Unorganized boroughs were intended to serve as a means to decentralize State services and to foster local participation in the administration of state programs within regions not ready or suited for organized borough status.

Art. X, § 6 of Alaska's Constitution stipulates that, "The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough."

To ostensibly carry out the constitutional mandate that the entire state be divided into boroughs, organized or unorganized, the 1961 Legislature enacted a law providing that all areas not within the boundaries of an organized borough constitute a single unorganized borough. (AS 29.03.010)

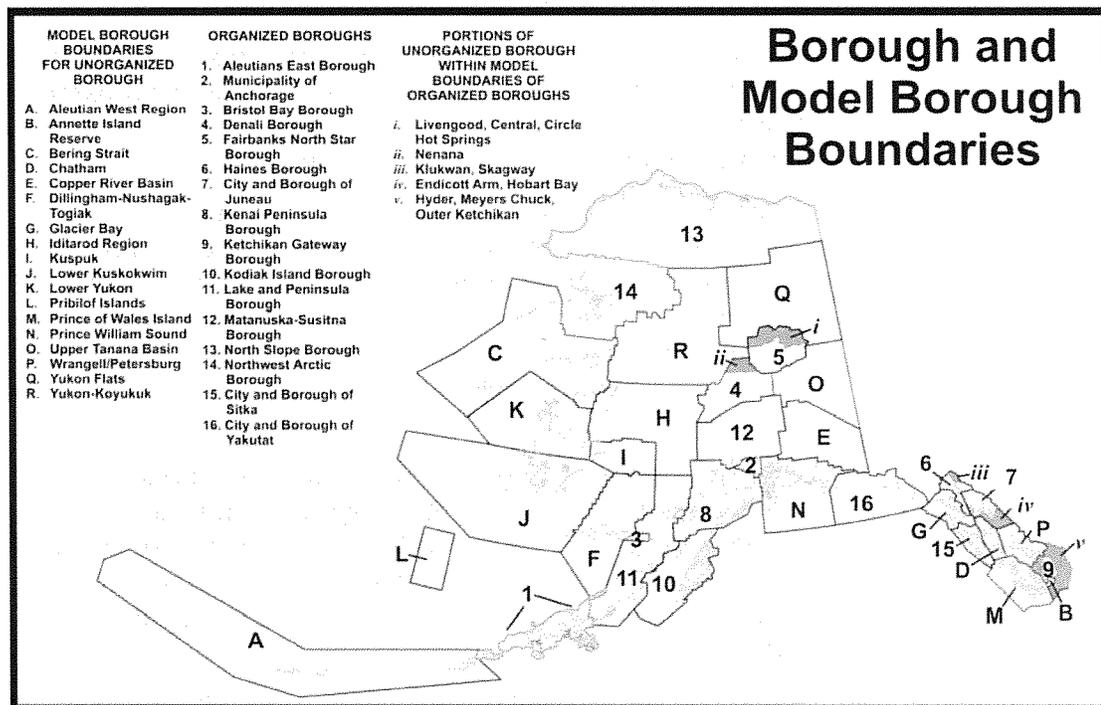
The Local Boundary Commission has stressed repeatedly over many years that, given the size and diversity of unorganized areas of Alaska, a single, residual unorganized borough falls far short of the constitutional intent regarding borough boundaries.⁴ In 1990, the Commission initiated an effort to define the unorganized borough in terms of model boundaries based on constitutional, statutory, and regulatory boundary standards for borough incorporation. The Commission's work was completed at the end of 1992.

⁴ Most recently, the LBC recently expressed the view that the 1961 law creating the single residual unorganized borough, "disregarded the constitutional requirement that each borough must embrace an area of common interests." , Local Boundary Commission and Department of Education and Early Development, *School Consolidation: Public Policy Considerations and a Review of Opportunities for Consolidation*, February 2004, p. 30.

Funding for the project was provided by the Legislature. In the course of the effort, the LBC held hearings involving 88 communities. Since 1992, the model borough boundaries have been modified twice.⁵

Currently, 18 different model boroughs are defined in the unorganized borough. In addition, the Commission identified five parts of the unorganized borough that have greater social, cultural, economic, geographic, transportation, and other relevant ties to existing organized boroughs vis-à-vis any of the 18 model boroughs in the unorganized borough.

A map showing the 16 organized boroughs, 18 model boroughs, and 5 parts of the unorganized borough with ties to organized boroughs is provided below.



The legislature has enacted two key provisions to allow for local participation and responsibility in the delivery of State services in the unorganized borough. These are described below.

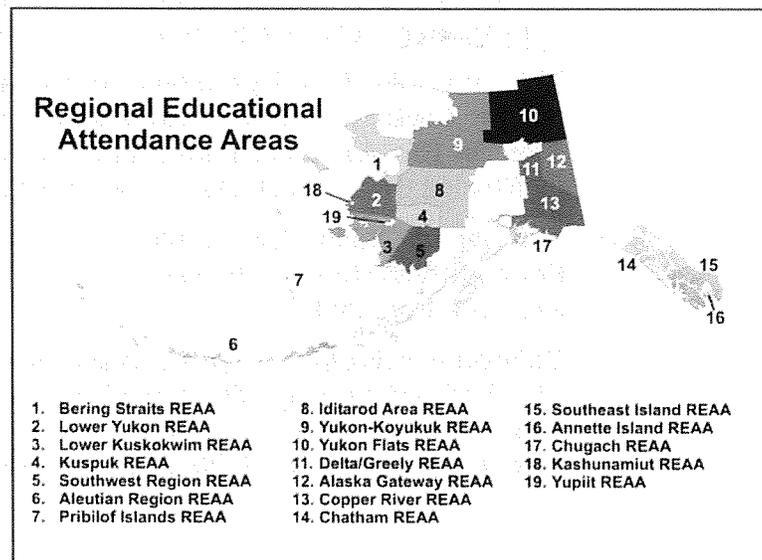
⁵ The first modification occurred to the boundaries of the Prince William Sound Model Borough, which were reduced as a result of an annexation to the adjoining City and Borough of Yakutat. The second modification occurred when the LBC merged the former "Aleutian-Military Model Borough" into the "Aleutians West Region Model Borough" in December 2002, during the course of a study of the unorganized borough. (See: Local Boundary Commission, Unorganized Areas of Alaska that Meet Borough Incorporation Standards, February 2003, p. 69.)

Regional educational attendance areas (REAs) are state service areas to provide public education to the unorganized borough, except within home-rule and first-class cities. The 1975 legislature required the then Department of Community and Regional Affairs, in consultation with the then Department of Education and local communities, to divide the unorganized borough into educational service areas. The criteria used to establish the boundaries of REAs are similar in many respects to the criteria for setting boundaries of organized boroughs. [AS 14.08.031] In a number of instances, the model borough boundaries set by the Local Boundary Commission in 1990-1992 follow the boundaries of REAs.

Initially, 21 REAs were established. These were: Adak, Alaska Gateway (headquartered in Tok), Aleutian Region, Annette Island, Bering Straits, Chatham (headquartered in Angoon), Chugach (serving Prince William Sound), Copper River, Delta/Greely, Iditarod Area, Kuspuk, Lake and Peninsula, Lower Kuskokwim, Lower Yukon, Northwest Arctic, Pribilof Islands, Railbelt, Southeast Island, Southwest Region, Yukon Flats, and Yukon-Koyukuk.

In 1985, Bureau of Indian Affairs stopped funding schools in Akiachak, Akiak, Tuluksak, Chevak and Chefnak. The 1985 Legislature passed a law allowing the formation of two "federal transfer regional educational attendance areas" to assume the operation of those schools, subject to voter approval.

Voters in Chevak approved the proposition to form the Kashunamiut Federal Transfer REAA. Voters in the other communities, except Chefnak, also approved the proposition to form the Yupiit Federal Transfer REAA.



Since the mid-1970s, five organized boroughs have formed. The formation of the Northwest Arctic Borough, Lake and Peninsula Borough and Denali Borough, resulted in the dissolution of the REAAs in those areas.

In the case of the other two new boroughs, the Aleutians East Borough and the City and Borough of Yakutat took in only portions of the REAAs in those regions. Thus, in those two instances, the REAAs remained in existence.

On July 1, 1997, the Adak REAA was merged into the Aleutian Region REAA.

Coastal resource service areas (CRSAs) are unorganized borough service areas that were created to perform certain duties under the Alaska Coastal Management Program (AS 46.40.110 - 46.40.180). In 2003, AS 46.40.110 was enacted to prohibit the formation of new CRSAs. A CRSA develops a coastal management plan for the area within its boundaries. A CRSA gives a region the opportunity to influence the management of coastal resources by recommending conditions on consistency determinations based on a CRSA's coastal management plan. The State may implement the plan through the State permitting process.

There are four CRSAs in the unorganized borough. They are the Bristol Bay CRSA, the Aleutians West CRSA, the Cenaliulriit CRSA and the Bering Straits CRSA.

The Bristol Bay CRSA conforms to the boundaries of the Southwest Region REAA and includes the first-class City of Dillingham.

The Aleutians West CRSA generally has the same boundaries as the Aleutian Region REAA and includes the first-class City of Unalaska. However, Adak, which was merged into the Aleutian Region REAA on July 1, 1997, has not yet been incorporated into the Aleutians West CRSA.

The Cenaliulriit CRSA generally encompasses two REAAs (Lower Yukon and Lower Kuskokwim) and two Federal Transfer REAAs (Kashunamiut and Yupiit) REAAs. The Cenaliulriit CRSA excludes the second-class City of Bethel.

The Bering Straits CRSA conforms to the boundaries of the Bering Straits REAA. The first-class City of Nome is excluded from that CRSA.

Salmon Production Regional Associations.

AS 16.10.380 provides that a qualified salmon production regional association, when it becomes a nonprofit corporation under AS 10.20, is established as a service area

in the unorganized borough under AS 29.03.020 for the purpose of providing salmon enhancement services.

Other Service Areas in the Unorganized Borough.

AS 29.03.020. provides that the legislature may establish, eliminate, or change service areas of the unorganized borough. Specifically, it provides that:

Allowing for maximum local participation, the legislature may establish, alter, or abolish service areas within the unorganized borough to provide special services, that may include but are not limited to schools, utilities, land use regulations, and fire protection. A new service area may not be established if the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

Other Entities

Other entities may be established under State or federal law to provide public or quasi-public services to residents of Alaska. They include; tribal governments, port authorities, local emergency planning committees, soil and water conservation districts, regional housing authorities, civil defense districts, consolidated health districts, telephone and electrical cooperatives, historical districts, grazing districts public utility districts, registration districts and local improvement districts. It is beyond the scope of this discussion to provide details about these other entities other than to recognize their existence.

**TABLE 3
POWERS AND DUTIES OF CITIES**

POWERS AND DUTIES	HOME-RULE CITY	FIRST-CLASS CITY	SECOND-CLASS CITY	REFERENCES
Public Education	If the city is in the unorganized borough it must provide the service in accordance with AS 14. A home-rule city is not permitted to do so within organized boroughs.	Same as for a home-rule city.	The city is not allowed to provide the service under any circumstance.	AS 29.35.260(b) AS 14.12.010 AS 14.12.025
Planning, Platting & Land Use Regulation	If the city is in the unorganized borough, it must exercise the powers. If it is in an organized borough, it may be permitted by borough to exercise the powers.	Same as for a home-rule city, except the power must be exercised in accordance with AS 29.40.	The city is not required to exercise the powers in any circumstance, but may be permitted in all cases in the manner described for first-class cities.	AS 29.35.250(c) AS 29.35.260(c)
Property Tax	The city may tax up to 30 mills, except where a higher levy is necessary to avoid default on debt. Some home-rule charters require voter approval to authorize the levy property taxes.	The city may tax up to 30 mills except where a higher levy is necessary to avoid default on debt. Voter approval is not required under State law, however, some general law municipal governments have more restrictive limitations imposed at the local level.	The city may tax up to 20 mills, except where a higher levy is required to avoid default. Voter approval is required.	AS 29.45.550- AS 29.45.590;
Sales Tax	The rate of levy may be limited by charter. Requirements for voter approval may also be set by charter	There is no limit on the rate of levy of sales taxes; however, voter approval is required.	Same as for a first-class city.	AS 29.45.700
Other Powers	Possess all legislative powers not prohibited by law or charter	May exercise other powers not prohibited by law	May exercise other powers not prohibited by law	Art. X, § 11 Ak. Const.. AS 29.35.250
City Council composition and apportionment	Determined by charter or ordinance.	6 members elected at-large, except the council may provide for election other than at-large.	7 members elected at-large, except the council may provide for election other than at-large.	AS 29.20.130
Election and Term of Mayor	Determined by charter or ordinance.	Elected at large for a 3-year term, unless a different term not to exceed 4 years is provided by ordinance.	Elected from the city council for a 1-year term, unless a longer term is provided by ordinance. Mayor is selected by council (or by voters upon adoption of ordinance)	AS 29.20.230 AS 29.20.240

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**TABLE 3 - Continued
POWERS AND DUTIES OF CITIES**

