



**CITY OF WASILLA**

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REQUESTED BY: PLANNING COMMISSION

PREPARED BY: PLANNING

**ORDINANCE SERIAL NO. 94-41**

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, ADOPTING THE WASILLA DEVELOPMENT CODE, SO THAT LAND USE REGULATION AUTHORITY CAN BE DELEGATED BY THE MATANUSKA-SUSITNA BOROUGH AND ASSUMED BY THE CITY OF WASILLA.

BE IT ORDAINED AND ENACTED BY THE CITY OF WASILLA, ALASKA AS FOLLOWS:

SECTION I. Classification. This ordinance is of a general and permanent nature and shall become part of the Wasilla Municipal Code.

SECTION II. Purpose. To provide a regulatory framework for land use and development, to be administered by the City of Wasilla, that is responsive and convenient for the residents of Wasilla.

SECTION III. Enactment. If approved by the City Council of Wasilla, the language contained in Attachment A of this ordinance will become Title 16, Chapter 43 (Wasilla Development Code) of the Wasilla Municipal Code.

SECTION IV. Exception. Sections 16.43.869 through 16.43.875 of the Wasilla Development Code are superseded, where applicable, by the provisions of Chapter 14.10, Street Classifications and Standards of the Wasilla Municipal Code. (Adopted on July 25, 1994, Ordinance Serial No. 94-21)

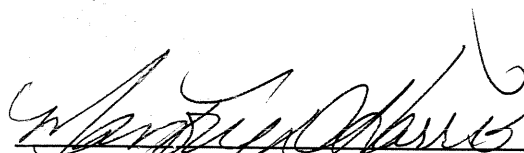
SECTION V. Effective Date. This ordinance becomes effective upon adoption by the City Council of Wasilla.

Introduction: 08/22/94

Public Hearing: 09/12/94

ADOPTED by the Council of the City of Wasilla on this 26th day of September, 1994.

ATTEST:

  
MARJORIE D. HARRIS, CMC  
City Clerk

  
JOHN C. STEIN, Mayor

# **Title 16**

## **Land Use**

### **Chapters:**

16.43 WASILLA DEVELOPMENT CODE

# Chapter 43

## Wasilla Development Code

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**1617.43.101 Purposes**

This chapter is adopted:

- A. To achieve the goals and objectives, and implement the policies, of the Wasilla Comprehensive Plan;
- B. To ensure that future growth and development in the City of Wasilla is in accord with the values of its residents;
- C. To identify and secure, for present and future residents, the beneficial impacts of growth;
- D. To identify and avoid, mitigate, or prohibit the negative impacts of growth; and
- E. To ensure that future growth is of the proper type, design and location, and is served by a proper range of public services and facilities. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.103 Geographic scope**

This chapter applies to all private, State, City and Borough owned land in the City of Wasilla. To the extent allowed by federal law, administrative regulation or policy, it also applies to federal lands in the City. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.105 Severability**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application to other persons or circumstances is not affected thereby. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.107 Interpretation**

An objection to an interpretation of the provisions of this chapter will be treated as an appeal, pursuant to the provisions of Section 1617.43.541. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.109 Application fees.**

A. Fees as set out in this section must be paid at the time of the application or filing of the appeal:

- 1. Zoning Permit \$50
- 2. Minor Development Permit \$100
- 3. Rezoning or Master Plan District \$500
- 4. Major Development Permit \$500  
plus \$25 per residential lot for single-family development plus \$25 per dwelling unit for multifamily development plus \$25 per 1,000 per 1,000 sq. ft. of gross floor area for non-residential development
- 5. Enforcement Order Review Hearing \$50
- 6. Appeal to Commission \$100
- 7. Appeal to Council \$200
- 8. Temporary Use Permit \$50 per 30 days to maximum of 180 days or \$300

B. If the Council or Commission refuses to hear an appeal, one-half of the appeal fee is refunded.

C. If an appellant on an appeal or an enforcement order review hearing is successful in whole or in part, the body or person hearing the appeal may order all or a part of the fee refunded. ~~(Ord. 86-23 § 12 (part), 1986.~~

D. The City Planner ~~Director~~ may waive permit fees for applications from the government of the City of Wasilla or the Matanuska-Susitna Borough.

**1617.43.111 Applicability of other regulations.**

All activity regulated or permitted under this chapter must comply with applicable Borough, state and federal laws and regulations. Applicable Borough regulations include, but are not limited to, the Borough Coastal Management Plan, Flood Damage Prevention Ordinance, and the subdivision regulations. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.113 Comprehensive Plan.**

A. There is adopted as the Wasilla ~~element of the Borough~~ Comprehensive Plan that compilation of policies, plans, maps and associated materials entitled City of Wasilla Comprehensive Plan, October 1992, prepared by B & B Environmental, Inc. and Community Planning, Wasilla Comprehensive Plan, City of Wasilla, Alaska 1986 dated February, 1986 prepared by Wickersham Alaska Corporation and the Kasprisin Design Group with the following changes:

- 1. ~~All material on page 10 is to be deleted.~~

B. The adoption of the Comprehensive Plan does not create an entitlement in any person to a zone change, license or permit; however, in the consideration of a zone change, a zoning ordinance text change or any application or other action under the zoning ordinance involving the exercise of discretion, such action must further one or more of the goals, objections or policies of the Wasilla Comprehensive Plan.

C. The Comprehensive Plan contains the policies to guide and direct public and private land use activities in the City of Wasilla. The Comprehensive Plan is implemented, in part, by the regulations set out in this chapter. ~~(Ord. 86-23 § 12 (part), 1986)~~

## **II Planning Commission**

### **1617.43.121 Planning Commission established.**

There is established the Planning Commission for the City of Wasilla which has the powers and duties and performs the functions set out in this chapter. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **1617.43. Membership - Term of Office**

A. The Commission consists of seven citizens who are residents of the City and who shall serve without pay but may be paid an honorarium. Members are appointed by the Mayor and confirmed by the Council.

B. Members are appointed for a term of three years. Terms end on December 31st of the year, provided that a member continues to serve until a successor is appointed and takes office. Appointments to fill vacancies are for the unexpired term only.

C. Officers of the Commission are the chairman and vice-chairman and are elected by a majority vote of the members of the Commission. Permanent officers are elected at the first regular meeting of the Commission following the meeting at which one or more newly appointed or reappointed commissioners take their seat. The Commission may postpone such election from time to time, but must elect permanent officers not later than its last regular meeting in February. ~~(Ord. 86-23 § 12 (part) 1986)~~

### **1617.43.125 Vacancies.**

A. A vacancy must be declared and filled as above provided, under the following conditions:

1. If a person nominated and confirmed to membership fails to qualify and take his office within thirty days;
2. If a member departs from the City with the intent to remain away for a period of ninety or more days;
3. If a member's resignation is submitted and accepted by the Mayor;
4. If a member misses more than three consecutive regular meetings in a twelve-month period unless the member makes written application to the Council within fifteen days of notice of missing the third meeting and shows just reason for retention.

B. The Clerk shall keep attendance records and notify the Chairman when vacancies occur. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **1617.43.127 Seal**

The seal of the Commission consists of two concentric circles within which appear the words "City of Wasilla Planning Commission," "Seal" and "State of Alaska." It must be retained in the custody of the City Planner ~~Director. (Ord. 86-23 § 12 (part), 1986)~~

**1617.43.129 Meetings.**

A. Regular meetings are held on the Tuesdays following the second and fourth Mondays of each month. Special meetings may be called by the Chairman or any three members of the Commission. Only those matters stated in the public notice may be acted upon at a special meeting.

B. Public notice of a special meeting must be given twenty-four hours in advance of the meeting and must be supplied to the local media and posted on the municipal bulletin board. At least twenty-four hours before a special meeting, oral or written notice must be provided to each Commission member or written notice of the meeting must be left at the usual place of residence of the Commission member.

C. Public notice and the notice to each commissioner must set out the subject of the special meeting. ~~(Ord 86-23 § 12 (part), 1986)~~

**1617.43.131 Committees.**

The Chairman of the Commission shall appoint members to such committees as may be established by the commission. Committee membership is restricted to Commission members. Committee chairmen are appointed by the Commission Chairman. The Commission Chairman may not serve as a committee chairman but is an ex officio voting member of all committees and will coordinate their activities. Committee chairmen will have full responsibility for conducting the affairs of their committees and reporting same to the Commission. In addition, the chairman or alternate designated by the chairman acts as spokesman for the committee at all public hearings and meetings. Committees are advisory only.

B. A Subdivision Review Committee may be appointed by the Commission Chairman with approval of the full Commission. It will be the duty of this Committee to review and comment to the Commission upon all major subdivision development. ~~(Ord 86-23 § 12 (part), 1986)~~

**1617.43.133 Rules of proceedings.**

A. Meetings shall be conducted pursuant to Robert's Rules of Order as amended by resolution to the Commission.

B. The Commission may, by resolution, establish committees and its rules of procedure, meeting times, and places; request addition of agencies to the list of referral and review agencies; and any other matter reasonably necessary or desirable for the full and complete conduct of its duties, pursuant to this chapter and any other provision of City, Borough or State law. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.135 Office and staff.**

A. The Commission will be provided office space suitable for its needs and adequate to file its journals, resolutions, records, reference materials, correspondence and maps, plats, and charts, all of which shall constitute public records.