POWERS AND DUTIES	HOME-RULE CITY	FIRST-CLASS CITY	SECOND-CLASS CITY	REFERENCE
Vote by Mayor	Determined by charter or ordinance.	May vote to break a tie vote on the city council.	Votes on all matters.	AS 29.20.250
Veto Power of the Mayor	Determined by charter or ordinance, except veto is not permitted of ordinance prohibiting possession of alcohol.	Has veto power with the same exception noted for home-rule cities.	Has no veto power.	AS 29.20.270
Power of Eminent Domain	Permitted by statute.	Permitted by statute.	Permitted, but requires voter approval.	AS 29.35.030
Ability to Attain Home-rule Status	Already has home-rule status.	Voters may adopt home-rule charter.	May not adopt home-rule charter without first reclassifying to a first-class city.	AS 29.10.010

**TABLE 4
POWERS AND DUTIES OF ORGANIZED BOROUGHS**

POWER	UNIFIED MUNICIPALITY AND HOME-RULE BOROUGH	FIRST-CLASS BOROUGH	SECOND-CLASS BOROUGH
Public Education	The borough or unified municipality must provide the service areawide in accordance with AS 14.	Same as for a home-rule borough.	Same as for a home-rule borough.
Planning, Platting & Land Use Regulation	The borough or unified municipality must exercise the powers areawide, but not necessarily in accordance with AS 29.40.	The borough must exercise the powers areawide; in accordance with AS 29.40; the borough may allow cities to assume such powers within their boundaries	Same as for a first-class borough.
Provide Transportation Systems, Water & Air Pollution Control, Animal Regulation	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide or nonareawide basis by ordinance; approval from voters or property owners required for service area powers.
License Day Care Facilities	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide basis by ordinance; voter approval required for exercise on a nonareawide or service area basis.
Regulate Fireworks, Provide Solid & Septic Waste Disposal, Housing Rehabilitation, Economic Development, Roads & Trails, EMS Communications, Regulate Motor Vehicles and Development Projects	Determined by charter or ordinance	May be exercised areawide upon approval of areawide voters or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide or service area basis.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide basis; may be exercised on a service area basis with voter approval
Hazardous Substance Control	Determined by charter or ordinance	Same as above.	Same as above.
Other Powers Not Prohibited	Determined by charter or ordinance	Same as above.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities and approval of nonareawide voters; may be exercised nonareawide upon approval of nonareawide voters; may be exercised on a service area basis with voter approval

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**TABLE 4 - Continued
POWERS AND DUTIES OF ORGANIZED BOROUGHS**

POWER	UNIFIED MUNICIPALITY AND HOME-RULE BOROUGH	FIRST-CLASS BOROUGH	SECOND-CLASS BOROUGH
Property Tax	Limited to 30 mills except where a higher levy is necessary to avoid default on debt; voter approval to levy property taxes is required by some charters	Same as home-rule except there is no charter. Still some general law boroughs have more limited taxing authority established by local action.	Same as for a first-class borough.
Sales Tax	The rate of levy may be limited by charter and voter approval to levy sales taxes may be required by charter.	No limit exists on the rate of levy; however, voter approval is required to levy sales taxes.	Same as for a first-class borough.
Assembly composition and apportionment	Flexible; determined according to AS 29.20.060 - 29.20.120	Same as for a home-rule borough.	Same as for a home-rule borough.
Election and Term of Mayor	Established by charter or ordinance.	Elected at large for a 3 year term, unless a different term not to exceed 4 years is provided by ordinance.	Same as for a first-class borough.
Vote by Mayor	Established by charter or ordinance.	may vote to break a tie vote only if the borough has a manager form of government	Same as for a first-class borough.
Veto Power of the Mayor	Generally determined by charter, except veto not permitted of ordinance prohibiting possession of alcohol.	generally has veto power, except veto not permitted of ordinance prohibiting possession of alcohol.	Same as for a first-class borough.
Ability to Attain Home-rule Status	Already has home-rule status.	Voters may adopt home-rule charter.	Same as for a first-class borough.

POPULATION CHARACTERISTICS OF MUNICIPAL GOVERNMENTS IN ALASKA

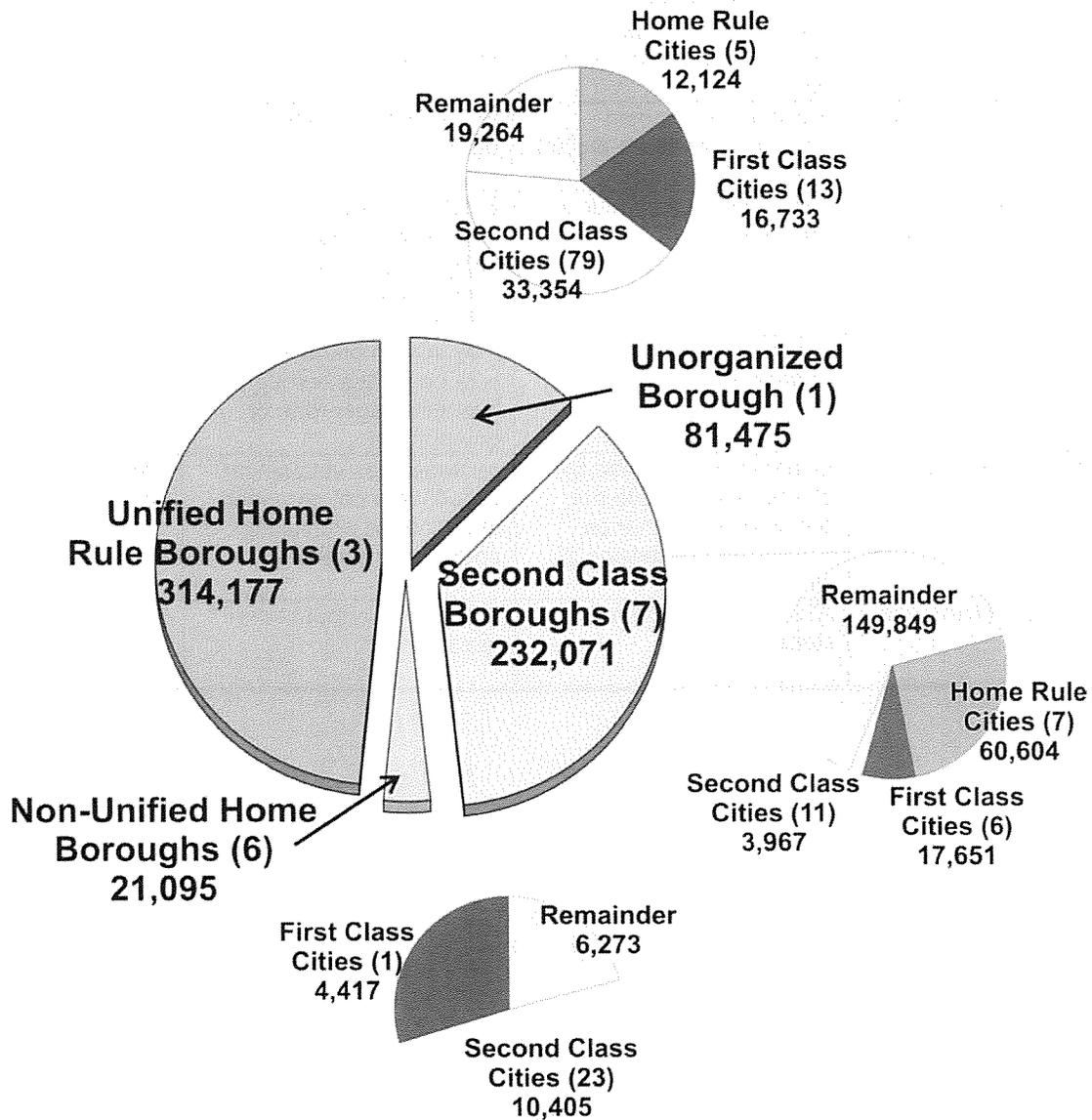
(based on July 1, 2003 population figures)

97.0 percent of Alaskans live in at least one municipal government; the remaining 3.0 percent live outside a municipal government

87.4 percent of Alaskans live within organized boroughs; the remaining 12.6 percent live in the unorganized borough

82.9 percent of organized borough residents receive municipal services exclusively from their borough; the remaining 17.1 percent receive municipal services from their city government and their borough.

91.9 percent of Alaskans live in municipal school districts (organized boroughs and home rule and first class cities in the unorganized borough); the remaining 8.1 percent of Alaskans live in regional educational attendance areas



Municipal Government

City Incorporation

"City incorporation" means the creation of a second class, first class, or home rule city government to provide services and facilities at the community level. Distinctions among the three types of cities are addressed in *Local Government in Alaska*.

Incorporation requires a big commitment of time and other resources. Before any decision is made to begin work on incorporation, a lot of thought should be given to the need for a city government and the process involved, particularly if the community is within an organized borough. This chapter provides an overview of basic information about city incorporation. Incorporation is a complex matter that cannot be covered completely in this brief overview. This overview does, however, provide information and links to applicable law, additional publications, and staff available to provide assistance on incorporation.

Local Boundary Commission (LBC) staff within the Department of Community and Economic Development (Commerce) are available to provide technical assistance.

What options are available for city incorporation?

There are three types of city government in Alaska (second class, first class, and home rule). Each class of city government has broad powers (AS 29.35) and every city also has certain general obligations (e.g., annual audits or financial reports, regular elections, codification of ordinances, regular meetings of the city council, etc.)

The powers and duties of a city, particularly a home-rule or first class city, are greatly affected by whether it is inside or outside an organized borough. For example, state law requires each home rule and first class city outside an organized borough to operate a city school. (AS 29.35.260) In contrast, no city within a borough may operate a school district. Additionally, each home rule and first class city outside an organized borough must exercise the powers of planning, platting, and land use regulation. In comparison, cities within boroughs may exercise planning, platting, and land use regulation powers if the borough delegates those powers to the city. (AS 29.35.250) Beyond the noted requirements for education, planning, platting, and land use regulation, state law does not require cities to provide any particular service or facility.

It is important to note that incorporation of a home rule city requires petitioners to prepare a charter, which is the equivalent of a local government constitution. Writing a charter requires more community expertise and commitment than what is required for incorporation of a first class or second class city.

Who can petition to incorporate?

A city government is customarily created by a petition to the Local Boundary Commission (LBC) from voters within a bona fide community as defined in 3 AAC 110.990 (See Title 3 in the *Alaska Administrative Code*). Although the state can create city governments on its own initiative, it has never done so.

State law (AS 29.05.011) requires that a community must have at least 400 permanent residents to

incorporate as a home rule or first class city. A petition to incorporate a home rule or first class city must be signed by at least 50 resident voters, or 15% of the number of voters who voted in the area during the last general election, whichever is greater.

There is no minimum population requirement for incorporation of a second class city; however, the incorporation petition must be signed by at least 25 resident voters, or 15% of the number of voters who voted in the area during the last general election, whichever is greater.

Are there limits on the incorporation of a city?

Yes. AS 29.05.021 and 3 AAC 110.010 (See Alaska Administrative Code) prohibit the formation of a new city government if the needed services can be provided by annexation to an existing city, or if the needed services can be provided by an organized borough. Residents of a community within a borough who wish to consider forming a city government should talk with borough officials on the matter.

What are the "pros" and "cons" of incorporation?

It is important to carefully look at the pros and cons of incorporation before beginning any incorporation effort. The advantages and disadvantages of forming a new city government will vary depending on the community and the type of city proposed for incorporation. Generally, people supporting incorporation stress that a city would provide greater local control and the means to provide essential local services.

People against incorporation generally focus on the possibility of new taxes and fees among the potential problems. Also, if the community is within an organized borough, critics frequently stress that the borough can provide any needed services and that a city would just be an unnecessary additional layer of government.

Are there criteria that guide the development of a petition?

Yes, AS 29.05.011 and 3 AAC 110.005-3 AAC 110.042.005 provide standards that must be met in order to incorporate. The Local Boundary Commission will use these same criteria to make a decision on the petition. These criteria or standards should be carefully reviewed when deciding whether to incorporate. If the potential petitioners decide to incorporate, the criteria should be used to guide the development of the petition.

What boundaries are appropriate for a new city?

City governments are community-based municipalities (as opposed to boroughs, which are regional municipalities). As such, their boundaries are limited to much smaller areas. Legal standards for city boundaries are provided in AS 29.05.011(a)(2) and 3 AAC 110.040.

Are state grants available to study the feasibility and need for a new city government?

No. State funding is not available for studies of a potential city government.

Does the state provide technical assistance to citizens who wish to incorporate?

Yes, LBC staff will provide certain assistance to potential petitioners. Assistance includes providing petition forms and sample successful proposals; information on policy issues and technical matters; and direction on sources of information needed to complete a petition. While the state can provide some assistance, the burden of preparing a proper petition remains with the petitioners.

Does the state provide technical assistance to citizens that are opposed to incorporation?

Yes. LBC staff will also provide assistance to any person or group that wants to comment on a proposal. Assistance might include providing sample responsive briefs filed on previous petitions, discussion on policy issues, guidance on technical matters, and direction on where to get information needed to complete a responsive brief opposing a proposal.

Can a petition be changed after it is filed?

Yes, the petition may be changed by the petitioner. The LBC can also change it or add conditions to an incorporation proposal following a public hearing. Ideally, however, with careful planning and proper consultation before filing a petition, the need to make changes can be avoided. Changing a petition may, under certain circumstances, cause delays in the consideration of the petition.

How long does it take to incorporate?

Usually it takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Possible petitioners are encouraged to work closely with the LBC staff in developing a petition. Once a petition is completed and the necessary signatures have been gathered, the petition is filed with the Local Boundary Commission. The process for review of the proposal by the LBC typically takes one year or longer. If the commission approves the petition, the state will conduct a local election on the matter. The process for the incorporation election typically involves about three months.

A community may incorporate a city government if it meets the standards in the law (AS 29.05.011, AS 29.05.021, AS 29.05.100, 3 AAC 110.005-3 AAC 110.042, and 3 AAC 110.900-3 AAC 110.980) (See Title 3 in the Alaska Administrative Code).

Among the standards is the requirement to show the need for a new city. If the proposed city is within an organized borough, the need for a new city is more difficult to show. The law (AS 29.05.021) does not allow the creation of a new city within an organized borough if essential city services can be provided more efficiently or more effectively by an existing organized borough on an areawide basis, non-areawide basis, or through an existing borough service area.

That limitation reflects the fact that local government principles in Alaska's constitution view a borough with no city governments as the ideal structure for delivery of local services. The drafters of the Local Government Article of Alaska's Constitution "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government." (Final Report on Borough Government, p. 17,

Alaska Legislative Council and the Local Affairs Agency.)

The express purpose of the Local Government Article is to "provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions." (Alaska Constitution, Article X, Section 1) The Alaska Supreme Court held with respect to combining city and borough governments through unification that: "*Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units.*"

It is worth mentioning that the Task Force on Governmental Roles, established by the 1991 Legislature under SCS CS HCR 17 to examine state policies regarding local government concluded as follows: "*Unification of borough and city administrations should be encouraged wherever possible to provide for more efficient and cost-effective service delivery.*"

Alaskans have embraced the constitutional principles encouraging the combination of city and borough governments. Consider, for example, that in 1970, about half of the people who lived within an organized borough also lived within a city government. Today, the figure is about 18% - the number of Alaskans within both a city and borough declined by approximately two-thirds since 1970.

Another limitation in state law on the creation of a new city concerns the possibility of receiving services through annexation to an existing city. If annexation is viable, a new city cannot be formed.

In addition to need for a city government, a proposed city must also have enough of an economy to support the proposed city government. Also, the population of the community must be large and stable enough. A community must have at least 400 permanent residents to be approved for incorporation as a first class or home-rule city. The boundaries of the proposed city must also meet the standards in the law.

Residents of unincorporated communities in the unorganized borough often have an easier test to show a need for a city government.

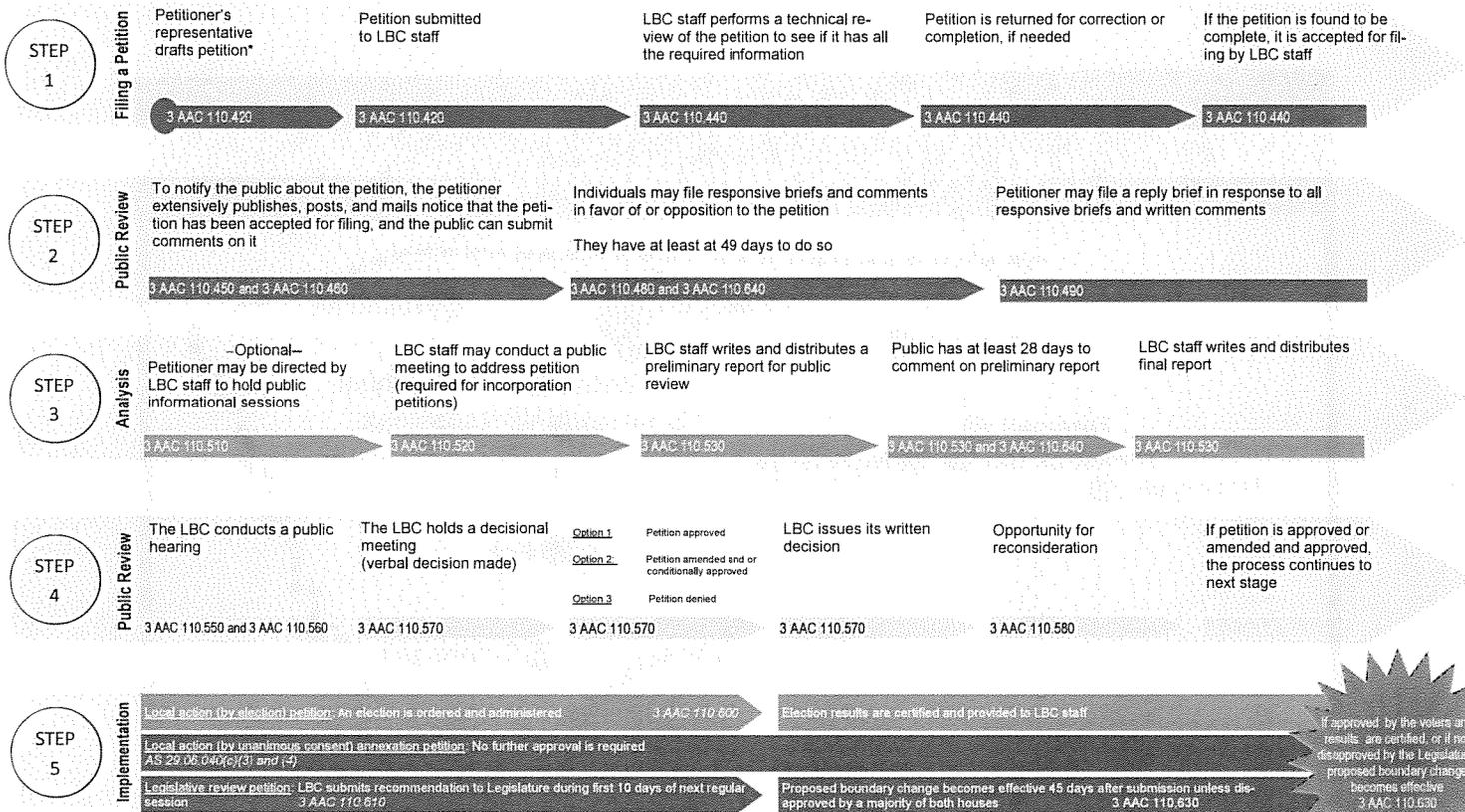
POWERS AND DUTIES OF ORGANIZED BOROUGHS

POWER	UNIFIED MUNICIPALITY AND HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH
Public Education (education powers have been broadly interpreted by the Ak Dept of Law)	The borough or unified municipality must provide the service areawide in accordance with AS 14.	Same as for a home rule borough.	Same as for a home rule borough.
Planning, Platting & Land Use Regulation	The borough or unified municipality must exercise the powers areawide, but not necessarily in accordance with AS 29.40.	The borough must exercise the powers areawide; in accordance with AS 29.40; the borough may allow cities to assume such powers within their boundaries	Same as for a first class borough.
Provide Transportation Systems, Water & Air Pollution Control, Animal Regulation	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide or nonareawide basis by ordinance; approval from voters or property owners required for service area powers.
Licensed Day Care Facilities	Determined by charter or ordinance.	May be exercised on an areawide, nonareawide or service area basis by ordinance.	May be exercised on an areawide basis by ordinance; voter approval required for exercise on a nonareawide or service area basis.
Regulate Fireworks, Provide Solid & Septic Waste Disposal, Housing Rehabilitation, Economic Development, Roads & Trails, EMS Communications, Regulate Motor Vehicles and Development Projects	Determined by charter or ordinance	May be exercised areawide upon approval of areawide voters or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide or service area basis.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities; may be exercised by ordinance on a nonareawide basis; may be exercised on a service area basis with voter approval
Hazardous Substance Control	Determined by charter or ordinance	Same as above.	Same as above.
Other Powers Not Prohibited	Determined by charter or ordinance	Same as above.	May be exercised areawide upon approval of areawide voters; or by transfer of powers from all cities and approval of nonareawide voters; may be exercised nonareawide upon approval of nonareawide voters; may be exercised on a service area basis with voter approval

**TABLE 2 - Continued
POWERS AND DUTIES OF ORGANIZED BOROUGHES**

POWER	UNIFIED MUNICIPALITY AND HOME RULE BOROUGH	FIRST CLASS BOROUGH	SECOND CLASS BOROUGH
Property Tax	Limited to 30 mills except where a higher levy is necessary to avoid default on debt; voter approval to levy property taxes is required by some charters	Same as home rule except there is no charter. Still some general law boroughs have more limited taxing authority established by local action.	Same as for a first class borough.
Sales Tax	The rate of levy may be limited by charter and voter approval to levy sales taxes may be required by charter.	No limit exists on the rate of levy; however, voter approval is required to levy sales taxes.	Same as for a first class borough.
Assembly composition and apportionment	Flexible; determined according to AS 29.20.060 - 29.20.120	Same as for a home rule borough.	Same as for a home rule borough.
Election and Term of Mayor	Established by charter or ordinance.	Elected at large for a 3 year term, unless a different term not to exceed 4 years is provided by ordinance.	Same as for a first class borough.
Vote by Mayor	Established by charter or ordinance.	may vote to break a tie vote only if the borough has a manager form of government	Same as for a first class borough.
Veto Power of the Mayor	Generally determined by charter, except veto not permitted of ordinance prohibiting possession of alcohol.	generally has veto power, except veto not permitted of ordinance prohibiting possession of alcohol.	Same as for a first class borough.
Ability to Attain Home Rule Status	Already has home rule status.	Voters may adopt home rule charter.	Same as for a first class borough.

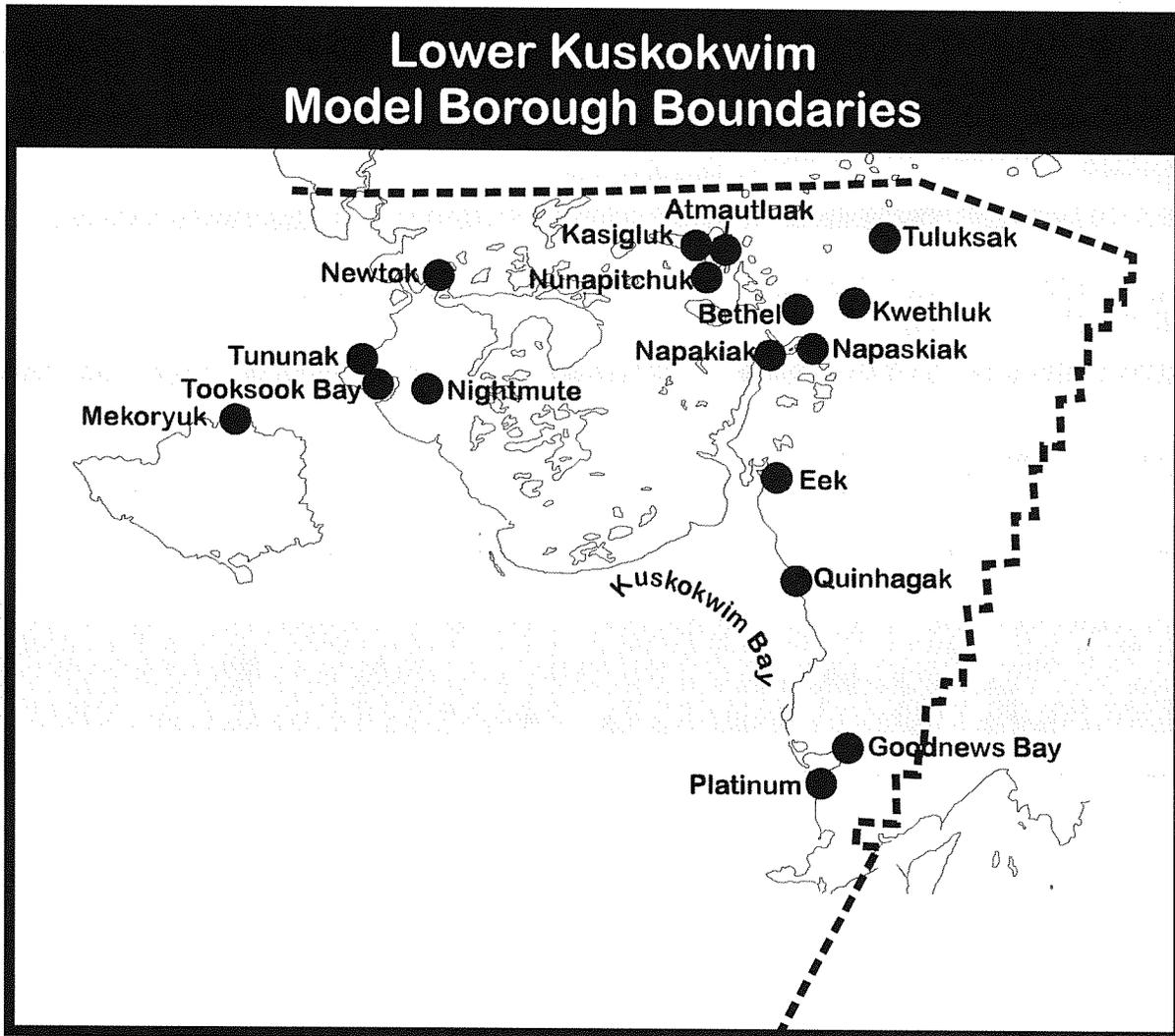
Municipal Boundary Change Petition Procedures—Local Boundary Commission



If approved by the voters and results are certified, or if not disapproved by the Legislature, proposed boundary change becomes effective 3 AAC 110.630

*Legislative review annexations petitions require petitioner to hold a hearing before filing petition per 3 AAC 110.425

Lower Kuskokwim Region. The Commission held model borough boundary hearings concerning the Lower Kuskokwim region in Bethel on October 24, 1992. On November 21, 1992, the Local Boundary Commission set model borough boundaries for the region to conform to the boundaries of the Lower Kuskokwim Regional Educational Attendance Area (including the smaller Yupiit Regional Educational Attendance Area). The 1990 population of the region was 12,125. The region encompasses 25 communities including Akiachak, Akiak, Atmautluak, Bethel, Chefornak, Eek, Goodnews Bay, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Nunapitchuk, Oscarville, Platinum, Quinhagak, Toksook Bay, Tuluksak, Tuntutuliak, and Tununak.