B. There is a clerk of the Commission. The clerk is appointed by the mayor and is compensated by the city.

C. In addition to other duties under this chapter and as may be assigned by the Commission, the clerk shall furnish secretarial assistance at each regular or special meeting to assist in preparing the journals and resolutions of the Commission and shall prepare Commission correspondence under the direction of the Chairman of the Commission. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.137 Decisions.**

All permit actions of the Commission must be in the form of a resolution setting forth: 1) the decision, 2) the basic facts and the reasoning leading to the decision, and 3) conditions on the permit, and must be signed by the Commission Chair and Planning Clerk~~Director~~. Notice must be mailed to the applicant with a copy retained in the permanent records of the Planning Department. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.139 Duties of the Commission**

The Commission has the following duties:

- A. The Commission shall undertake a general review of the Comprehensive Plan at least once every two years and recommend to the Council amendments to the plan that it determines to be appropriate. ~~Council recommendations are forwarded to the Borough Planning Commission for its review and recommendation to the Borough Assembly.~~
- B. The Commission shall review and make determinations on state construction projects in accordance with A.S. 35.30.010 and may impose conditions or modifications on such projects based on the requirements and policies of this chapter, the Comprehensive Plan, and such plans or programs of the City as may be applicable. If the Commission determines the project should be disapproved or that modifications should be made to which the state disagrees, the Commission shall immediately notify the Council and recommend disapproval by Council resolution pursuant to A.S. 35.30.010(c).
- C. The Commission shall make recommendations to the Council on all proposed rezonings, indicating compliance with the applicable provisions of this chapter and the Comprehensive Plan. At least once each year the Commission shall conduct a review of Sections 1617.43.801 et seq. of this chapter and recommend to the Council changes it determines are desirable. ~~The Council shall recommend to the Borough Planning Commission changes it determines are desirable.~~
- D. The Commission shall hear and decide all Major Development Permit applications, including applications for variances, intensity bonuses and density bonuses. It may hear appeals of permit decisions by the City Planner ~~Director~~.
- E. The Commission may perform such other duties as may be assigned by the Council. (~~Ord. 86-23 § 12 (part), 1986~~)

**III Enforcement**

**1617.43.161 Permits required.**

The developer of a use-by-right shall apply for and obtain a zoning permit prior to any site work except surveying. The developer of all other development shall apply for and obtain a development permit prior to any site work except surveying. All site work must comply with the permit and any conditions imposed. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.163 Enforcement orders.**

- A. The City Planner ~~Director~~ may order:
  - 1. The discontinuance of any activity which does not comply with terms of this chapter or a permit issued under this chapter.
  - 2. The removal or abatement of buildings or structures and the restoration of a site developed or disturbed in violation of this chapter or a permit issued under this chapter; or

3. Any other action necessary to ensure compliance with all provisions of this chapter and permits issued under this chapter, including, but not limited to, suspension of Zoning Permits and Development Permits.

B. An enforcement order must be signed by the City Planner Director and served upon the property owner, developer or his agent or supervisor on the site if known, or if not known, posted in a conspicuous place on the site. The City Planner Director shall transmit a copy of the enforcement order to the Commission, and shall keep a copy thereof in a permanent record.

C. Upon application of the developer, the Commission shall schedule the review of the enforcement order. The review hearing is limited to the presence of the violations stated in the enforcement order, and the burden is upon the developer to prove that the violation does not exist or did not occur. The commission may uphold, modify, or rescind the enforcement order. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.171 Civil remedies.**

A. Upon violation of any of the provisions of this chapter, or of a permit or any conditions thereon issued pursuant hereto, any aggrieved citizen or the City Planner Director, on behalf of the City Borough, or any aggrieved citizen or the City Mayor, on behalf of the City, may institute or cause to be instituted any appropriate civil action to prevent, enjoin, abate, stop, remove or punish such violation and to obtain monetary damages suffered by such part. In addition to injunctive and compensatory relief, each violation is subject to a civil penalty not to exceed ten thousand dollars and attorney's fees as provided by law. All civil penalties are payable to the City Borough ~~unless the suit is initiated by the City~~. An action to enjoin a violation of this chapter may be brought notwithstanding the availability of any other remedy. Upon application for injunctive relief and the finding of an existing or threatened violation, the Court shall grant injunctive relief to restrain the violation.

B. An aggrieved citizen who initiates an action on behalf of the ~~Borough or the City~~ under this section is liable for all costs, attorney's fees, judgments and claims arising out of such suit. Further, the ~~Borough or City~~ may intervene in or join any suit brought under this section by an aggrieved citizen; in such case, the ~~municipality~~ City is liable for its own costs and attorney's fees and is entitled to receive such costs and fees as may be awarded to it by the court. (~~Ord 86-23 § 12 (part), 1986~~)

#### **1617.43.173 Criminal remedies.**

The commission of an act or the maintenance of any condition prohibited by this chapter, the omission of any act required by the chapter, or the violation of any condition placed upon any permit issued under this chapter is a violation of this code and is a misdemeanor. Every person convicted of a violation of this code shall be punished by a fine of not more than one thousand dollars or a jail term not to exceed ninety days, or both. Each violation of this code and every day upon which such violation occurs or continues constitutes a separate offense. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.175 Parties.**

A proper party for any enforcement action under this chapter includes, but is not limited to, the owner of the property or any part thereof involved in a violation, a lessee or occupant of any such property or part thereof, the developer, and its agents, contractors and subcontractors of the

developer; it also includes the officers of any of the foregoing as well as those employees of the foregoing who participate in, assist, commit, or maintain a violation. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.181 Conforming pre-existing uses.**

A. A use established on a lot which was a lawful use on May 15, 1986, but which would not be permitted under this chapter may continue as a use by right on the lot upon which it is located and may be expanded in area subject to all requirements of a use-by-right for the district in which it is located. Such a use may not be renewed if abandoned for more than one year.

B. A structure constructed, or for which a substantial physical start was made, prior to May 15, 1986 and which conformed to all applicable requirements of the ~~Borough and City~~ codes at that time but which does not meet the requirements applicable to structures under this chapter may continue; provided, no part of that part of the structure that violates this chapter may be expanded in such a manner as to increase the extent of the violation in any manner, including the vertical expansion of that part of the building that violates a setback requirement.

C. Any off-street parking required by this chapter that was in existence on May 15, 1986 must continue to be provided the use even if such parking was not required prior to May 15, 1986. Off-street parking spaces in existence on May 15, 1986 may be used to meet off-street parking requirements of this chapter for a new use, enlargement or change in use only if such spaces, are in excess of those required by this chapter for the pre-existing use. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.183 Nonconforming lots.**

A. In any district, notwithstanding the limitations imposed by this chapter on lot size or dimensions, a lot not meeting the minimum lot size or dimensional requirements for any use within the district may be developed if:

1. It was a lot of record legally in existence on May 15, 1986;

2. The development meets all other requirements of this chapter, including but not limited to, setbacks, use, off-street parking, structure height and FAR; and

3. The development will be connected to a public or community sewer system or the on-site or other disposal of sewage and wastewater has been approved by the Alaska Department of Environmental Conservation.

B. If the lot development under subsection A of this section is residential, only a single-family or a duplex structure is permitted. (~~Ord. 86-23 § 2, 1986~~)

**IV Definitions**

**1617.43.201 Rules of construction.**

Unless the context clearly indicates a more narrow or different meaning was intended, the following words and terms used in this chapter are to be construed as follows:

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

B. The singular number includes the plural.

C. The words "must" and "shall" are mandatory.

D. The phrases "may not" and "shall not" and any other use of the word "may" or "shall" with a negative is a prohibition. (~~Ord. 86-12 § 12 (part), 1986~~)

**1617.43.202 Definitions.**

Unless the context clearly indicates a different meaning is intended, the following words and phrases used in this chapter have the meanings set out herein.

Accessory use or structure means a use or structure customarily subordinate or incidental to, and located on the same lot with a principal use, building or structure, and includes signs, garages, and required parking areas.

Adjacent lot means those lots which share a lot line with another lot, and which would share a common lot line if lot lines were extended through any public right-of-way other than the Parks Highway.

Agriculture means a light industrial use involving the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to field crops, sod, dairy animals and products, farm animals, bees and apiary products, fur animals, fruits, nuts and vegetables; nursery, floral, ornamental and commercial greenhouse products, or lands devoted to soil conservation programs. The term includes animal husbandry and commercial nurseries and greenhouses.

Animal husbandry means a light industrial use involving the keeping of one or more farm animals.

Appurtenance means any structure which is accessory and subordinate to a principal structure on the same parcel.

Boardinghouse means a dwelling in which four or more roomers, lodgers, and/or boarders are housed or fed, and includes houses offering bed and breakfast.

Borough means the Matanuska-Susitna Borough.

Buffer is an area of protection against negative impacts.

Building means any structure intended or used for the support, shelter or enclosure of persons, animals, or property of any kind.

Building height (for purposes of determining the maximum height of a building) means the vertical distance from the average elevation of the finish grade within twenty feet of the structure to the highest point on the roof, but not including radio antennas, water towers, church spires, penthouses constructed primarily for mechanical equipment and similar building features.

Building line for purposes of determining setback, means the exterior line of a structure projected on a horizontal plane at the main grade level of the building, including steps, porches and similar appurtenances, and structural overhangs.

Building, principal means a structure in which is conducted the main use of the lot.

Campground means land containing spaces for temporary camping and accessory uses. See "Tourist Facility"

City means the City of Wasilla, Alaska.

City Planner means the City Planner for the Planning Department of the City of Wasilla or designee.

Clerk means the Clerk of the Planning Commission.

Commercial Use means an activity carried out for monetary gain including retail, office, nonindustrial services, recreational and similar uses.

Commission means the City of Wasilla Planning Commission.

Community, when applied to a utility system, means a water, sewer or similar utility system which serves more than one lot and is privately owned.

Comprehensive Plan means the Comprehensive Plan for the City of Wasilla as adopted by the Assembly as may be amended from time to time.

Conditional use means any use that is not a use-by-right or a prohibited use in each of the various districts and which must obtain a development permit under this chapter.



Conforming pre-existing use or structure means a structure legally in existence and the legal uses or uses to which it is put on May 15, 1986.

Council means the City Council of the City of Wasilla.

Dedication means the reservation or granting of land to a public use by the owner, manifesting the intention that it will be accepted and used presently or in the future for such public purpose. A dedication is a conveyance of an interest in the property and is deemed to include the warranties of title listed in AS 34.15.030. The dedication of streets, alleys, sidewalks, or public open space conveys a fee interest in the area dedicated. The dedication of all other public rights-of-way including utility rights-of-way creates an easement in gross to perform the indicated function in the area depicted. A dedication is not effective unless and until accepted by the City or other grantee.

Density means the square feet of lot area per dwelling unit in any residential development except for a group home or rooming house.

Developer means the person who makes the application for a zoning permit, a development permit, or a rezoning, and his successors in title and interest.

Development means any of the following:

- A. Construction, substantial improvement or enlargement by more than one hundred twenty square feet, of a structure including public or quasi-public structures;
- B. Conduct of a home occupation;
- C. Change in use of a lot, including any structure thereon that would require a different standard under 1617.43.800 through 899 than the previous use;
- D. Installation or placement of a mobile or modular home except placement of a mobile on a mobile home sales lot for sale purposes;
- E. Removal of substantial vegetative cover over an area to two thousand square feet or more;
- F. Excavation, dredge or fill activity involving one hundred cubic yards of material or more;
- G. Any change in the density or intensity of a development;
- H. Any site work in preparation or anticipation of the above without regard to the quantity of material that may be excavated or moved.

Development Permit means a permit issued under sections 1617.43.501 through 1617.43.521 of this chapter.