Sec. 29.05.031. Incorporation of a borough or unified municipality.

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) An area may not incorporate as a third class borough.

Sec. 29.05.060. Petition. Municipal incorporation is proposed by filing a petition with the department. The petition must include the following information about the proposed municipality:

(1) class;

(2) name;

(3) boundaries;

(4) maps, documents, and other information required by the department;

(5) composition and apportionment of the governing body;

(6) a proposed operating budget for the municipality projecting sources of income and items of expenditure through the first full fiscal year of operation;

(7) for a borough or unified municipality, based on the number who voted in the respective areas in the last general election, the signature and resident address of 15 percent of the voters in

(A) home rule and first class cities in the area of the proposed borough or unified municipality; and

(B) the area of the proposed borough or unified municipality outside home rule and first class cities;

(8) for a first class borough or unified municipality, a designation of areawide powers to be exercised;

(9) for a second class borough, a designation of areawide and nonareawide powers to be exercised;

(10) for a first class, second class, or home rule city, a designation of the powers to be exercised;

(11) for a first class or home rule city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 50 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

(12) for a second class city, based on the number who voted in the area in the last general election, the signatures and resident addresses of 25 voters in the proposed city or of 15 percent of the voters in the proposed city, whichever is greater;

(13) for a home rule city, home rule borough, or unified municipality, a proposed home rule charter.

Sec. 29.05.110. Incorporation election.

(a) The Local Boundary Commission shall immediately notify the director of elections of its acceptance of an incorporation petition. Within 30 days after notification, the director of elections shall order an election in the proposed municipality to determine whether the voters desire incorporation and, if so, to elect the initial municipal officials. If incorporation is rejected, no officials are elected. The election shall be held not less than 30 or more than 90 days after the date of the election order. The election order must specify the dates during which nomination petitions for election of initial officials may be filed.

(b) A qualified voter who is registered to vote within the proposed municipality at least 30 days before the date of the election order may vote.

(c) Areawide borough powers included in an incorporation petition are considered to be part of the incorporation question. In an election for the incorporation of a second class borough, each nonareawide power to be exercised is placed separately on the ballot. Adoption of a nonareawide power requires a majority of the votes cast on the question, and the vote is limited to the qualified voters who are registered to vote in the proposed borough but outside all cities in the proposed borough.

(d) A home rule charter included in an incorporation petition under AS 29.05.060(13) is considered to be part of the incorporation question. The home rule charter is adopted if the voters approve incorporation of the city, borough, or unified municipality.

(e) The director of elections shall supervise the election in the general manner prescribed by AS 15 (Election Code). The state shall pay all election costs under this section.

(f) In this section, "qualified voter" has the meaning given in AS 15.80.010.

3 AAC 110.045. Relationship of interests

(a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including the (1) compatibility of urban and rural areas within the proposed borough; (2) compatibility of economic lifestyles and industrial or commercial activities; (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; (4) extent and accommodation of spoken language differences throughout the proposed borough; and (5) existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services. (b) Repealed 1/9/2008. (c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including (1) transportation schedules and costs; (2) geographical and climatic impediments; (3) telephonic and teleconferencing facilities; and (4) electronic media for use by the public. (d) In determining whether communications and exchange patterns are sufficient, the commission may consider whether (1) all communities within a proposed borough are connected to the proposed borough seat by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and (2) communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough.

3 AAC 110.050. Population

(a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including (1) census enumerations; (2) durations of residency; (3) historical population patterns; (4) seasonal population changes; (5) age distributions; (6) contemporary and historical public school enrollment data; and (7) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends. (b) In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.

3 AAC 110.055. Resources

In accordance with AS 29.05.031(a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of

essential municipal services on an efficient, cost-effective level, In this regard, the commission (1) will consider (A) the reasonably anticipated functions of the proposed borough; (B) the reasonably anticipated expenses of the proposed borough; (C) the ability of the proposed borough to generate and collect revenue at the local level; (D) the reasonably anticipated income of the proposed borough; (E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date (i) for receipt of the final organization grant under AS 29.05.190; (ii) for completion of the transition set out in AS 29.05.130 - 29.05.140 and 3 AAC 110.900; and (iii) on which the proposed borough will make its first full local contribution required under AS 14.17.410(b)(2); (F) the economic base of the area within the proposed borough; (G) valuations of taxable property within the proposed borough; (H) land use within the proposed borough; (I) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and (J) personal income of residents within the proposed borough; and (2) may consider other relevant factors, including (A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and (B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

3 AAC 110.060. Boundaries

(a) In accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including (1) land use and ownership patterns; (2) ethnicity and cultures; (3) repealed 1/9/2008; (4) existing and reasonably anticipated transportation patterns and facilities; (5) natural geographical features and environmental factors; (6) repealed 1/9/2008; and (7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough. (b) When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider (1) model borough boundaries for the area within the proposed borough; (2) regional boundaries, including (A) boundaries of one or more regional educational attendance areas existing in that proposed borough area; (B) federal census area boundaries; (C) boundaries established for regional Native corporations under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act); and (D) boundaries of national forests; (3) whether the proposed borough will embrace an area and population with common interests to the maximum degree possible; (4) whether the proposed borough promotes maximum local self-government, as determined under 3 AAC 110.981; (5) whether the proposed borough promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; and (6) whether the proposed borough boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3, Constitution of the State of Alaska. (c) Repealed

1/9/2008. (d) Absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level. (e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition. (f) The boundaries of a borough may not include only a portion of the territory of an existing city government. (g) Requirements relating to limitation of community, as set out in 3 AAC 110.040(b), do not apply to boroughs.

3 AAC 110.065. Best interests of state

In determining whether incorporation of a borough is in the best interests of the state under AS 29.05.100(a), the commission may consider relevant factors, including whether incorporation (1) promotes maximum local self-government, as determined under 3 AAC 110.981; (2) promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska; (3) will relieve the state government of the responsibility of providing local services; and (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution.

3 AAC 110.067. Applicability

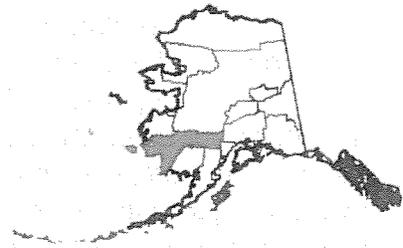
The provisions of 3 AAC 110.045 - 3 AAC 110.065 apply to a petition for borough incorporation using either (1) the legislative review method provided in art. X, sec. 12, Constitution of the State of Alaska; or (2) the local option methods provided in AS 29.05.

Bethel Census Area, Alaska

Coordinates: 60°45′N 160°30′W﻿ / ﻿60.75°N 160.5°W﻿ / 60.75; -160.5

From Wikipedia, the free encyclopedia

Bethel Census Area is a census area located in the U.S. state of Alaska. As of the 2010 census, the population is 17,013.^[1] It is part of the unorganized borough and therefore has no borough seat. Its largest community by far is the city of Bethel, which is also the largest city in the entire Unorganized Borough.



Contents

- 1 Geography
 - 1.1 Adjacent boroughs and census areas
 - 1.2 National protected areas
- 2 Demographics
- 3 Communities
 - 3.1 Cities
 - 3.2 Census-designated places
 - 3.3 Unincorporated communities
- 4 See also
- 5 References
- 6 External links

Geography

According to the U.S. Census Bureau, the census area has a total area of 45,504 square miles (117,850 km²), of which 40,570 square miles (105,100 km²) is land and 4,934 square miles (12,780 km²) (10.8%) is water.^[2] Its territory includes the large offshore Nunivak Island in the Bering Sea.

Adjacent boroughs and census areas

- Kusilvak Census Area, Alaska - northwest
- Yukon-Koyukuk Census Area, Alaska - north
- Matanuska-Susitna Borough, Alaska - east
- Kenai Peninsula Borough, Alaska - southeast
- Lake and Peninsula Borough, Alaska - south
- Dillingham Census Area, Alaska - south

National protected areas

- Alaska Maritime National Wildlife Refuge (part of the Bering Sea unit)
 - Bering Sea Wilderness
- Lake Clark National Park and Preserve (part)
 - Lake Clark Wilderness (part)
- Togiak National Wildlife Refuge (part)
 - Togiak Wilderness (part)
- Yukon Delta National Wildlife Refuge (part)
 - Nunivak Wilderness

Demographics

As of the census^[4] of 2000, there were 16,006 people, 4,226 households, and 3,173 families residing in the census area. The population density was 0 people per square mile (0/km²). There were 5,188 housing units at an average density of 0/sq mi (0/km²). The racial makeup of the census area was

Historical population		
Census	Pop.	%±

12.53% White, 0.38% Black or African American, 81.93% Native American, 1.05% Asian, 0.06% Pacific Islander, 0.19% from other races, and 3.85% from two or more races. 0.87% of the population were Hispanic or Latino of any race.

There were 4,226 households out of which 51.00% had children under the age of 18 living with them, 50.20% were married couples living together, 15.20% had a female householder with no husband present, and 24.90% were non-families. 19.90% of all households were made up of individuals and 2.80% had someone living alone who was 65 years of age or older. The average household size was 3.73 and the average family size was 4.41.

In the census area the population was spread out with 39.80% under the age of 18, 9.70% from 18 to 24, 28.90% from 25 to 44, 16.40% from 45 to 64, and 5.20% who were 65 years of age or older. The median age was 25 years. For every 100 females there were 113.20 males. For every 100 females age 18 and over, there were 112.80 males.

Bethel Census Area is one of only 38 county-level census divisions of the United States where the most spoken language is not English and one of only 3 where it is neither English nor Spanish. 63.14% of the population speak a Yupik language at home, followed by English at 34.71%.^[9]

1960	5,537	—
1970	7,579	36.9%
1980	10,999	45.1%
1990	13,656	24.2%
2000	16,006	17.2%
2010	17,013	6.3%
Est. 2014	17,868 ^[3]	5.0%

U.S. Decennial Census ^[4]		
1790-1960 ^[5]	1900-1990 ^[6]	
1990-2000 ^[7]	2010-2013 ^[11]	

Communities

Cities

- Akiak
- Aniak
- Bethel
- Chefornak
- Chuathbaluk
- Eek
- Goodnews Bay
- Kwethluk
- Lower Kalskag
- Mekoryuk
- Napakiak
- Napaskiak
- Nightmute
- Nunapitchuk
- Platinum
- Quinhagak
- Toksook Bay
- Upper Kalskag

Census-designated places

- Akiachak
- Atmautluak
- Crooked Creek
- Kasigluk
- Kipnuk
- Kongiganak
- Kwigillingok
- Lime Village
- Mertarvik
- Newtown
- Oscarville
- Red Devil
- Sleetmute
- Stony River
- Tuluksak
- Tuntutuliak
- Tununak

Unincorporated communities

- Crow Village
- Georgetown
- Napaimute
- Umkumiute

See also

- List of Airports in the Bethel Census Area

References

- ↑ "State & County QuickFacts". United States Census Bureau. Retrieved May 18, 2014.
- ↑ "US Gazetteer files: 2010, 2000, and 1990". United States Census Bureau. 2011-02-12. Retrieved 2011-04-23.
- ↑ "Annual Estimates of the Resident Population for Incorporated Places: April 1, 2010 to July 1, 2014". Retrieved June 4, 2015.
- ↑ "U.S. Decennial Census". United States Census Bureau. Retrieved May 18, 2014.
- ↑ "Historical Census Browser". University of Virginia Library. Retrieved May 18, 2014.

6. "Population of Counties by Decennial Census: 1900 to 1990". United States Census Bureau. Retrieved May 18, 2014.
7. "Census 2000 PHC-T-4. Ranking Tables for Counties: 1990 and 2000" (PDF). United States Census Bureau. Retrieved May 18, 2014.
8. "American FactFinder". United States Census Bureau. Retrieved 2011-05-14.
9. Language Map Data Center (http://www.mla.org/map_data_results&state_id=2&county_id=50&mode=geographic&zip=&place_id=&cty_id=&ll=&a=&ea=&order=r). Mla.org (2013-04-03). Retrieved on 2013-08-02.

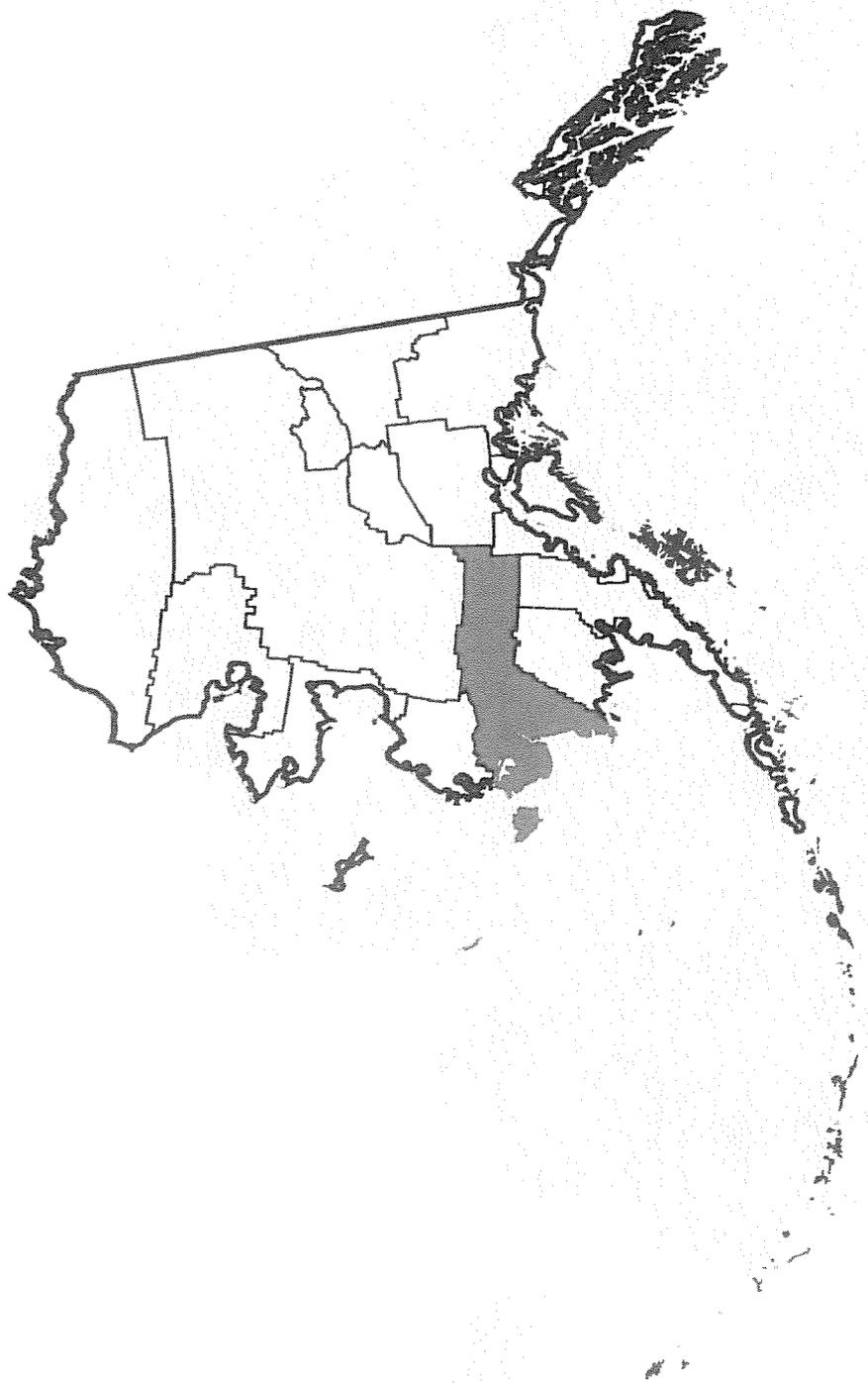
External links

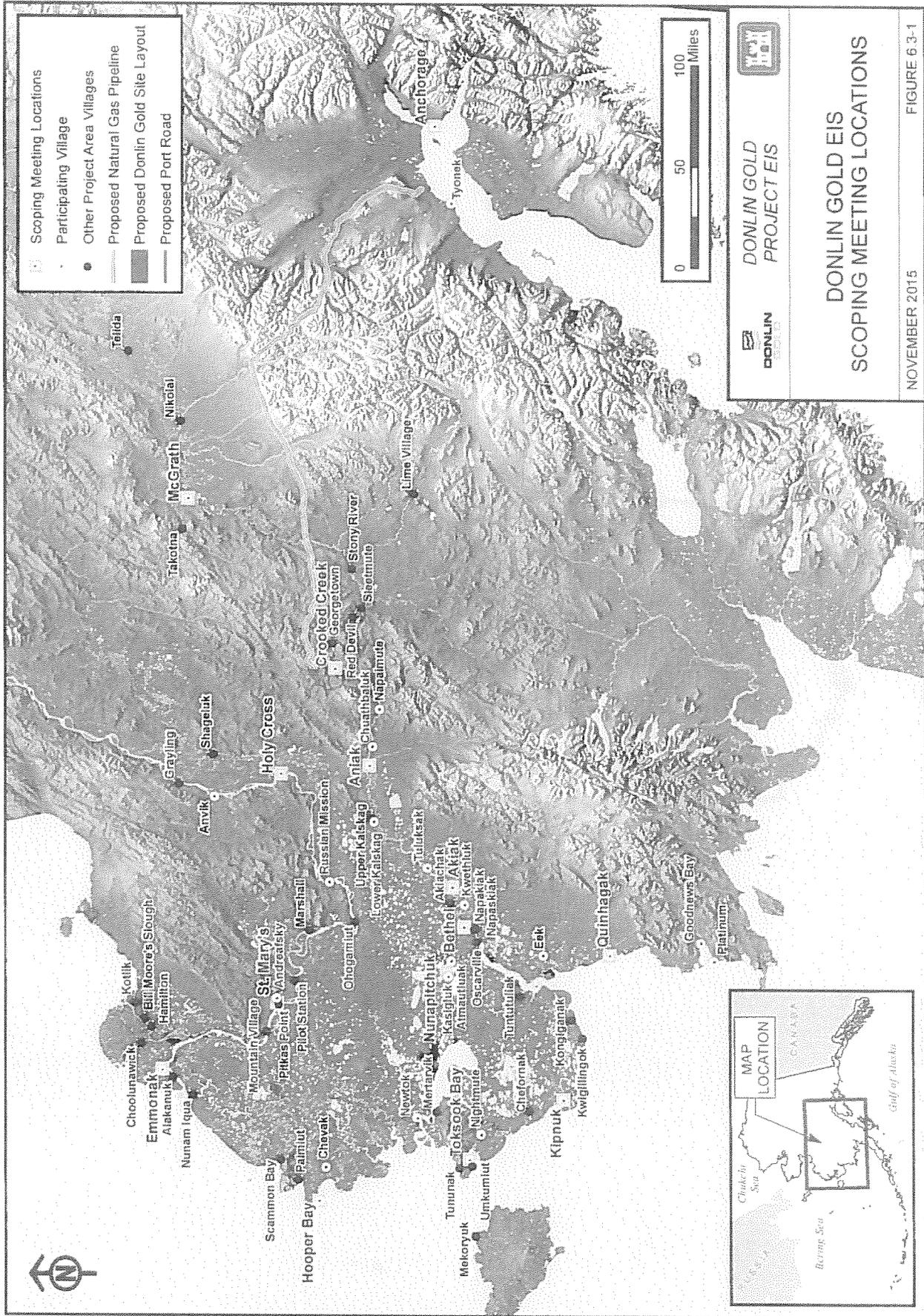
- Census Area map, 2000 census: Alaska Department of Labor (http://labor.alaska.gov/research/alari/images/maps/6_4_0map.pdf)
- Census Area map, 2010 census: Alaska Department of Labor (http://labor.alaska.gov/research/census/borcamaps/6_4_0map.pdf)

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Categories: Bethel Census Area, Alaska | Alaska census areas

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Title 18 ZONING

Chapters:

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

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Chapter 18.04 GENERAL PROVISIONS

Sections:

- [18.04.010](#) Title.
- [18.04.020](#) Purpose.
- [18.04.030](#) Application.
- [18.04.040](#) Authority.
- [18.04.050](#) Jurisdiction.
- [18.04.060](#) Conflict.
- [18.04.070](#) Notice.
- [18.04.090](#) City held harmless.

18.04.010 Title.

This title may be referred to as the "city land use code." [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.04.040 Authority.

The provisions of the city land use code and the official map are adopted pursuant to the authority granted under AS [29.35.260](#)(c). [Ord. 01-05 § 8.]

18.04.050 Jurisdiction.

A. The territorial jurisdiction under this title shall include all lands located within the corporate limits of the city. 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. [Ord. 01-05 § 8.]

18.04.060 Conflict.

Whenever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions, or ordinances, the one (1) which is the most restrictive, or which requires the higher standard, shall apply. [Ord. 01-05 § 8.]

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 Chapter 18.76 BMC, notice of that hearing shall be given as provided in BMC 18.76.030.

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

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 six (6) days before the hearing.

D. Notice shall be mailed to the owners of each parcel of property any part of which is within six hundred (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 recorder's 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 five (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 five (5) calendar days before the hearing, notice shall be posted on the public bulletin board at city hall and at three (3) 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 (1) 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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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. [Ord. 01-05 § 8.]

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A. The territorial jurisdiction under this title shall include all lands located within the corporate limits of the city. 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. [Ord. 01-05 § 8.]

18.04.060 Conflict.

Whenever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, resolutions, or ordinances, the one (1) which is the most restrictive, or which requires the higher standard, shall apply. [Ord. 01-05 § 8.]

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

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 six (6) days before the hearing.

D. Notice shall be mailed to the owners of each parcel of property any part of which is within six hundred (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 recorder's 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 five (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 five (5) calendar days before the hearing, notice shall be posted on the public bulletin board at city hall and at three (3) 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 (1) 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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**Chapter 18.08
ESTABLISHMENT OF DISTRICTS AND OFFICIAL LAND USE MAP**

Sections:

- [18.08.010](#) Adoption of districts and land use map.
- [18.08.020](#) Adoption of 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:

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. [Ord. 01-05 § 8.]

18.08.020 Adoption of official map.

- A. There is adopted the city 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. [Ord. 01-05 § 8.]

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 Chapter 18.84 BMC. [Ord. 01-05 § 8.]

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 _____, _____." [Ord. 01-05 § 8.]

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;

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 shorelines;

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

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

G. Distances not specifically indicated on the official map shall be determined by the scale of the map. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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- 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. [Ord. 01-05 § 8.]

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 Chapter 18.84 BMC. [Ord. 01-05 § 8.]

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 _____, _____." [Ord. 01-05 § 8.]

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;

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 shorelines;

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

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

G. Distances not specifically indicated on the official map shall be determined by the scale of the map. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

The Bethel Municipal Code is current through Ordinance 15-28, and legislation passed through October 6, 2015.

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Chapter 18.12 DEFINITIONS

Sections:

18.12.010 Interpretation.

18.12.010 Interpretation.

Words and terms used in this title are defined in Chapter 16.12 BMC. [Ord. 01-05 § 8.]

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Chapter 18.16 SITE PLAN PERMITS

Sections:

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 Chapter 15.12 BMC. [Ord. 01-05 § 8.]

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Chapter 18.20 PRESERVATION DISTRICT – P DISTRICT

Sections:

- 18.20.010 Intent.
- 18.20.020 Permitted and principal uses and structures.
- 18.20.030 Conditional uses.
- 18.20.040 Minimum lot size and dimensions.
- 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 drainageways 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 drainageways.

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 drainageways.

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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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 wetland requires an approved Corps of Engineers' individual permit before final planning commission approval. [Ord. 01-05 § 8.]

18.20.040 Minimum lot size and dimensions.

- A. A lot may not contain less than seven thousand (7,000) 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 (40) feet; except, a lot that fronts on a cul-de-sac may have not less than twenty-five (25) feet fronting on a public street.
- C. The minimum lot size for an apartment is ten thousand (10,000) square feet for the first (1st) four (4) units and an additional one thousand (1,000) square feet for each additional unit. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Ten (10) feet.
- C. Rear yard: Ten (10) feet.
- D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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](#) through [18.48.270](#). [Ord. 01-05 § 8.]

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Chapter 18.24 PUBLIC LANDS AND INSTITUTIONAL DISTRICT – PLI DISTRICT

Sections:

- [18.24.010](#) Intent.
- [18.24.020](#) Permitted and principal uses and structures.
- [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. [Ord. 01-05 § 8.]

18.24.020 Permitted and principal uses and structures.

The following are permitted and principal uses and structures in the PLI district:

- A. Greenbelts and land 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. [Ord. 01-05 § 8.]

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 noncommercial 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. [Ord. 01-05 § 8.]

18.24.040 Minimum lot size.

The minimum lot size in the PLI district is seven thousand (7,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.

B. Side yard: Ten (10) feet.

C. Rear yard: Ten (10) feet.

D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

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**Chapter 18.28
OPEN SPACE DISTRICT – OS DISTRICT**

Sections:

- 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 structures.

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. [Ord. 01-05 § 8.]

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. Nonmotorized 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.28.040 Minimum lot size.

The minimum lot size in the OS district is seven thousand (7,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.