~~Director means the Director of the Planning Department of the Matanuska-Susitna Borough or his designee.~~

Duplex means a building on a single lot designed for or occupied by two families or more than one building for dwelling purposes on one lot.

Dwelling, multifamily means a building designed for or occupied by three or more families.

Dwelling, single-family means a detached building designed for or occupied by and providing housekeeping facilities for one family, including factory-built, prefabricated, and zero lot line dwellings, but not mobile homes.

Dwelling unit means a residential unit consisting of a building or portion thereof providing independent and complete cooking, living, sleeping and toilet facilities for one family, and accessory uses.

Engineer means the City Engineer or his designee.

Family means one or more persons occupying a physically secure premises and living as a single housekeeping unit, as distinguished from a group occupying a group home.

~~Farm Animal means a single horse, cow, sheep, goat, swine, llama or other large animal; or any combination totalling ten ducks, chickens, rabbits or other small animals; but not including domesticated cats and dogs.~~

Farm Animal means a single animal with an adult weight over 250 pounds usually associated with agriculture; or any combination totaling ten poultry or rabbits, three sheep or three goats or other small animals; but not including domestic dogs and cats. Other animals including but not limited to the orders Felidae (cats) and Ursidae (bears) which, in the opinion of the City Planner, may pose a threat to human safety are not a Farm Animal.

Fence means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Flood hazard area has the same meaning as set out in Chapter 17.29. of the Matanuska-Susitna Borough Code.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain means that area of land adjoining the channel of a river, stream or other similar body of water which may be inundated by a one hundred year flood. The floodplain includes all the lands within the limits of the one-hundred-year flood and the regulatory floodway within it, as described on the Matanuska-Susitna Borough Comprehensive Plan Constraints Map. It includes the "Flood Hazard Area" as defined in Chapter 17.29 of the Mantanuska-Susitna Borough Code.

and as detailed on Flood Insurance Rate Maps (FIRM) and Floodway Maps published by the Federal Emergency Management Agency (FEMA) and as may be supplemented by the Borough Planning Commission.

Floodway means the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the one-hundred-year flood may be carried without substantial increases in flood heights. "Substantial increases" in this context means not more than 1.0 foot, provided that hazardous velocities are not produced.

Floor area ratio (FAR) (For intensity purposes) means the ratio of the total of the roofed area of each floor of all the buildings on the lot measured at the exterior wall of each floor, to the gross area of the lot.

Garden-style (Building) means a building under five thousand square feet used only for the purpose stated in an application or permit, with a pitched roof, landscaped lawn, screened parking, muted, indirectly illuminated signage of no greater than thirty-two square feet per building, and other residential-style features.

Gross area means the total site area, excluding bodies of water, streets and proposed streets to be included within a proposed development as indicated on a site plan.

Gross floor area means the sum of the covered and enclosed usable horizontal area of the floors of a building or buildings, measured on the exterior perimeter.

Group home means a residential use which is a home for the elderly, or which serves as a dwelling for persons seeking care, rehabilitation or recovery from any physical, mental or emotional infirmity, for rehabilitation of criminals, or any combination thereof, in a family setting.

Home occupation means an activity carried out in a dwelling unit, provided that:

- A. No more than one person, in addition to members of the household that reside on the premises, may engage in such occupation;

B. The use of the dwelling unit and/or detached appurtenance for the home occupation is clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than thirty percent of the combined floor area of the dwelling and appurtenance is used in the conduct of the home occupation;

C. There is no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, illuminated by indirect lighting only and mounted flat against the wall of the principal building.

D. Traffic is not generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood;

E. Equipment or process is not used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference, detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;

F. Outdoor storage of materials or equipment will not be allowed unless adequately screened.

Hotel means a commercial facility offering transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms, and recreation facilities.

Industrial Use means that field of economic activity including agriculture; forestry; commercial fishing or aquaculture; mining; construction; manufacturing; transportation; communication, electric, gas and sanitary services; and wholesale trade.

Industrial (heavy) use means those industrial uses that have severe potential for negative impact on any uses which would locate relatively close to them. This category differs from light industrial uses in that it includes uses that incorporate unenclosed structures that are large, tall, and unsightly, such as concrete batching plants. It also includes uses that generate offensive odors, noise, and/or glare; uses that involve large amounts of exterior storage; and uses that, because of their scale, create nuisances or hazards such as heavy truck traffic, commuter traffic, or other intense activity.

This category includes airports, landing strips, and heliports; asphalt or concrete mixing plants, bulk material or machinery storage (unenclosed); fuel generation plants; grain elevators; meat packing plants or slaughterhouses; resource recovery facilities, motor or rail terminals; and gasoline, ammonia and similar flammable or noxious substance storage; sanitary landfills, sewage treatment facilities; any industrial use, including those listed as light industrial uses, having five hundred thousand or more square feet of floor area or more than two thousand employees on every shift; and similar uses.

Industrial (light) use means those industrial uses that are generally not objectionable because of noise, fumes, unsightliness, heavy truck traffic, or that generate nuisances that may be ameliorated adequately by performance standards.

This category includes blacksmith shops, boatworks, building materials sales or storage yards (excluding asphalt or concrete mixing), fully enclosed bulk materials or machinery storage, carpet or rug cleaning plants, contractors' offices and equipment storage yards, dry cleaning and laundry plants serving more than one outlet, dyeing plants, extermination shops, food processing and packing plants, fuel oil, ice, coal, and wood sales, furniture cleaning plants, furniture refinishing shops, lumberyards, manufacturing (including the production, processing, cleaning, testing, and

distribution of materials, goods, foodstuffs, and products in plants with less than five hundred thousand square feet of floor area, or fewer than two thousand employees on every shift), mini-warehouses or storage facilities, mirror supply and refinishing shops, monument works, ornamental iron workshops, pilot plants, printing plants, publishing plants, scientific laboratories, trade shops (e.g. cabinet, plumbing, carpentry), truck terminals, veterinary offices, warehouses, wholesale business and storage, electric sub-stations, communications facilities, water supply facilities (including storage), and similar uses.

Intensity means the floor area ratio of nonresidential development.

Junkyard means a lot or portion thereof where waste, discarded or salvaged materials, or any nonfunctioning vehicle are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, and used lumber yards.

Kennel means a use in which three or more dogs, more than four months of age, are kept for any purpose and is a light industrial use.

Lot means a distinct parcel of land for ownership and tax purposes which is delineated and fixed on a plat filed for record.

Lot area means the total area within the property lines of the lot.

Lot coverage means the percentage of lot area that is occupied by structures.

Lot line, front means the property line or lines separating the lot from a street.

Lot line, rear means the property line or lines opposite and more distant from a front lot line.

Lot line, side means any property boundary line not a front or rear lot line.

Major development means minor development for which the developer requests a variance from requirement of Sections 1617.43.801 through 1617.43.899, and all development that is not a minor development. "Major development" includes any development which, when added to existing major or minor development accomplished subsequent to May 15, 1986 would constitute a major development.

Majority in interest means the owners of a majority of the property, measured in square feet. One tenant by the entireties binds the property; a tenant in common binds only his pro rata interest.

Master planned development means development pursuant to Sections 1617.43.701 through 1617.43.707 of this chapter.

Minor development means development which consists solely of a residential project containing four or fewer dwelling units, or a nonresidential project of five thousand square feet gross floor area or less.

Mobile home means a residential use involving a detached single-family dwelling designed for long-term human habitation and having complete living facilities, constructed and fabricated into a complete unit at a factory and capable of being transported to the location of use on its own chassis and wheels, identified by a model number and serial number by its manufacturer, and designed primarily for placement on an impermanent foundation, and accessory uses.

Mobile home park means the residential use of a lot for occupancy by more than one mobile home, and accessory uses. This term does not include tourist facilities for parking of travel trailers or campers.

Moorage means any waterfront facility used to secure, store or provide water access for a water or ice-borne vehicle.

Motel means a commercial establishment providing transient accommodations with at least twenty-five percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Neighborhood means a physical area, usually residential, having certain characteristics in common, such as attendance at an elementary school, a central area, boundaries, or a short auto commute to frequently needed services, which elements may be determined at the discretion of the Planning Commission.

Noncommercial moorage means a moorage clearly accessory and subordinate to a residential use.

Nonresidential use means a commercial, industrial or public/institutional use.

Nursery, day means a place which provides supplemental parental care during the day or by the hour for six or more children, with or without compensation.

Off-street parking space means an automobile parking space and access thereto located on a lot.

Office means a commercial use characterized by a room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government.

Open space means open space within a proposed development site excluding areas devoted to buildings, structures, roadways, equipment storage, and parking. At least one-half of all areas designated as open space must have a slope of less than twenty percent.

Person means a partnership, firm, joint venture, public agency, government, company, corporation or other association, as well as a natural person.

Planted berm means a linear mound of earth planted with trees, shrubbery and ground cover and arranged in such a manner as to reduce the visual impact of development.

Planting strip means a strip of land between roadway and the sidewalk or sidewalk site; landscaped and maintained with live vegetative cover.

Prohibited use means a use not allowed in the zoning district.

Public/institutional use means publicly or semipublicly owned or operated facilities such as parks, playgrounds, fire stations, education facilities, libraries, hospitals, churches, and accessory uses.

Public when applied to a utility system means a water, sewer or similar utility system that is owned by a municipality.

Public Works Department means the Public Works Department of the City of Wasilla.

Recreation use means a commercial use consisting of a resort, hotel/motel, campground, park or playground, and accessory uses.

Relative policy means a policy contained in Section 1617.43.901 et seq. of this chapter which serves as a basis for evaluating the impact of a development on the community as well as a basis for granting density and intensity bonuses. It does not include a relative policy set out in Section 1617.43.901 et seq. that must be met by a particular use or development.

Residential use means single-family dwellings, duplexes, multi-family dwellings, boarding-houses, group homes, mobile homes, home occupations, public and noncommercial moorage.

Resort means a commercial use that includes lodging, dining, meeting and recreational facilities.

Resource extraction means an industrial use involving the removal of timber, native vegetation, peat, topsoil, fill, sand, gravel, rock or any mineral and other operations having similar characteristics.

Retail use means a commercial use in which goods are sold to the general public, except industrial uses.

Roadway means the portion of a street designated for vehicular traffic; where curbs are laid, the portion between the curbs.

Salvage means any worn out, wrecked, scrapped, partially or fully dismantled, discarded tangible material, combination of materials or items, including motor vehicles and machinery missing major component parts, metal, rags, rubber, paper, plastics, and building materials. The above listed

materials are not intended to be exclusive: "salvage" may include any other materials which cannot, without further alteration or reconditioning, but used for their original purpose.