B. Side yard: Ten (10) feet.

C. Rear yard: Ten (10) feet.

D. Twenty-five (25) feet from the high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

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Chapter 18.32 RESIDENTIAL DISTRICT – R DISTRICT

Sections:

- [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 nonresidential activities. [Ord. 01-05 § 8.]

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. Nonmotorized 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 twelve (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 (2) per dwelling unit. [Ord. 01-05 § 8.]

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 or administrative offices for charitable organizations and similar quasi-public organizations of a noncommercial 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. [Ord. 01-05 § 8.]

18.32.040 Minimum lot size.

The minimum lot size in the R district is nine thousand (9,000) square feet; provided, the minimum lot size for an apartment is ten thousand (10,000) square feet for the first (1st) four (4) units and an additional one thousand (1,000) square feet for each additional unit. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Ten (10) feet; provided, for lots that were lawfully platted prior to 1985 with less than seven thousand (7,000) square feet, seven (7) feet shall be provided for side yards.
- C. Rear yard: Ten (10) feet; provided, for lots that were lawfully platted prior to 1985 with less than seven thousand (7,000) square feet, seven (7) feet shall be provided for rear yards.
- D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

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 eighty

(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 twenty (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. [Ord. 01-05 § 8.]

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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 the 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 a limited, local market and is intended to permit only those uses which do not create adverse impacts that are incompatible with nearby residences. [Ord. 01-05 § 8.]

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. Nonmotorized 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.34.040 Minimum lot size.

The minimum lot size in the NC district is seven thousand (7,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Ten (10) feet.
- C. Rear yard: Ten (10) feet.
- D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

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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 requirement.
- 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. [Ord. 01-05 § 8.]

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 land 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 noncommercial 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.
- W. Any use or structure that is accessory to the principal use or structure on the lot. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.35.040 Minimum lot size.

A lot in the DC district may not contain less than five thousand (5,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Zero (0) feet, except as provided in subsections D and E of this section.
- C. Rear yard: Zero (0) feet, except as provided in subsection E of this section.
- D. If the lot is a corner lot, the setback from the side street is twenty-five (25) feet from the street right-of-way or five (5) feet if the width of the lot is fifty (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 twenty-five (25) feet from that property line, plus one (1) foot for each three (3) feet of structure height greater than twelve (12) feet.

F. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 18.35.050(E) or under the airport height restrictions under BMC 18.48.250 through 18.48.270. [Ord. 01-05 § 8.]

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Chapter 18.36 GENERAL USE DISTRICT – GU DISTRICT

Sections:

- 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. [Ord. 01-05 § 8.]

18.36.020 Permitted and principal uses and structures.

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

- A. Trails and boardwalks.
- B. Nonmotorized 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 breakfasts, 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 secondhand stores, including auctions, pawnshops.
39. Automotive accessories, parts and equipment stores.
40. Automotive repair, services and garages.
41. Motor vehicle dealers, new and used.
42. Wholesale and retail fur repair, storage, and sales.
43. Automobile display lots, new and used.
44. Lumber yards and 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.36.040 Minimum lot size.

The minimum lot size in the GU district is seven thousand (7,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Ten (10) feet.
- C. Rear yard: Ten (10) feet.
- D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

Chapter 18.40 INDUSTRIAL DISTRICT – I DISTRICT

Sections:

- 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. [Ord. 01-05 § 8.]

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.
26. Recreational uses, to include the Bethel shooting range. [Ord. 11-22 § 2; Ord. 01-05 § 8.]

18.40.030 Conditional uses.

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

- A. Planned unit developments. [Ord. 01-05 § 8.]

18.40.040 Minimum lot size.

The minimum lot size in the I district is seven thousand (7,000) square feet. [Ord. 01-05 § 8.]

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: Fifteen (15) feet.
- B. Side yard: Ten (10) feet.
- C. Rear yard: Ten (10) feet.
- D. Twenty-five (25) feet from the high water mark of any drainage or lake. [Ord. 01-05 § 8.]

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 through 18.48.270. [Ord. 01-05 § 8.]

The Bethel Municipal Code is current through Ordinance 15-28, and legislation passed through October 6, 2015.

Disclaimer: The City Clerk's Office has the official version of the Bethel Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



Chapter 18.48 SUPPLEMENTAL REGULATIONS

Sections:

Article I. Zero Lot Line Development

[18.48.030](#) Zero lot line development.

Article II. Off-Street Parking and Loading

[18.48.150](#) Purpose of off-street parking, loading and driveway requirements.

[18.48.160](#) Off-street parking requirements.

[18.48.170](#) Parking area location.

[18.48.180](#) Off-street 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](#) BMC. Except as provided in subsection 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. [Ord. 01-05 § 8.]

Article II. Off-Street Parking and Loading

18.48.150 Purpose of off-street parking, loading and driveway requirements.

The purpose of off-street 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. BMC 18.48.150 through 18.48.210 may be referred to as the off-street parking and loading code. [Ord. 01-05 § 8.]

18.48.160 Off-street 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. Off-street 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 8 feet of 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
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 (D)(16) of this section
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

[Ord. 01-05 § 8.]

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 (2) 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 twenty (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. [Ord. 01-05 § 8.]

18.48.180 Off-street parking design standards.

A. All off-street parking spaces shall be no less than nine (9) feet by twenty (20) feet in size, except that all parallel parking spaces shall be no less than nine (9) feet by twenty-two (22) feet in size.

- B. The aisle width between parking spaces shall be no less than:
1. Sixteen (16) feet between rows of parking spaces angled thirty (30) degrees or less;
 2. Eighteen (18) feet between rows of parking spaces angled at greater than thirty (30) degrees but not greater than sixty (60) degrees;
 3. Twenty-five (25) feet between rows of parking spaces angled at greater than sixty (60) degrees;
 4. Twelve (12) feet for one-way aisles and twenty-four (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 (4) or more stalls shall have an improved surface approved by the city engineer; provided, the overall finished grade of a parking lot shall not exceed a five (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 eight (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 of this section 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 eight (8) feet to the nearest sidewalk or twenty (20) feet from the nearest improved edge of the street, any closed fence, wall, ground-mounted sign, bush, or hedge line shall not exceed twenty-four (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 a least seven (7) feet six (6) inches above the parking lot surface for all uses except residential. [Ord. 01-05 § 8.]

18.48.190 Disabled parking standards.

- A. Parking lots which contain six (6) to twenty-five (25) required spaces shall provide one (1) space for restricted use of disabled persons. Parking lots that contain twenty-six (26) to fifty (50) required spaces shall contain two (2) spaces for restricted use of disabled persons. Parking lots which contain more than fifty (50) required spaces shall contain one (1) additional space for restricted use of disabled persons for each additional one hundred (100) parking spaces or fraction thereof that are required.

B. Parking spaces required by this section shall be at least nine (9) feet wide and shall have an adjacent aisle that is at least six (6) feet wide. Two (2) 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. [Ord. 01-05 § 8.]

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 nine (9) feet when serving four (4) or fewer dwelling units and a driveway width of not less than sixteen (16) feet when serving five (5) or more dwelling units or in lieu thereof, two (2) separate driveways not less than nine (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 fifteen (15) feet to accommodate one-way traffic and a minimum width of twenty-five (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 twenty-five (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 (2) 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 four (4) or more spaces shall be located and designed as follows:

1. Parking area entrance and exit driveways shall be located a minimum of fifty (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 (1) entrance and one (1) 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 thirty (30) feet.
3. A combined entrance and exit driveway shall be perpendicular to the street centerline for a distance of twenty-five (25) feet from the street property line.

F. Driveways that cross drainageways are subject to the requirements of BMC 15.12.040(B)(3) and 15.12.050(A)(11). [Ord. 01-05 § 8.]

18.48.210 Loading standards.

A. Structures that are constructed, altered or used which receive or distribute materials or merchandise by truck shall provide off-street 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	Two plus one for each additional 50,000 square feet

B. A loading berth shall contain a space not less than ten (10) feet wide and fifty (50) feet long, and have an overhead clearance of not less than fourteen (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 off-street parking requirements. [Ord. 01-05 § 8.]

Article III. Height Restrictions

18.48.250 Air navigation hazards – Purpose.

BMC 18.48.250 through 18.48.270 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. [Ord. 01-05 § 8.]

18.48.260 Height restrictions.

A. No structure may exceed the lower of the height or elevation limits provided in other parts of this code or the height or elevation limits as determined from the applicable airport height map that meets the requirements of BMC 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 this article. [Ord. 01-05 § 8.]

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 (1) 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 ten- (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. [Ord. 01-05 § 8.]

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Chapter 18.52 PLANNED UNIT DEVELOPMENT

Sections:

- 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. 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.

B. The planning commission shall evaluate a proposed planned unit development in accordance with the following criteria:

1. Creative use of the land, imaginative architectural design, a consolidation of usable open space and recreation areas and the preservation of natural features;
2. The mixing of compatible land uses, residential densities and housing types within the neighborhood;
3. The efficiency of the configuration of utilities, vehicular and pedestrian circulation and parking facilities;
4. Enhancement of the surrounding environment;
5. Maintenance of population densities and lot coverage that are consistent with available public services and the comprehensive plan. [Ord. 01-05 § 8.]

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 15.08.160 through 15.08.180;
11. The names and addresses of all persons who own property within six hundred (600) feet of the boundaries of the parcel.

B. A fee shall be included as established by resolution of the city council. [Ord. 01-05 § 8.]

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) through (C). [Ord. 01-05 § 8.]

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 two (2) 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 five (5) acres. The minimum site area for a PUD within the P district shall be one hundred (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, off-street 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 15.08.160 through 15.08.180 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. [Ord. 01-05 § 8.]

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 PUDs, residential PUDs 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 four.

B. A minimum of thirty (30) percent of the site shall be reserved as usable open space. At least one-half (1/2) of such usable open space shall be contiguous, and no portion of the required open space may be less than two thousand (2,000) square feet in area or less than thirty (30) feet in its smallest dimension. A minimum of twelve (12) percent and a maximum of fifty (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 (10) 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 thirty (30) feet.

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 (2) 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 fifty (50) feet.

I. Walls and ceiling-floor assemblies which are common to any two (2) dwellings shall have a minimum STC acoustic rating of fifty-five (55) and a minimum fire rating of one (1) 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. [Ord. 01-05 § 8.]

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 PUDs, a business PUD shall meet the following minimum standards.

A. Parking lots and loading areas shall conform to BMC 18.48.150 through 18.48.210;

B. Buffer landscaping shall be planted along each boundary of a business planned unit development that adjoins a residential district;

C. A business PUD shall provide for safe and convenient pedestrian circulation;

D. Principal vehicular access points shall permit smooth traffic flow with controlled turning movements and 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;

E. 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:

Land Use District	Dwelling Units per Acre (gross area)
I	4
GU	4
DC	4
NC	4

[Ord. 01-05 § 8.]

18.52.070 Industrial planned unit developments.

An industrial PUD may be allowed upon property in 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 (10) 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 PUDs, an industrial PUD shall meet the following minimum standards:

A. Screening landscaping shall be planted along each boundary of an industrial planned unit development adjoining a residential district;

B. 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. [Ord. 01-05 § 8.]

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Chapter 18.56 MOBILE HOME PARKS

Sections:

- [18.56.010](#) Minimum area required.
- [18.56.020](#) Parking.
- [18.56.030](#) Access.
- [18.56.040](#) Spacing between structures.
- [18.56.050](#) Open space.
- [18.56.060](#) Structural requirements.

18.56.010 Minimum area required.

The minimum area required for a mobile home park is six thousand (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. [Ord. 01-05 § 8.]

18.56.020 Parking.

Two parking spaces per unit shall be provided. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

18.56.040 Spacing between structures.

A space must be maintained between mobile homes or manufactured homes of at least twenty (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. [Ord. 01-05 § 8.]

18.56.050 Open space.

A mobile home park that requires a parcel of land with a gross usable area greater than two (2) acres must reserve an additional usable area for open space for recreation that is equal to at least ten (10) percent of the area required under BMC [18.56.010](#). [Ord. 01-05 § 8.]

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 USC Section 401). [Ord. 01-05 § 8.]

The Bethel Municipal Code is current through Ordinance 15-28, and legislation passed through October 6, 2015.

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Chapter 18.60 CONDITIONAL USE PERMIT (CUP) STANDARDS AND PROCEDURES

Sections:

- 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.
- 18.60.070 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. [Ord. 01-05 § 8.]

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 15.08.160 through 15.08.180;

10. The names and addresses of all persons who own property within six hundred (600) feet of the boundaries of the parcel.

B. A fee shall be included as established by resolution of the city council. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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 (1) 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 15.08.160 through 15.08.180.
[Ord. 01-05 § 8.]

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.
- 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. [Ord. 01-05 § 8.]

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 18.60.040(B)(1) through (10).

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. [Ord. 01-05 § 8.]

18.60.070 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 (1) year from the date of approval. For a permit to be considered "exercised," substantial improvement to the land must be performed within one (1) year from the date of approval. Substantial improvement is the completion of fifty (50) percent 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 thirty (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 (1) 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. [Ord. 01-05 § 8.]

The Bethel Municipal Code is current through Ordinance 15-28, and legislation passed through October 6, 2015.

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Chapter 18.64 VARIANCES

Sections:

- [18.64.010](#) Authorization.
- [18.64.020](#) Application.
- [18.64.030](#) Hearing.
- [18.64.040](#) Staff evaluation.
- [18.64.050](#) Planning commission decision.
- [18.64.060](#) Lapse of approval.