Salvage Yard means an outdoor location where salvage is gathered together for commercial processing, storage, handling or sale; a commercial junkyard.

Setback means the area of a lot adjacent to a lot line within which structures, except for access ways, may not be erected.

Sidewalk means the portion of a street intended for pedestrians use only.

Sight Triangle means a triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sign means any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, excluding:

A. Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants or premises, or other identification of premises not having commercial connotations;

B. Flags and insignia of any governmental agency except when displayed in connection with commercial promotion;

C. Regulatory, identification, informational, or directional signs erected or required by governmental bodies or reasonably necessary to regulate parking and traffic flow on private property where such signs have no commercial connotation;

D. Integral decorative or architectural features of buildings.

Street means the entire right-of-way of a public way which is dedicated for vehicular transportation.

Structural alteration means any change to the supporting members of a structure.

Structure means anything which is constructed or erected and located on or under the ground, or attached to something fixed to the ground, except a sign; a fence; a retaining wall; a septic system; a parking area; a road, driveway or walkway; window awnings; a tent when used for 30 days or less; utility poles; flag poles; or buried fuel tanks.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the greater of the value or cost of which equals or exceeds fifty percent of the value as shown on the tax rolls of the Borough assessor of the structure either:

A. Before the improvement or repair is started; or

B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include:

1. Any improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Surveyor means a professional land surveyor who is registered in the state of Alaska.

Tourist facility (camper/recreational vehicle park) means a private or publicly owned use which includes a plat of ground upon which two or more campsites are located, established or maintained for rent or public use for temporary occupancy by any tent, trailer, recreational vehicle, cabin or similar structure for recreation or vacation purposes. "Temporary occupancy" means a stay of less than thirty days.

Townhouse means a multifamily dwelling in which each unit has its own direct, exclusive access to the ground and the street.

Travel trailer/camper means a vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodations for recreational, camping and travel use including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

Use-by-right means a use, as set forth for each zone, which is subject only to a zoning permit pursuant to Sections 1617.43.401 through 1617.43.407.

Variance means the relaxation of the strict application of the requirements of Sections 1617.43.801 through 1617.43.899 of this chapter.

Walkway means a public right-of-way which is improved for exclusive pedestrian or bicycle access or both.

Waterbodies includes natural or manmade, public or private lakes, ponds and streams.

Yard means an open, unoccupied, vegetated space, other than a court, unobstructed from the ground to the sky on the lot on which a building is situated.

Zoning permit means a permit for a use-by-right required or issued under Sections 1617.43.401 through 1617.43.407 of this chapter. (~~Ord. 86-23 §12 (part), 1986~~)

## V Zoning Map

### **1617.43.301 Zoning Map**

The map entitled "Zoning Map of the City of Wasilla, Alaska" dated March 25, 1986, as may be amended from time to time, is adopted and made a part of this chapter, and shall be kept on file in the offices of the City of Wasilla Borough. (~~Ord. 86-23 § 12 (part), 1986~~)

### **1617.43.302 Rules for Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the zoning map of the City of Wasilla, Alaska, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- G. Where physical and cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the ~~Board of Adjustment~~ City Planning Commission shall interpret the district boundaries.

H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the City Planning Commission may permit the extension of the regulations for either portion of the lot not to exceed 500 feet beyond the district line into the remaining portion of the lot.

**1617.43.303 Annexation Rule**

All territory which may hereafter be annexed to the city shall be classified as "Intermediate" until otherwise classified; or, where the area annexed was zoned some other district prior to annexation, the same district shall apply until otherwise classified.

**VI Creekside Estates**

**1617.43.304 Intent**

The CE district is intended for Creekside Estates, an area with a combination of multifamily duplexes and single-family residences and a medium to high population density. Nonresidential uses are permitted on the basis of their compatibility with the predominantly residential character of the district. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.305 Uses-by-right**

The following uses are uses-by-right in the CE district: residential uses except mobile homes, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to, signs, garages and required parking areas; except any use by right that would otherwise be a major development must obtain a major development permit. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.306 Conditional uses**

The following uses are conditional uses: subdivision; substations for electric utilities; any other development that is compatible with the predominantly residential character of the district except, all such development must be processed as a major development. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.307 Prohibited uses and structures**

Salvage yards and all other uses and structures not specified as uses-by-right or conditional uses are prohibited. (~~Ord. 86-23 § 12 (part), 1986~~)

**VII R-1 Single-Family Residential District**

**1617.43.310 Intent**

The intent of the R-1 district is to maintain and enhance the single-family residential character of the neighborhood. The district is generally intended for specific neighborhoods which petition the City for designation from time to time, pursuant to Sections 1617.43.451 through 1617.43.455 of this chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.311 Uses-by-right**

The following uses are uses-by-right in the R-1 district: single-family dwellings, home occupations, public and homeowner parks and playgrounds, **and** gardens and greenhouses when incidental to residential use, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and required parking areas; except, any



use-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.312 Conditional uses**

The following uses are conditional uses: subdivisions; noncommercial moorage. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.313 Prohibited uses and structures**

Salvage yards and all other uses and structures not specified as uses-by-right or conditional uses are prohibited. ~~(Ord. 86-23 § 12 (part), 1986)~~

**VIII R-2 Multifamily Residential District**

**1617.43.320 Intent**

The intent of the R-2 district is to maintain and enhance the residential character of the neighborhood. The district is generally intended for specific neighborhoods which petition the City for designation from time to time, pursuant to Sections 1617.43.451 through 1617.43.455 of this chapter. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.321 Uses-by-right**

The following uses are uses-by-right in the R-2 district: single-family dwellings, duplexes, home occupations, public and homeowner parks and playgrounds, and gardens and greenhouses when incidental to residential use, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and required parking areas; except, any use-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.322 Conditional uses**

The following uses are conditional uses: subdivisions, multifamily dwellings; noncommercial moorage. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.323 Prohibited uses and structures**

Salvage yards and all other uses and structures not specified as uses-by-right or conditional uses are prohibited. ~~(Ord. 86-23 § 12 (part), 1986)~~

**IX WC Waterfront Core District**

**1617.43.330 Intent**

The WC district is intended for the eastern and northeastern shores of Lake Lucille and other waterfront areas served by City water and sewer. The intent of the district is to permit low density residential development, and when compatible with the neighborhood and the recreational and environmental qualities of the water body, to permit multifamily, recreational, and garden-style office development. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.331 Uses-by-right**

The following uses are uses-by-right in the WC district: single-family dwellings and home occupations, parks and playgrounds; and day nurseries, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and

required parking areas; except, any use-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.332 Conditional uses**

The following uses are conditional uses: Subdivisions, garden-style public/institutional uses; group homes, boarding houses, noncommercial moorage, multifamily housing, resorts (except on Lake Lucille), commercial moorages (except on Lake Lucille), campgrounds and garden-style restaurants and office buildings. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.333 Prohibited uses and structures**

Salvage yards and all other uses and structures not specified as uses-by-right or conditional uses are prohibited. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.334 Water and sewer**

All development shall connect to the City water and sewer system. ~~(Ord. 86-23 § 12 (part), 1986)~~

**X Core Area District**

**1617.43.340 Intent**

The CA district governs the Core Area of Wasilla, which contains the main highways and arterial streets, and the major multifamily, commercial, office and industrial areas of the City. It generally includes the areas served by City water and sewer service and is appropriate for continued development as the commercial and service hub of the Valley. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.341 Uses-by-right**

The following are uses-by-right in the CA district: residential uses except mobile homes, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and required parking areas; except that any-use-by right that would otherwise be a major development must obtain a major development permit.

**1617.43.342 Conditional uses**

The following uses are conditional uses: any uses which are not uses-by-right or prohibited uses; subdivisions. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.343 Prohibited uses and structures**

Heavy industrial uses and salvage yards are prohibited. ~~86-23 § 12 (part), 1986)~~

**XI Intermediate District**

**1617.43.350 Intent**

The I district is intended for the areas surrounding the Core Area and Lake Lucille. It is characterized as generally single-family with some neighborhood commercial, and with public office and commercial uses along the major streets and highways. It is generally not served with major highways and water and sewer, and thus is less suitable than the Core Area for intensive development. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.351 Uses-by-right**

The following uses are uses-by-right in the I district: residential uses except mobile homes, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and required parking areas; except, any uses-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.352 Conditional Uses**

The following uses are conditional uses: subdivisions; mobile home parks, mobile homes on individual lots; garden-style public/institutional uses, commercial uses, and light industrial uses. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.353 Prohibited uses and structures**

Salvage yards and all other uses and structures not specified as uses-by-right or conditional uses are prohibited.

**XXII IND Industrial District**

**1617.43.360 Intent**

The IND district governs only areas of twenty acres or more. IND Districts must be served by major highways or collector streets and public or community water or sewer. The designation must contain specific provisions for traffic circulation and buffering of nearby non-industrial areas and uses from traffic, noise, dust, vibration, glare, pollution, and unsightly uses or activities.

**1617.43.361 Uses-by-right**

The following are uses-by-right in the IND district: retail, office, public/institutional and light industrial uses, and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including, but not limited to signs, garages and required parking areas; except any use-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.362 Conditional uses**

Subdivisions, salvage yards and all other uses and structures which are not uses-by-right or prohibited uses are conditional uses. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.363 Prohibited uses and structures**

Residential uses are prohibited in the IND district. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.364 Water and sewer**

All development must connect to a public or community water and sewer system. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.370 IPL INSTITUTIONS AND PUBLIC LANDS DISTRICT**

**1617.43.370 Intent.**

The IPL district is intended to provide for the efficient development of institutional uses and effective management of public lands by allowing flexibility in the selection of land use controls for the specific area proposed.

**1617.43.371 Uses-by-right.**

The following are uses-by-right in the IPL district: parks, playing fields, campgrounds and greenbelts; and accessory uses and structures normally appurtenant to uses-by-right and conditional uses, including but not limited to signs, garages and required parking areas; except that any use-by-right that would otherwise be a major development must obtain a major development permit.

**1617.43.372 Conditional uses.**

The following uses are conditional uses: heliports, hospitals, mental health facilities, sanitariums, residential care facilities, nursing homes, convalescent homes, homes for the aged and group home facilities; convention facilities; public buildings, public safety facilities, fire halls, correctional facilities, animal shelter facilities; museums, historic and cultural exhibits; cemeteries; utility substations and towers; municipal parking lots; and residential uses except mobile homes.