18.64.010 Authorization.

A. 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 of this section 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 BMC Titles [15](#), [16](#), and [18](#) 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. [Ord. 01-05 § 8.]

18.64.020 Application.

An applicant for a variance shall submit a site plan permit application as described in Chapter [15.12](#) BMC. 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 BMC [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. [Ord. 01-05 § 8.]

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 (2) consecutive weeks preceding the hearing in a newspaper of general circulation in the city. The notice shall also be read on a local radio station once a day for five (5) days beginning at least ten (10) days prior to the scheduled hearing. The notice shall indicate the time and place of the public hearing and shall include a brief description of the proposed variance. The applicant shall pay for the cost of newspaper and radio notice. [Ord. 01-05 § 8.]

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\(B\)](#). [Ord. 01-05 § 8.]

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\(A\)](#) through (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 ten (10) days of the date of the decision. [Ord. 01-05 § 8.]

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 (1) year from the date of approval. For a permit to be considered "exercised," substantial improvement to the land must be performed within one (1) year from the date of approval. Substantial improvement is determined as the completion of fifty (50) percent 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 (1) 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. [Ord. 01-05 § 8.]

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**Chapter 18.68
BOARD OF ADJUSTMENT**

Sections:

18.68.010 Organization.

18.68.020 Powers and duties.

18.68.010 Organization.

A. The city council shall constitute the board of adjustment.

B. All meetings and hearings of the board shall be open to the public, and the board shall keep public records of its proceedings. [Ord. 01-05 § 8.]

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 this code. [Ord. 01-05 § 8.]

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Chapter 18.72 APPEALS

Sections:

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 tenth (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 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 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 effect ten (10) calendar days after the commission renders its decision unless a timely appeal is filed to the board of adjustment.

F. Within two (2) 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 were 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 BMC until the violation ceases or the planning commission grants the appeal. [Ord. 01-05 § 8.]

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 filed 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 (10) 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 (2) consecutive weeks in a newspaper of general circulation within the city, with the last publication occurring at least three (3) days before the hearing. The notice shall also be read on a local radio station once a day for five (5) days beginning at least ten (10) 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 seven (7) days before the hearing.

E. The city clerk shall schedule the board of adjustment hearing no sooner than the later of fifteen (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. [Ord. 01-05 § 8.]

Chapter 18.76 AMENDMENTS TO THE OFFICIAL MAP AND LAND USE CODE

Sections:

- 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 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. [Ord. 01-05 § 8.]

18.76.010 Initiation of text amendments and land use map modifications.

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:

- A. The city council;
- B. The planning commission;
- C. Any citizen, group of citizens, firm or corporation residing, owning, or leasing property in the city;
- D. The manager. [Ord. 01-05 § 8.]

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 (1) 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 of this section but must clearly describe the amendment requested. [Ord. 01-05 § 8.]

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 (2) consecutive weeks preceding the public hearing in a newspaper of general circulation in the city or posted at City Hall and in at least three (3) public places at least two (2) 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 fourteen (14) days of the hearing. The notice shall also be delivered to a local radio station five (5) 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 (1) 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 three hundred (300) feet of the boundaries of the area proposed for redesignation and may send notice to owners of land beyond the three-hundred- (300-) foot boundary. [Ord. 01-05 § 8.]

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;
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 one-thousand- (1,000-) foot 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 (2) 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. [Ord. 01-05 § 8.]

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 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 BMC 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 BMC 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 (10) 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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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Chapter 18.80 NONCONFORMING LOTS, STRUCTURES AND USES

Sections:

- 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 provisions 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 provisions of this title or an amendment thereto. [Ord. 01-05 § 8.]

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 provisions of this title or amendment thereto and upon which actual building construction has been carried on diligently. [Ord. 01-05 § 8.]

18.80.030 Nonconforming lots of record.

In any district, any lot which is of record on the effective date of the applicable provisions 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 provisions 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. [Ord. 01-05 § 8.]

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 seventy-five (75) percent 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 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 twelve (12) continuous months may not be continued or reestablished. [Ord. 01-05 § 8.]

18.80.050 Conversion of nonconformity.

A. Except as provided in subsection C of this section, the right to continue a nonconformity is not transferable.

B. Except as provided in subsection C of this section, a 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 (2) years of the date the interest was acquired. The right to continue a nonconformity terminates two (2) 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 (2) years of the date of the acquisition.

C. The owner of any property with a structure that has been continuously nonconforming since at least December 31, 1990, because it encroaches into a required setback or yard area may submit an application to the land use administrator for a permit allowing the nonconforming structure to continue.

1. The applicant shall complete and submit the application form provided in BMC 18.60.020, requesting a permit allowing the nonconforming structure to continue. The application does not need to contain a complete site plan permit application under BMC 18.60.020(A)(8).

2. The notification and hearing provisions in BMC 18.60.030 shall be followed to consider the application.

3. The land use administrator and the planning commission shall review the application in accordance with BMC 18.60.040(A) and 18.60.050. Notwithstanding the standards of review set

out in BMC 18.60.040(B) and 18.60.060, the land use administrator and the planning commission shall apply only the following standards of review in determining whether to grant the permit:

- a. A complete application has been submitted in accordance with subsection (C)(1) of this section;
 - b. The notification and hearing provisions have been followed in accordance with subsection (C)(2) of this section;
 - c. The nonconformity of the structure is only because of an encroachment into a required setback or yard area, and for no other reason;
 - d. The nonconformity of the structure due to encroachment into a required setback or yard area has continuously existed since at least December 31, 1990; and
 - e. Granting the application will not be detrimental to the general public's health, safety or welfare, or to the environment.
4. The permit shall remain in effect unless revoked in accordance with Chapter 18.84 BMC. The permit shall be recorded with the State of Alaska Recorder's Office for the Bethel recording district.
5. Any appeal by the applicant or any property owner adversely impacted by the decision of the planning commission shall be in accordance with Chapter 18.72 BMC. [Ord. 04-08 § 2; Ord. 01-05 § 8.]

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Chapter 18.84 ENFORCEMENT, PENALTIES AND REMEDIES

Sections:

- 18.84.010 Enforcement officer.
- 18.84.020 Complaint.
- 18.84.030 Correction of violations.
- 18.84.040 Enforcement, violations and penalties.

18.84.010 Enforcement officer.

This title shall be administered and enforced by the land use administrator. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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. [Ord. 01-05 § 8.]

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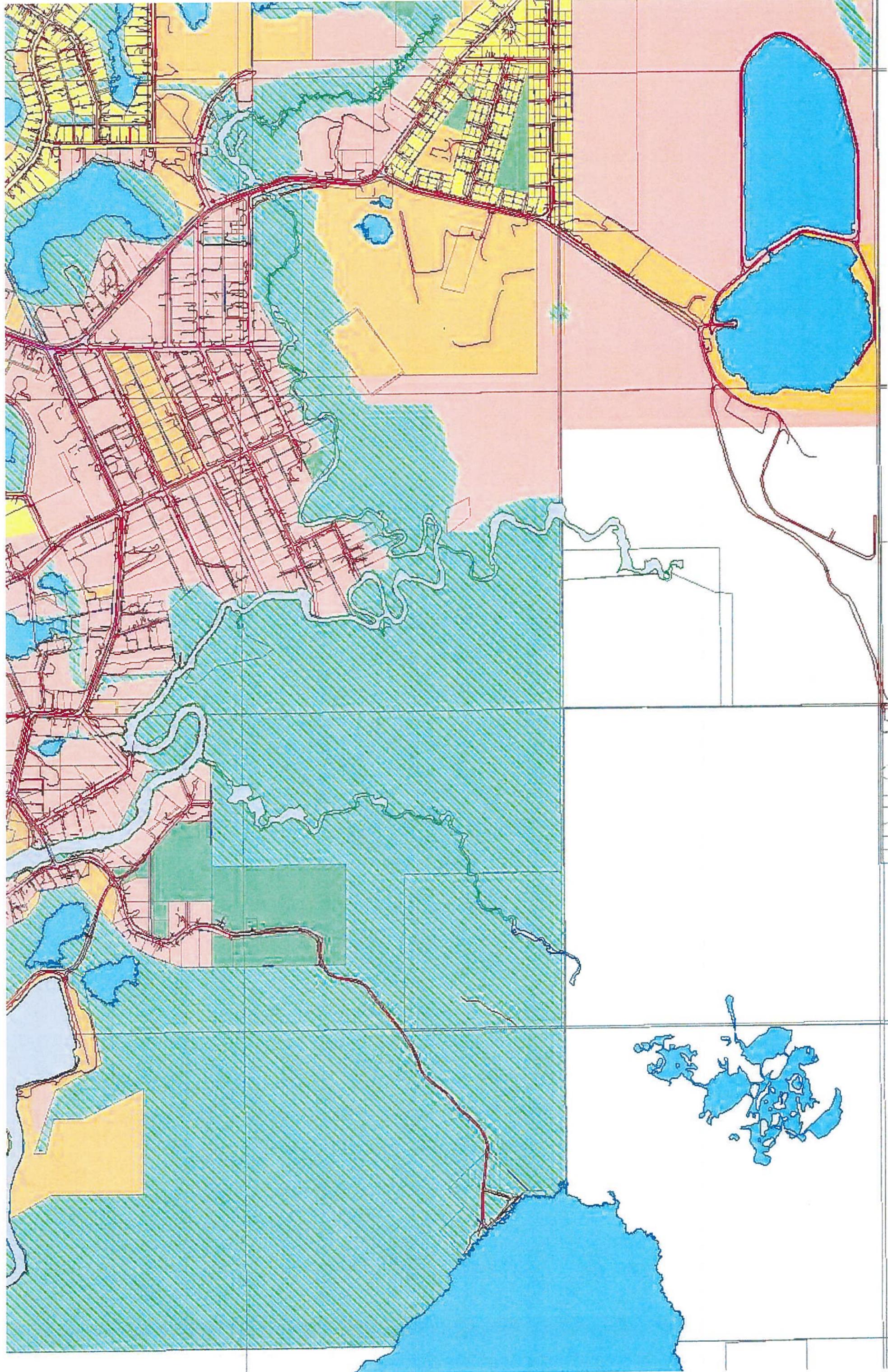


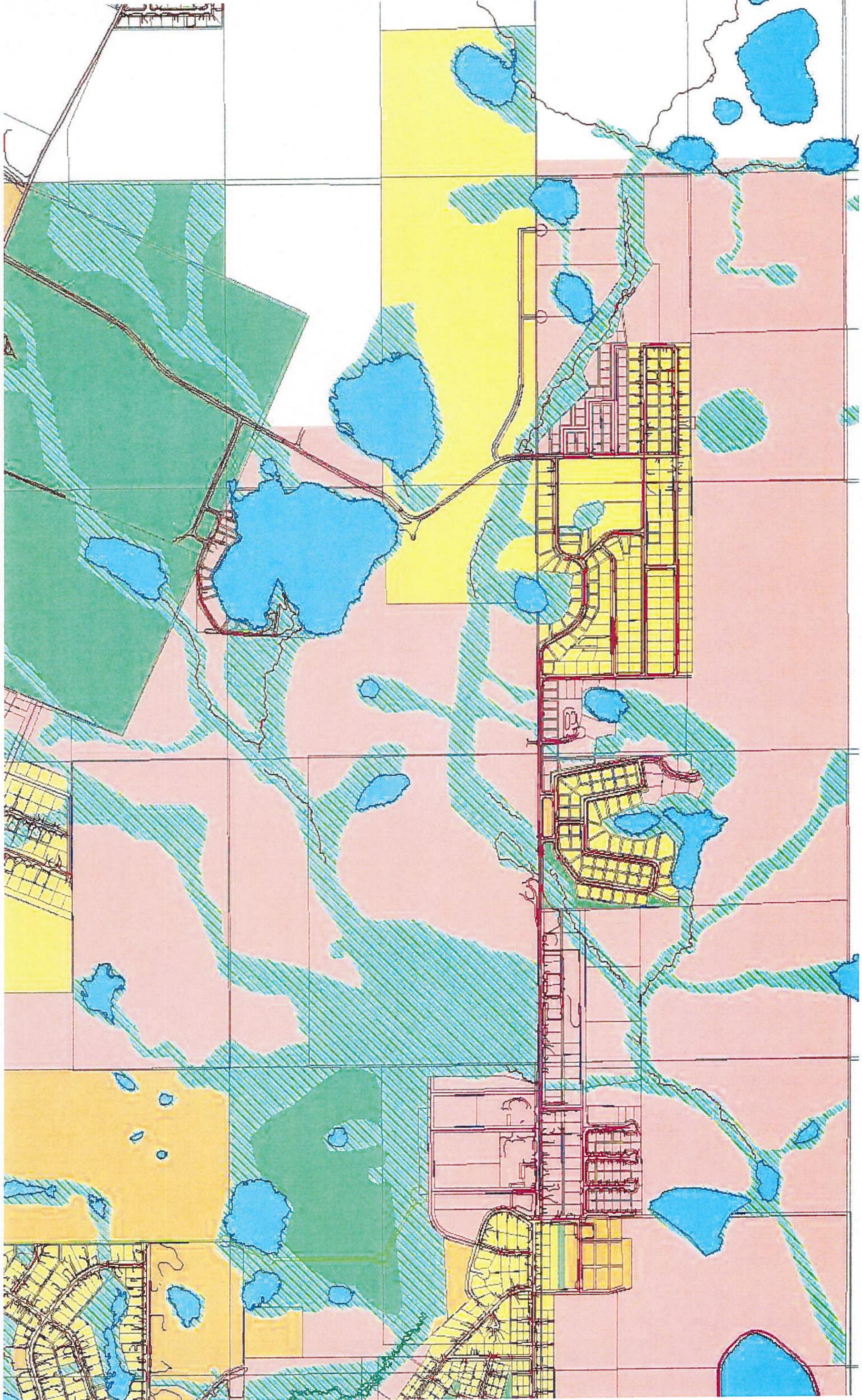
Bethel Zoning Map

Legend

- Preservation
- Overlay
- Open Space
- Public Lands and Institutions
- Residential
- Industrial
- General Use