**1617.43.373 Prohibited uses and structures.**

All uses not uses-by-right or conditional uses are prohibited in the IPL district.

**XIII Zoning Permits**

**1617.43.401 Permit required**

Each use-by-right except a conforming pre-existing use and a use-by-right that must obtain a major development permit is required to obtain a zoning permit pursuant to this Chapter 1617.43. Permits must be obtained prior to any site work except surveying. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.403 Submission procedure**

The developer must submit one copy of a completed and properly executed zoning permit application to the City Planner Director. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.405 Staff procedure**

A. The City Planner Director will, within one business day of receipt, determine whether:

1. The development contains a use other than a use-by-right;
2. The development would be a major development if it were not a use-by-right;
3. The submission requirements are met; and
4. The application contains any variance requests.

If the development would be a major development if it were not a use-by-right or if a variance is requested and upon payment of a fee for a major development, ~~he~~ the City Planner shall process the application pursuant to Sections 1617.43.501 through 1617.43.521 or 1617.43.421 through 1617.43.431 as appropriate.

B. In all applications for a zoning permit the burden is on the City Planner Director to prove by a preponderance of the evidence that the development does not implement requirement of Sections 1617.43.801 through 1617.43.899 of this chapter.

C. If the application for a use-by-right is complete, it does not contain a request for a variance, and would not be a major development, the City Planner Director shall determine, within three working days, whether the development meets the applicable requirements of Sections 1617.43.801 through 1617.43.899 of this chapter. The City Planner ~~He~~ shall indicate in the appropriate place on the application form: (1) whether each requirement is applicable to the

development; (2) for each applicable requirement, whether the development meets the requirement; and (3) any conditions or requirements for guarantee pursuant to Sections 1617.43.601 through 1617.43.651 of this chapter.

D. Variances. The City Planner Director does not have the authority to grant variances. (Ord. 86-23 § 12 (part), 1986)

#### **1617.43.407 Decision**

If the development meets the requirements of Sections 1617.43.801 through 1617.43.899 of this chapter, the City Planner Director shall issue a zoning permit and any conditions shall be part of the approved permit. If the development does not meet the requirements of Sections 1617.43.801 through 1617.43.899 of this chapter, the City Planner Director shall deny the permit and note which requirements were not met and why. The City Planner Director shall issue a his decision within five business days of submission of the application.

The City Planner Director shall mail a copy of the application and the decision to the developer and the Commission and shall keep a permanent record thereof. (Ord. 86-23 § 12 (part), 1986)

#### **1617.43.409 Appeals**

Appeals from the decision of the City Planner Director on a zoning permit may be taken pursuant to Section 1617.43.541 of this chapter. (Ord. 86-23 § 12 (part), 1986)

### **XIV Variances**

#### **1617.43.421 Variance procedure**

No variances may be granted from the terms of a relative policy. A variance from a requirement of Sections 1617.43.801 through 1617.43.899 or a policy in Sections 1617.43.901 through 1617.43.926 that is made absolute, may be granted only by the Commission. An application for a zoning permit may not contain a request for a variance. A use-by-right or a minor development that requires a variance must be processed as a major development. The decision of the Commission may be appealed to the Council pursuant to Section 1617.43.543 of this chapter. (Ord. 86-23 § 12 (part), 1986)

#### **1617.43.423 Preapplication conference**

A. Prior to submission of a variance application, the property owner or the owner's agent shall attend a preapplication conference with the City Planner Director and such City and Borough staff members as the City Planner Director determines may be appropriate. The purpose of the preapplication conference is to permit the applicant to explain the situation that gives rise to the need for a variance and for staff to explain the standards that must be met before a variance may be granted and to indicate the types of information that will be necessary to justify the variance. The variance preapplication conference may be combined with a development permit preapplication conference.

B. A least seven days before the preapplication conference, the applicant shall submit to the City Planner Director the following materials:

1. A map or copy of the relevant part of a plat showing the locations of the property,
2. A sketch of the property showing the features the applicant believes are relevant to the variance request, and

3. A brief narrative describing the problem and what the applicant desires in the form of relief from the requirements of the ordinance.

Such material must be submitted in three copies plus such additional copies as the City Planner Director finds necessary to allow review by other agencies whose comments may be necessary at the preapplication stage. The City Planner Director may require submission of additional information necessary to assure a productive discussion of the proposed application at the preapplication conference.

C. At the conference, the planning and such other staff as are present shall review with the applicant the standards for the grant of a variance as they pertain to the proposed application. Staff will review the evidence available and indicate what additional evidence, in its opinion, would be required to justify the variance.

D. No proceeding under this section binds the Commission or the City Planner Director in their review of a variance application or relieves the applicant of the responsibility of independently becoming familiar with the procedures and standards for a variance nor does it relieve the applicant of the burden of proving the his case before the Commission. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.426 Application**

An application for a variance must be submitted to the City Planner Director. The application must be accompanied by a plot plan of the relevant part of the parcel or lot produced by a registered professional engineer or land surveyor and which shows all information relevant to the variance request. If the City Planner Director determines that the requirement that the plot plan be produced by an engineer or land surveyor is unnecessary, the City Planner Director may waive or modify that requirement. All material in support of the variance submitted with the application must be submitted with sufficient copies to supply all relevant referral agencies. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.427 Staff action**

A. Within five working days of submission, the City Planner Director shall determine whether the application is complete and the proper fee has been submitted. The City Planner Director shall return incomplete applications and applications submitted without the correct fee.

B. If the application is complete and the proper fee is submitted the City Planner Director shall schedule a public hearing before the Commission, notify the applicant of the date, time and place of the hearing, cause public notice to be given, and provide relevant referral agencies with copies of the application. Referral agencies will have fifteen days to respond unless granted an extension in writing by the City Planner Director for good cause shown. Notice given must be the same as provided for a major development permit under Section 1617.43.505 of this chapter. The City Planner Director, with the assistance of such other City borough staff as appropriate, shall provide a written analysis of the application and a recommendation to the Commission on the application. The recommendation must contain proposed findings that support the recommendation.

C. At any time before or during the hearing on a variance, the Commission may direct that additional notice of the hearing or of a continued hearing be given. Failure to give such notice does not affect the validity of any proceeding under this chapter.

D. The failure of any person to receive notice required under this section where the records of the City Borough indicate that notice was either mailed or published as required, does not affect the validity of the variance proceeding. (Ord 86-23 § 12 (part), 1986)

**1617.43.429 Commission procedures**

A. No variance may be granted by the Commission unless the applicant has proved that all the standards of Section 1617.43.431 of this chapter have been met. Upon a determination by the Commission that the property is entitled to a variance, the Commission shall then determine the extent of the variance to be allowed pursuant to the standards set out in Section 1617.43.431B of this chapter.

B. The applicant, if present at the hearing, shall be given an opportunity to give and explain evidence to justify the variance. Property owners who would be affected by the variance may give and comment on evidence. The City Planner Director shall be given an opportunity to give additional evidence and information, to comment on all evidence and information presented and to explain or modify the written recommendation. The applicant shall be given an opportunity to rebut evidence presented subsequent to his presentation.

C. The Commission shall set out its findings in support of its decision to grant or deny a variance. (Ord 86-23 § 12 (part), 1986)

**1617.43.431 Variance standards.**

A. A variance may be granted only if:

1. The conditions upon which the variance application is based do not apply generally to properties in the district or vicinity other than the property for which the variance is sought; and

2. Such conditions arise out of natural features inherent in the property such as shape or topographical conditions of the property or because of unusual physical surroundings, or such conditions arise out of surrounding development or conditions; and

3. Because of such conditions the strict application to the property of the requirements of this chapter will result in an undue, substantial hardship to the owner of the property such that no reasonable use of the property could be made; and

4. The special conditions that require the variance are not caused by the person seeking the variance, a predecessor in interest, or the agent of either; and

5. The variance is not sought solely to relieve pecuniary hardship or inconvenience.

B. If a property qualified for a variance under subsection A of this section, the variance granted must meet the following conditions:

1. The deviation from the requirement of this chapter that is permitted by variance may be no more than is necessary to permit a reasonable use of the lot;

2. The variance will not permit a land use that is prohibited by this chapter;

3. The variance is in keeping with the spirit and intent of this chapter and the requirements from which relief is sought;

4. The variance will not be detrimental to the public health, safety or welfare; and

5. The variance will not adversely affect other property. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.433 Appeals.**

An appeal to the Council from a decision of the Commission on a variance may be taken as provided in Section 1617.43.543 of this chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

**XV Rezoning**

**1617.43.451 Initiation**

A rezoning may be initiated by the City Planner Director, the City or ~~Borough~~ Planning Commission, the City Council, ~~the Borough Assembly~~, or a majority in interest of the owners of the land. (Ord 86-23 § 12 (part), 1986)

**1617.43.453 Restrictions on rezonings.**

Rezoning covering less than two acres may not be considered, unless the rezoning constitutes the expansion of an existing contiguous zone. A rezoning which is substantially the same as a proposed rezoning which was rejected by the Council within the previous twelve months may not be considered. A rezoning may not be adopted that allows uses that violate the provisions of the Comprehensive Plan. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.455 Procedure.**

A. A rezoning shall follow the procedure set out in Sections 1617.43.501 through 1617.43.521 for major development, except that the Commission's decision is only a recommendation of the Council. As soon as possible after receipt of the Commission recommendation, the Council shall determine whether it will consider a rezoning. If it determines to consider a rezoning, it shall request an ordinance implementing its decision be introduced as soon as possible and shall give notice and hold hearings as required for ordinances.

B. Upon the effective date of any rezoning, the City Planner Director shall cause the official zoning map to be changed, to reflect the adoption of the ordinance. A zone change that requires an amendment to this chapter as provided in subsection C of this section does not take effect until the effective date of the City Borough ordinance that is required.

C. Any changes in the text, special conditions applicable to the rezoned area and all standards and requirements approved for a master planned development under Sections 1617.43.701 through 1617.43.707 must be adopted by the City Council Assembly by ordinance as an amendment to this chapter pursuant to the City Borough procedures for zoning code text amendments. ~~Such changes and conditions as the Council determines are necessary must be recommended by resolution by the Council to the Borough.~~ (~~Ord. 86.23 § 12 (part), 1986~~)

**1617.43.460 Development permit required.**

A subdivision of land within the City requires a development permit. If the subdivision is processed by the Borough as a short plat, waiver, or contains four or fewer lots, the subdivision must obtain a minor development permit. All other subdivisions must obtain a major development permit.

**1617.43.461 Platting Authority approval.**

No subdivision within the City may be given final approval by the Platting Authority until the City has certified to the Platting Authority that all requirements of this chapter have been satisfied and that guarantees satisfactory to the City have been provided for all improvements required as a



condition of approval of the subdivision plat. The City shall provide the Platting Authority with a copy of the approved applicable development permit including all of the conditions imposed on the permit. (~~Ord. 86-23 § 12 (part), 1986~~)

## **XVII Development Permits**

### **1617.43.501 Permit required.**

All conditional uses and those uses-by-right that would otherwise be major developments are required to obtain a development permit prior to commencement of any activity set forth in the definition of "development." Permits for minor development are issued by the City Planner Director and permits for major development are issued by the Commission, except that the subdivision aspects of permits involving subdivisions must also be approved by the Borough Platting Authority. (~~Ord. 86-23 § 12 (part), 1986~~)

### **1617.43.503 Application.**

A. Prior to submission of an application, the developer shall meet with the City Planner Director for the purpose of discussing the site, the proposed development activity, and the development permit procedure. The City Planner Director shall discuss these matters with the developer, with special attention to requirements and policies that may pose problems or constraints on the site or the proposed development activity, and policies which may create opportunities for the developer. If the development involves the subdivision of land, the City Planner Director will schedule a joint preapplication conference with Borough platting staff unless the City Planner Director determines that applicable Borough platting requirements would not pose problems for the development.

B. The developer shall submit to the City Planner Director, the proper number of copies of a completed and properly executed development permit application, development schedule, plans, engineering drawings and the permit fee, together with the evidence required for each relevant requirement and policy.

C. The developer is responsible for making application for subdivision plat approvals required and to coordinate the development permit and the subdivision plat applications. (~~Ord. 86-23 § 12 (part), 1986~~)

### **1617.43.505 City Planner's Planning Director's procedure.**

Within five working days of submission, the City Planner Director shall determine whether the development is a major development or a minor development and whether the submission requirements of Section 1617.43.503B of this chapter are met. The City Planner Director shall return the application to the developer if the submission requirements have not been met.

A. If the submission requirements have been met and the application is for a major development the City Planner Director shall immediately:

1. Transmit copies of the application or the relevant portions thereof to the referral agencies that may have jurisdiction over or a concern with any part of the proposed development. The City Planner Director shall establish and maintain a list of referral agencies. Referral agencies shall have fifteen days to respond unless the City Planner Director grants an extension in writing for good cause.

2. If the application is for a major development, the City Planner Director shall schedule the application for a public hearing before the Commission, notify the

developer of the date of the hearing, and cause public notice to be given. Notice consists of the following:

- a. Publication in a newspaper of general circulation in a city a minimum of ten days prior to the date of the hearing setting out the location of the property, the general nature of the application, and the date, time and place the Commission will conduct its public hearing on the application;
- b. Mailing of notice to the owners of all property located within six hundred feet of the lot lines of the development at least seven days prior to the hearing;
- c. The posting of a sign on the site at least seven days prior to the hearing. The sign must be at least four feet square in size, have a red background and indicate in white lettering one hundred twenty point or larger that the property is a subject of a development permit, the nature of the development, the time, date and place of the Planning Commission hearing and the fact that further information is available from the City Planner Director. The sign must be posted –so that it may be easily seen from the public right-of-way. The developer is responsible for obtaining, posting and maintaining the sign.

B. If the submission requirements have been met and the application is for a minor development, the City Planner Director shall immediately transmit copies of the application or the relevant portions thereof to referral agencies as per subsection A.1 of this section, and cause public notice to be given. Public notice consists of the following:

1. Posting of a sign on the site at least seven days prior to the date the City Planner Director makes a final decision on the application. The sign must be at least four square feet in size, have a red background, and indicate in white lettering one hundred twenty point or larger that the property is a subject of a development permit application, the nature of the development, the date it is anticipated the permit will be issued, the fact further information is available from the City Planner Director and that the public is invited to submit its comments to the City Planner Director. The sign must be posted so as to be visible from the public right-of-way. The developer is responsible for obtaining, posting and maintaining the sign.
2. Mailed notice to the owners of all property located within six hundred feet of the lot line of the development at least ten days before the date upon which the City Planner Director makes a final decision on the application. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.507 City Planner's Director's determination.**

Within eighteen working days of his-a determination that the submission requirements have been met or within three working days of the expiration of any extension granted to a referral agency, the City Planner Director shall:

A. Determine whether the development meets the requirements of Sections 1617.43.801 through 1617.43.899 of this chapter. The City Planner He shall indicate in the appropriate place on the application form:

1. Whether the requirement is applicable to the development;
2. For each applicable requirement, whether the development meets the requirement;

3. Any conditions or requirements for guarantees pursuant to Sections 1617.43.601 through 1617.43.651 of this chapter; and

4. For each requirement that is not met, whether it appears from the material submitted that a variance would be justified together with the his reasons.

B. Evaluate the performance of the development under Section 1617.43.509 of this chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.509 Performance.**

Relative policies are to be applied only to major development and development requesting intensity/density bonus. In applying the relative policies to a proposed development, the following procedures and principles must be used:

A. The City Planner Director shall score a development for its impact on each relative policy and assign a raw score as follows:

+2 points are assigned if the development does an exceptional job in implementing the policy;

+1 point is assigned if the development does a significant job of implementing the policy;

0 points are assigned if there will be no material detriment or benefit to the public on the basis of that policy only or if the policy is irrelevant to the development;

-1 point is assigned against the development if it will have some negative impact on the community on the basis of that policy only; and

-2 points are assigned against the development if it will have a significant negative impact on the community on the basis of that policy only.

B. The City Planner Director shall multiply the development's raw score by the importance multiplier set out in Section 1617.43.901 et seq. for each policy for the relevant district to obtain the development's weighted score for that policy.

C. The City Planner Director shall then add the development's weighted scores for all relevant, relative policies in Section 1617.43.901 et seq. to obtain the weighted total score. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.511 Score.**

A. If the development's weighted total score is zero or above the development is presumed to implement the relative policies taken as a whole. If the weighted total score is less than zero the development is presumed not to implement the relative policies taken as a whole.

B. The City Planner Director shall indicate at the appropriate place on the application form:

1. Whether the City Planner ~~he~~ agrees or disagrees with the developer's statement on each policy and the his reasons for any disagreement;

2. Any conditions pursuant to Sections 1617.43.601 through 1617.43.651 of this chapter; and

3. The City Planner's ~~His~~ determination whether a permit should be issued, based upon the development's performance pursuant to Section 1617.43.509 and subsection A of this section. (~~Ord. 86-12 § 12 (part), 1986~~)

**1617.43.513 Burden of proof.**

In all applications for a development permit, the burden of proof shall be as follows:

A. For the purposes of the City Planner's ~~director's~~ decision on a development permit, the burden shall be on the developer to prove to the City Planner ~~Director~~ by a preponderance of the evidence, that the development meets each relevant requirement of Sections 1617.43.801 through 1617.43.899 of this chapter, and that the development implements the relative policies taken as a whole.

B. For the purpose of a decision by the Commission on a development permit, the City Planner's ~~director's~~ decision on each policy is presumed to be correct, that presumption may be rebutted by a preponderance of the evidence. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.515 Notice of determination.**

On or before the close of business on the eighteenth working day or the third working day following the expiration of any extension of time granted to a referral agency under Section 1617.43.505.A.1, the City Planner ~~he~~ shall transmit the ~~his~~ determination to the developer, and to the Commission. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.517 Decision - Minor development.**

The City Planner's ~~director's~~ determination pursuant to Section 1617.43.515 shall be the decision on a minor development permit application and all conditions specified therein shall attach to and become a part of the permit. The City Planner's ~~director's~~ decision may be appealed to the Commission pursuant to Section 1617.43.543. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.519 Decision - Major development.**

A. The Commission shall hold a public hearing on a major development permit application. The Commission shall adopt the City Planner's ~~director's~~ decision on each finding or determination set out in Sections 1617.43.507 and 1617.43.509 of this chapter unless it finds, by a preponderance of the evidence, that the ~~Coordinator's~~ City Planner's ~~determination~~ was in error, and states its reasoning for such finding with particularity. In addition, for good cause, the Commission in its discretion may alter the conditions on approval or requirements for guarantees recommended by the City Planner ~~Director~~. If any subdivision of land is involved, the application, along with the City Planner's ~~Director's~~ review and the Commission's actions will be forwarded to the Borough Platting Authority. If the Platting Authority decision requires any significant amendment of prior Commission actions, then the application must be returned to the Commission for further consideration; if not, the City Planner ~~Director~~ may amend the prior Planning Commission approval. When both the Commission and Platting Authority approvals are consistent, the City Planner ~~Director~~ shall issue the appropriate permit incorporating all conditions of approval from both bodies.

B. All permit actions of the Commission shall be in the form of a resolution setting out:

1. The decision;
2. The basic facts and the reasoning leading to the decision; and
3. Conditions on the permit, and signed by the Commission Chair and the Planning Clerk ~~Director~~.

Notice must be mailed to the applicant with a copy retained in the Planning Department's permanent records. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.521 Duration.**

Development permits are valid for the duration of the existence of the development and the developer's compliance with the terms and conditions thereof. A development permit expires automatically if the development schedule falls behind by more than six months. In that event the City Planner Director may take any enforcement action authorized under Sections 1617.43.163 through 1617.43.175 of this chapter. The developer may schedule a preapplication conference and submit a new development permit application. The City Planner Director may authorize the use of the previous application with an amended development schedule, or may specify one or more policies to be addressed in a new application. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.531 Temporary Uses and Structures - Permit Required.**

A. A temporary use of land, a temporary structure, or a temporary use of a permanent structure which would otherwise require a zoning or minor development permit under provisions of this chapter is required to obtain a temporary use permit prior to any site work except surveying, and except that temporary structures associated with the construction of a permitted use do not require a permit under provisions of this chapter.

B. A temporary use of land, temporary structure, or temporary use of a permanent structure that requires a variance, or that would otherwise be a major development must obtain a major development permit.

**1617.43.533 Application and Fee.**

A. The developer must submit one copy of a completed and properly executed temporary use permit - signed by both the developer and the land owner - to the City Planner Director along with the required fee.

B. An applicant for a temporary use permit shall specify the time period for which the temporary use is requested. Applications shall be made for increments of 30 days, not to exceed 180 days.

C. No application shall be accepted which would have the effect of extending the permit for a temporary use which has been in effect for 180 days.

**1617.43.535 Procedures.**

A. Within one business day of receipt of an application, the City Planner Director shall determine:

1. That the application is complete.
2. That the application meets the criteria for a temporary use permit as prescribed herein.