2013





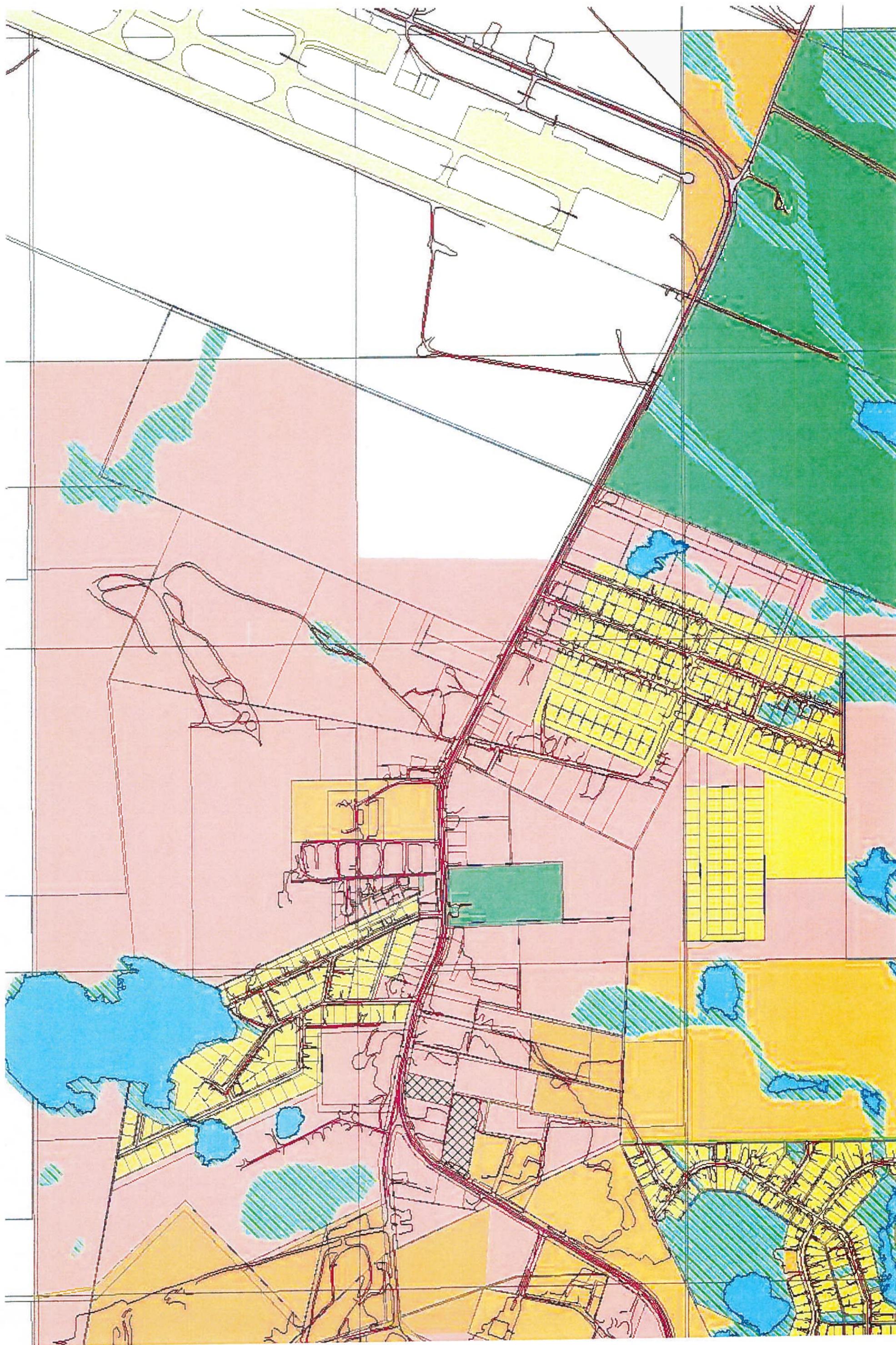




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Google earth

To: Ann Capela, City Manager
From: Ted Meyer, Planner
Subject: December, 2015 Activity Report
Date: Jan 4, 2016

Planning Program Orientation

Since taking the position, I've been reading the BMC and other documents on a daily basis. Betsy has been a great help in my orientation.

Site Plan Permit Applications

Developed a new Section 2 of the Site Plan Application for relocating buildings on local, non-State roads. This section has similar questions asked on the State application and ensures the applicant has a contractor license and insurance.

Reviewed a site plan application for relocating a building and found that the placement of the building would cross over a property line. Currently working with the owner of the two properties to do a replat before the building relocation takes place.

Right-of-Way Issue

I've met with the Moravian Church and will do so again tomorrow regarding their complaint of 4-wheelers using the boardwalk (and ROW) that cuts through the rear of their property. I'll offer them alternatives for them to consider in tomorrow's meeting.

Code Enforcement

We've had several complaints about vehicles blocking snow removal operations and abandoned cars. I'm currently reviewing procedures to mitigate.

Cell Tower Survey

I'm currently working with Betsy to identify and inventory all cell towers in the city limits and locate on a city map as well. We plan to start the windshield survey on Jan 8. Until we purchase a GPS, we'll have to rely on an "eyeball survey" and approximate the locations on a Google Earth image.

Mapping

I've been reviewing existing digital base mapping in the office in order to support several planned GIS applications:

1. New zoning activities (Larson and Kasayulie Subdivisions)
2. Cell tower mapping
3. Alcohol and Marijuana appropriate distance from sensitive land use
4. Land use mapping
5. Address updates

Developing a needs list for each application and a plan to implement.

Blue Sky Subdivision

I've been reviewing most of the documentation regarding past activities of the planned subdivision. Met with the contractor to begin discussions.

FYI

Marijuana Committee – Considerations

Waste Disposal

Should the City of Bethel consider additional requirements for the disposal of marijuana waste to include wastewater? (3 AAC 306.704)

Some communities require the marijuana stems, roots ect to be ground up and then disposed of. See Las Vegas municipal Code 6.95.090.

Should the City require some types of marijuana licenses (testing) to conduct tests on the liquid and other waste materials to ensure the waste doesn't exceed State regulations? See Alaska Administrative Code 18 AAC 62.700.

The following information was pulled from BOTE Analysis, UC Berkeley's Project #430-5d:

Indoor cultivation of cannabis is water-intensive, particularly when it is hydroponic. Mills estimates that one cultivation room (22 m²) requires 151 L / day (Mills 2012). This is equivalent to 2.5 m of water per year (98 in. / yr.) of application. This level of water application is much higher than traditional soilgrown water application. Hydroponic pollution is also a concern for indoor cultivation. In addition to higher water demand, hydroponic systems produce more nutrient pollution than other growing methods. In Northern California, water used for indoor cultivation contributes to pollution in local streams.

Heavy metal and toxins from lighting materials used in indoor cannabis cultivation have environmental risks if not properly managed for disposal. High-intensity discharge (HID) bulbs are not recyclable; each bulb contains approximately 30 mg of mercury and other toxins. Mercury is a neurotoxin, and is recognized as extremely toxic, particularly in gaseous form. The Okanogan Cannabis Association estimates that indoor cultivation of cannabis could produce 46,000 HID bulbs each year in Washington (Moberg and Mazzetti 2013). Using productivity assumptions in Mills, we estimate that there is the potential for 30 mg of mercury pollution per kg of cannabis product if proper disposal is not practiced. However, other lighting applications generate waste lamps that need management outside the standard municipal waste stream and this recycling/disposal system could serve as well for cannabis lighting waste.

Additional note, HID bulbs are not recyclable.

Record Keeping

3 AAC 306.755 identifies some requirements for record keeping however the length of time for many of the records are not identified. Is there any reason for the City to establish a requirement for the marijuana industry to maintain certain identified records for a certain amount of time? The City's

Business Licensing and Sales Tax codes have some requirements for reporting retention (3 years) but what about the other items listed in AAC?

Hours of Operation

The State's proposed operations must be closed between 5a and 8a. Should the City of Bethel consider expanding the time period to which the retail operations must be closed? 3 AAC 306.310.

Distance Regulations

3 AAC 306.010 states that a license premises cannot be located within 500 feet of a school ground, recreation or youth center, a building in which religious services are regularly conducted, or a correctional facility.

Should there be additional zoning regulations on the licenses? NOTE, cultivation of marijuana does have additional regulations; this question is general for all types of licenses.

Advertising

3 AAC 306.360 provides restrictions on advertising. Should the City establish more strict restrictions on the types of advertising and the distances for advertising? Many communities have banned outdoor advertising of marijuana products all together and have reformed the advertising base to online options such as social media and business websites.

Conditional Use Permitting

Should the City consider requiring a conditional use permit be obtained by the City prior to any marijuana businesses operation? If so, what types of things should be considered with the conditional use permitting from the City.

Inspections of Premises

Inspections should be a regular occurrence for the facilities. Similarly with the building code considerations, it is suggested to have Commercial operations inspected once per year, High hazard operations twice per year and grow/extraction, processing, kitchen, dispensaries, testing and others twice per year. This could all be built in to the conditional use permit requirements. Again, while the City may not have the personnel with the qualifications to inspect these premises, it may be possible to contract someone or a company to come in and perform the inspections. The cost of the conditional use permit may not cover all of the expenses of the inspection, the tax \$ from the sales of the products should make up for the inspections to ensure public safety.

There are many reports of fires within grow operations. An annual or twice a year inspection could save the emergency response funding in the long run.

Energy Uses

Although the direct impact to the City as an organization doesn't exist. Should the City discuss with AVEC on potential discounts for energy efficiencies or moderate use of energy during peak times of the day?

Concerns

- This language is found in a few areas within the regulations. The City should seek out a clarification on what "alternative means" could mean.

(When geographic location and transportation limitations make it unfeasible for a manufacturing facility to transport testing samples to a lab, an applicant for licensure may propose alternative means of testing to meet the requirements of this code.

The regulations and standards for a testing facility in the State's regulations are high. If there is a provision within the State's regulations that provides a "loop hole" for operators, what impacts would that have for the consumer? Should the City establish a requirement that no edibles or sales of marijuana products will be sold in the Community without meeting the regulations provided in the testing facility, minus the exemption?

- Zoning within the City of Bethel is not complete. There are many areas within the City that are "general use" see the zoning map found on the City's website under the planning department. Should the City of Bethel Planning Commission consider zoning amendments to better identify the "general use" districts as either residential, commercial or other to protect residential spaces from being used for commercial marijuana cultivation/testing/sales?
- BMC 18.48.160 states that any retail establishment must have 1 parking space for every 300 sq ft of gross floor space, is the going to be adequate for marijuana retailers? Some feedback received from CA operators is that they were not expecting the amount of vehicle traffic at the retail establishments.

Once the Marijuana Committee has identified some of the needs regarding Marijuana sales in our community, they may consider a request for other committees to jointly look into solutions to issues. The committees may also want to consider holding a joint meeting to discuss specific issues.

Building Codes

The City of Bethel has no regulations on building, plumbing, or electrical requirements, neither does the State. Should the City consider adopting some building code requirements? If so, how would the City enforce those regulations without the trained/qualified staff to do the inspections? This may also be a contract option for the City to ensure public safety.

Nuisance Abatement

Should the City consider a requirement that the location of a license premises not have a shared wall with another bus. or resident? What can the City do to mitigate some of the smells, lights other nuisances that come from marijuana license holders.

Finance Department Regulations

The City of Bethel is going to be responsible for the collection of sales tax from marijuana sales. Does the City need to consider modifying any of the business licensing codes, sales tax codes (already in the works) to adequately address the marijuana issues.

Serving Size Limits

3 AAC 306.355 state some limits on how much can be sold in one transaction. It is further suggested to consider maximum serving sizes for edible products- perhaps a range of 5-20mg THC per serving with a maximum of 4-6 servings per package. My section 3 AAC 306.355 seems to be missing some information so this may be covered.

Public Consumption

We may want to consider modifying our regulations on public consumption to account for the states regulation to allow the retail marijuana store to provide consumption on premises. 3 AAC 306.305 and Bethel Municipal Code 8.10.

Limits on the number of licenses

Unlike the alcohol provisions of AS Title 4 there does not seem to be limits on the number of licenses that can be issued within the City -should there be?

Delivery of Marijuana Products

I didn't see any State regulations regarding the delivery of marijuana products. Is this something the City of Bethel wants to regulate?