B. If the requirements of A above are met, the City Planner Director shall determine within three working days whether the temporary use will meet the applicable requirements of sections ~~801 through 899 of this chapter (should read 1617.43.801 through 1617.43.899)~~, of this title except that the City Planner Director may waive any and all site improvements which are not otherwise required by other Borough, State, or federal regulations. In so doing, the City Planner Director, on the application, will state in writing which requirements are waived along with the his

justification for waiving that requirement. Temporary use shall be sufficient reason for the waiver of most site improvements. The City Planner Director shall further note on the application, which requirements are applicable and, if applicable, whether or not the proposed temporary use meets the requirements.

C. In all applications for a temporary use permit, the burden, is on the City Planner Director to prove by a preponderance of the evidence that the proposed temporary use would not meet a requirement of sections 801 through 899 (should read 1617.43.801 through 1617.43.899) of this title chapter.

#### **1617.43.537 Decision.**

A. If the application meets the requirements of sections 801 through 899 (should read 1617.43.801 through 1617.43.899) of this title chapter, the City Planner Director shall issue a temporary use permit and any conditions shall be part of the approved permit. If the application does not meet the requirements of sections 801 through 899 (should read 1617.43.801 through 1617.43.899) of this title chapter, the City Planner Director shall deny the permit and note which requirements were not met and why. The City Planner Director shall issue a his decision within five business days of submission of the application.

The City Planner Director shall mail a copy of the application and the decision to the developer and the Commission, and shall keep a permanent record thereof.

B. At the request of the applicant and upon payment of an appropriate fee, the City Planner Director may grant extensions of a permit in increments of 30 days up to, but not to exceed, 180 total days.

#### **1617.43.538 Removal and Restoration.**

A. Within ten calendar days of the expiration of permit, all structures and other materials associated with the permitted use shall be removed from the site and the site restored to resemble its condition prior to the development of the temporary use. The City Planner's Director's inspection of the property shall determine compliance.

B. If the City Planner Director determines that site restoration is not satisfactory, then the City Borough shall be empowered to take such measures as are necessary to restore the site. Costs of such restoration shall be calculated and charged to the property owner.

#### **1617.43.539 Appeals.**

A. Appeals from the decision of the City Planner Director on a temporary use may be taken pursuant to section 541 (should read 1617.43.541) of this title chapter.

### **XVIII Appeals**

#### **1617.43.541 Appeals to the Commission.**

A. An appeal to the Commission of the City Planner's Director's decision on any zoning or development permit or code interpretation may be filed with the City Planner Director by any aggrieved person, including the developer. The appeal must be filed with the City Planner Director within ten calendar days of the date of the City Planner's Director's decision along with the required fee. An appeal so filed stays the decision of the City Planner Director until the expiration of two working days following the final action of the Commission on the appeal, unless the City Planner

~~Director~~ finds that the public safety and welfare requires immediate enforcement of the decision. The filing of an appeal of the Commission action to the Council within two working days of the final action of the Commission continues the stay until final action on the appeal is taken by the Council.

B. The appeal must contain a clear description of the decision or decisions being appealed, the date of the decision, the error claimed and an explanation of the error. Upon receipt of a timely filed appeal and the required fee, the City Planner ~~Director~~ shall calendar the appeal for the next Commission meeting for which the agenda has not closed. The City Planner ~~Director~~ shall forward to the Commission with the appeal a copy of the permit application, the City Planner's ~~Director's~~ analysis and decision and any other relevant material.

C. At the meeting at which the Commission receives the appeal, it shall determine whether to hear the appeal. The failure of the Commission to take action on the appeal constitutes a refusal to hear the appeal. If the Commission determines to hear the appeal, it will hear only those parts of the City Planner's ~~Director's~~ decision identified in the appeal as being in error unless it determines to hear only a portion of those parts of the decision appealed or to hear the entire decision. If the Commission determines to hear all or any part of the City Planner's ~~Director's~~ decision, it shall hear and decide the appeal at its next regular meeting.

D. Public notice of the hearing must be given by mailing notice of the appeal to owners of all property located within six hundred feet of the lot lines of the development at least seven days prior to the hearing. The notice must set out the date, place, and time of the hearing and include a copy of the appeal. Notice of the appeal must also be published in one newspaper of general circulation within the City Borough at least seven days prior to the hearing. The published notice must set out the time, date and place of the hearing, the name of the appellant, the address or general location of the property and subject or nature of the appeal.

E. The burden of proof shall be on the party challenging the decision of the City Planner ~~Director~~. After hearing the appeal, the Commission may confirm the City Planner's ~~Director's~~ decision, reverse the City Planner's ~~Director's~~ decision and may add conditions or may change conditions the City Planner ~~Director~~ placed on the approval. The decision of the Commission shall set forth the facts it finds relevant to its decision and the reasons for its decision. The date of the decision is the date the findings and the reasons are set out in writing and signed by the Commission chairman or the chairman's designee.

F. The decision of the Commission on an appeal and the refusal of the Commission to hear an appeal may be appealed to the Council under Section (1617.43.543. (~~Ord. 86-23 § 12 (part), 1986~~))

### **1617.43.543 Appeal to the City Council.**

A. An appeal to the City of a Commission decision may be filed with the City Clerk ~~Director~~ by any aggrieved person, including the developer. The appeal must be filed with the City Clerk ~~Director~~ within ten calendar days of the date of the Commission decision along with the required fee. An appeal so filed stays the decision of the Commission until the final action of the Council on the appeal; except, if the appeal is of a Commission appeal decision, the appeal must be filed within two working days of the final action of the Commission on the appeal in order to stay the Commission decision.

B. The appeal must contain a clear description of the decision or decisions being appealed, the date of the decision, the error claimed and an explanation of the error. Upon receipt of a timely filed appeal and the required fee, the City Clerk ~~Director~~ shall ~~request the city clerk to~~

calendar the appeal for the next Council meeting for which the agenda has not closed. The City Planner Director shall forward to the City Clerk and Council with the appeal a copy of the permit application, the City Planner's Director's analysis and decision, the Commission's decision and any other relevant material.

C. At the meeting at which the Council receives the appeal, it shall determine whether to hear the appeal. The failure of the Council to take action on the appeal constitutes a refusal to hear the appeal. If the Council determines to hear the appeal, it may hear only those parts of the Commission's or City Planner's Director's decision identified in the appeal as being in error unless it determines to hear only a portion of those parts of the decision appealed or to hear the entire decision. If the Council determines to hear all or any part of the decision, it shall refer the appeal to a hearing officer for hearing and decision. The decision of the hearing officer is the decision of the Council.

D. Public notice of the hearing must be given by mailing notice of the appeal to owners of all property located within six hundred feet of the lot lines of the development at least seven days prior to the hearing. The notice must set out the date, place, and time of the hearing and include a copy of the appeal. Notice of the appeal must also be published in a newspaper of general circulation within the City Borough at least seven days prior to the hearing. The published notice must set the time, date and place of the hearing, the name of the appellant, the address or general location of the property and subject or nature of the appeal.

E. The burden of proof is on the party challenging the decision. After hearing the appeal, the hearing officer may confirm the decision, reverse the decision and may add conditions or may change conditions placed on the approval. The hearing officer's decision must set forth the fact found and the reasons for the decision. The date of the decision is the date the findings and the reasons are set out in writing and signed by the hearing officer.

F. The decision of the hearing officer and the refusal of the Council to hear an appeal may be appealed to the superior court as provided under the applicable rules of court. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.545 Hearing Officer.**

A. Appeals accepted by the Council under Section 1617.43.543 are heard by an appointed hearing officer. ~~unless the Council refers the hearing to the Borough Board of Adjustment and Appeals.~~

B. A roster of qualified individuals shall be maintained by the City Clerk Director. Qualifications for placement on the roster include a knowledge of this chapter and general land use regulation principals, principals of due process, and some familiarity with the development of the City and must be a resident of the City. Hearing officers may not have any direct or indirect financial interest in any case to which they are appointed and must so certify on a form provided by the City Clerk Director. Hearing officers may not be a current city employee or a member of the Council or Commission.

C. The City Clerk Director shall solicit persons who are willing to serve as hearing officers. The City Clerk Director shall maintain a list of those interested persons ~~he determines to be~~ are qualified and shall submit the list and proposed additions to the Council from time to time. The Council may order a name proposed or on the list removed. Hearing officers will be compensated for their services by the City at the rate fixed by the Council by resolution.

D. ~~Unless the Council resolution accepting the appeal refers the appeal to the Borough Board of Adjust and Appeals, the~~ The City Clerk Director shall refer the hearing to the first hearing



officer on the list who can handle the appeal expeditiously. ~~A resolution accepting an appeal and referring it to the Borough Board of Adjustment and Appeals shall be immediately transmitted by the City Clerk to the Borough Clerk. (Ord 86-23 § 12 (part), 1986)~~

## **XIX. Density/Intensity Bonuses**

### **1617.43.551 Intent.**

It is the intent of Sections 1617.43.551 through 1617.43.561 of this chapter to encourage developers to propose development that exceeds minimum performance required to obtain a permit by authorizing an increase in the density or intensity above that otherwise allow under Section 1617.43.851. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **1617.43.553 Procedure.**

The developer shall state the ~~his~~ intent to apply for a density or intensity bonus at the preapplication conference and shall submit an ~~his~~ application with the density or intensity bonus included in the development with all application materials. All analysis of the development will include the density or intensity bonus. All development requesting a density or intensity bonus is a major development. (Ord 86-23 § 12 (part), 1986)

### **1617.43.555 Residential density bonus.**

Residential development in all districts except R-1 will be awarded the density bonus requested, but not exceeding one percent for every point above zero of its weighted total score. Any such bonus shall not exceed the lesser of:

- A. Fifty percent of the use-by-right density;
- B. The density of the next higher density for the type of dwelling as set out in Section 1617.43.851A;
- C. The minimum lot size requirements for on-site well and septic, if applicable.

The density bonus is computed by reducing the minimum lot area in square feet per dwelling by the percentage of bonus awarded. ~~(Ord 86-23 § 12 (part), 1986).~~

### **1617.43.557 Nonresidential intensity bonus.**

Nonresidential development will be awarded an intensity bonus of up to one percent for every point above zero of its weighted total score. Any such bonus may not exceed the lesser of:

- A. One hundred percent of the use-by-right intensity in the Core Area or fifty percent of the use-by-right intensity in the other districts;
- B. The minimum lot size requirements for on-site well and septic, if applicable.

The intensity bonus is computed by increasing floor area ratio by the percentage of bonus awarded. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **1617.43.559 Presumption.**

The weighted total score of the project above zero creates a rebuttable presumption that the development is entitled to the bonus as computed under Section 1617.43.555 or 1617.43.557 of this title chapter. The presumption may be overcome if the Commission determines that the development or the increased density or intensity raise issues that are contrary to the policies of the Comprehensive Plan or are not adequately addressed in the code or Comprehensive Plan. Upon

make such a determination, the Commission may reduce the bonus to be awarded. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.561 Approval of less than requested intensity or density.**

If a motion is made before the Commission to approve a development which has requested a density or intensity bonus at a density or intensity less than that requested, the developer may decline to accept its terms and request that the development be voted upon as proposed. If denied, the developer may immediately resubmit the development at a lower density or intensity without paying a new application fee. (Ord. 86-23 § 12 (part), 1986)

**XX Conditions**

**1617.43.601 General conditions.**

All evidence submitted with an application, such as the site plan, renderings, landscaping plan, engineering drawings and representations as to use, density, intensity, common facilities, dedication of public improvements, etc., becomes conditions on the permit. In addition, the City Planner Director or the Commission may place conditions upon issuance of a permit which it deems necessary or desirable to ensure that a policy will be implemented in the manner indicated in the application. The additional conditions may consist of one or more of the conditions set out in Sections 1617.43.603 through 1617.43.615. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.603 Development schedule.**

A. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to prevent speculation in permits, to encourage new applications or revisions to be filed for nonviable developments, to minimize construction-related disruption to traffic and neighbors, to ensure that development is not used or occupied prior to substantial completion of required improvements, or to implement other policies. Unless otherwise specified in the permit, all construction of on and off-site improvements must be completed within one year of issuance of the permit.

B. Whenever the developer is authorized a phased development, such development must be built in an orderly manner and in such a way that the required improvements will be made available for the full, effective and practical use and enjoyment thereof by the lessee or grantee of any of the development within the time. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.605 Use.**

The conditions may restrict the future use of the development to that indicated in the application. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.607 Property owners' association.**

The conditions may require that if an agreement among developers, a property owners' or merchants' association, or a special district is necessary or desirable to hold or maintain common property, that it be created prior to occupancy. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.609 Dedications.**

The conditions may require conveyances of title or easements to the public, to public utilities, to the homeowner's association, or to other common entities, or payment of cash in lieu thereof. They may require an improvements agreement for construction to approved standards, and then

dedication of public facilities to serve the development and the public. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.611 Performance bonds.**

The conditions may require the posting of a bond or other surety or collateral to ensure timely and adequate construction of all improvements required by this code or permit. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.613 Commitment letter.**

The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is the basis for the grant of any permit under this chapter or is otherwise required by this chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.615 Covenants.**

The conditions may require prior approval by the City Planner Director and the recording of covenants on the property to ensure continued implementation of a policy by future owners or occupants. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.617 Automatic revocation of permits.**

The conditions may provide that the permit be automatically revoked upon the occurrence of a certain event or events, such as violations of conditions, policies or changes in use or at a date certain. In such case, it shall be the sole responsibility of the developer to apply for a new permit. Any condition requiring the revocation of a permit must state with particularity the grounds therefor and the policy or policies to be reviewed upon reissuance. Thereafter, the issuance of a new permit for the development must be determined solely on the issues of the development's compliance with the specified policy or policies. The failure of the City Planner Director to set out conditions that provide for automatic revocation does not in any way affect the authority of the City Planner Director to revoke a permit for a valid reason nor to take any other enforcement action appropriate to the circumstances. (Ord. 86-23 § 12 (part), 1986)

**XXI. Guarantee of Improvements**

**1617.43.631 Guarantees.**

To ensure the installation of the on and off-site improvements required by the City Planner Director, the Commission, or by this title chapter, the developer shall guarantee the installation thereof by one or a combination of the methods specified below, ~~at his option.~~ The guarantee must be approved as to method and form by the City Attorney. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.633 Performance Bond.**

The developer may furnish and file with the City Planner Director a corporate surety bond in an amount equal to one hundred fifty percent of the cost of the required improvements to assure the actual construction of such improvements within a period of time required by the Commission or the City Planner Director if the permit requiring the improvements was approved by the City Planner Director. The estimated cost of the required improvements shall be provided by a registered professional engineer retained by the developer; however, the City Engineer shall review the cost estimate provided and may increase the cost estimate if the City Engineer ~~he~~ determines the estimate is low. The bond shall be approved as to form, content and amount by the City Attorney.

Upon satisfactory preliminary acceptance of the improvements as installed and the filing of a maintenance bond or guarantee, the performance bond may be released. The maintenance bond or guarantee must be in an amount equal to ten percent of the performance bond and is to guarantee the repair or replacement of any part of the improvements that is determined to be faulty within one year of the preliminary acceptance of the improvements. (~~Ord 86-23 § 12 (part), 1986~~)

**1617.43.635 Deposit in escrow.**

The developer may deposit in escrow with the escrow holder approved by the Council, Mayor or City Attorney an amount of money equal to one hundred fifty percent of the cost of the required improvements to assure the actual construction of such improvements within a period of time required by the Commission. The estimated cost of the improvements shall be provided by a registered professional engineer retained by the developer; however, the City Engineer shall review the cost estimate provided and may increase the cost estimate if the City Engineer ~~he~~ determines the estimate is low. The release of the escrowed funds to the developer must be conditioned upon the installation of the improvements within the time frame required by the Commission, or the City Planner Director ~~Director~~ if the permit requiring improvements was approved by the City Planner Director. Upon satisfactory preliminary acceptance of the improvements as installed and the filing of a maintenance bond or guarantee, the escrowed funds may be released. The maintenance bond or guarantee must be in an amount equal to ten percent of the performance bond and is to guarantee the repair or replacement of any part of the improvements that are determined to be faulty within one year of the preliminary acceptance of the improvements. The escrow agreement may include a provision for the release of funds for the payment of improvements, as completed, in the same manner in which a prudent real estate development lender would disburse loan funds. Upon certification by the City to the escrow holder that the improvement guaranteed by the escrow have not been installed as required, the escrow holder shall immediately pay over to the City so much of the remaining funds as the City may demand. The City shall use such funds to complete the improvements guaranteed by the escrow. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.637 Other performance guarantees - Fees.**

The Council may, by ordinance:

- A. Prescribe other forms of performance and maintenance guarantees that are acceptable and the terms and conditions of such guarantees. Such guarantees may be used with or in lieu of the guarantees prescribed in this chapter;
- B. Eliminate or change the amount of the performance and maintenance guarantees; and
- C. Establish a procedures and fees for the review and processing of plans and guarantees, and for inspecting improvements and for other relevant matters. (Ord. 86-23 § 12 (part), 1986)

**1617.43.639 Maintenance guarantee.**

The developer shall warrant and guarantee that the improvements constructed and every part thereof will remain in good condition for a period of one year after the date of preliminary acceptance of the improvements by the City. The developer shall make all repairs to and maintain the improvements in good condition during the one year period at no cost to the City. (Ord. 86-23 § 12 (part), 1986)

**1617.43.641 Bond.**

Upon preliminary acceptance of the improvements by the City Engineer, and unless the Council, by ordinance, has authorized a guarantee different in form or amount, the developer shall furnish and file with the City Clerk, a corporate surety or cash bond in an amount equal to ten percent of the cost of improvements for payment of any reconstruction or repair of improvements which may be necessary to correct any defects for which correction is required for final acceptance and for all repairs and maintenance for the warranty period which is one year from the conditional acceptance. (Ord. 86-23 § 12 (part), 1986)

**1617.43.643 Authority.**

The responsibility for identifying the necessity for repairs and maintenance of the improvements rests with the City. (Ord. 86-23 § 12 (part), 1986)

**1617.43.645 Method of compliance.**

When in the judgement of the City Engineer, the improvements are deemed in need of reconstruction, repair or maintenance during the first year after date of preliminary acceptance, the City Engineer shall notify the developer, in writing, by certified mail, outlining the areas of discrepancy and the required remedial action. (Ord. 86-23 § 12 (part), 1986)

**1617.43.647 Action by developer.**

Within thirty days of receipt of the aforementioned letter denoting the need for repair or maintenance, the developer shall furnish to the City Engineer, in writing, his schedule for accomplishment of the necessary repair or maintenance. (Ord. 86-23 § 12 (part), 1986)

**1617.43.649 Default.**

In the event the developer defaults or fails or neglects to satisfactorily install the required improvements within the agreed upon time or to repair and maintain the required improvements during the warranty period, the Council by resolution may declare the guarantee forfeited, and the City may install or contract to have installed, the required repairs or maintenance using the proceeds from the collection of guarantee to defray the expense thereof. (Ord. 86-23 § 12 (part), 1986)

**1617.43.651 Acceptance - Release of guarantee.**

The following methods must be used for acceptance of improvements and release of guarantees:

- A. Preliminary acceptance after installation must be in writing from the Commission after written approval has been received from the City Engineer;
- B. Final inspection must be made by the City Engineer one year after preliminary acceptance by the Commission and prior to release of the maintenance or warranty period guarantee. All defects must be corrected prior to final acceptance;
- C. Final acceptance and release of the maintenance and warranty period guarantee must be in writing by the Commission after written approval of the City Engineer;
- D. Upon vacation of a plat or portion thereof, the guarantee may be released if no lots have been conveyed or improved. (Ord. 86-23 § 12 (part), 1986)

**XXII Master Planned Development**

**1617.43.701 Intent and purpose.**

- A. The intent of master planned development is to provide a specific system of land use regulations for individual large tracts of land which are under unified ownership or development

control through the establishment of a master planned development zoning district. The purpose of the master planned development district classification is to provide for and allow flexibility in the selection of land use controls for the specific area proposed for master planned development (MPD) district classification while protecting the public health, safety and welfare by ensuring that the development will be consistent with the Wasilla Comprehensive Plan, the carrying capacity of the land, and other Borough regulations of general applicability.

B. This system establishes the design and character of development within a zoning district through the development of a master development plan for the district which specifies land use, density/intensity of use, and design of development. It is intended specifically to accommodate such uses as industrial parks, regional shopping centers, airports, and residential communities with a mix of uses and densities.

C. When approved by the City Council Borough Assembly, the "Zoning Map" of the City of Wasilla, Alaska, is amended and land use standards proposed for the MPD district become an amendment to this title chapter and supersede the requirements and policies of Sections 1617.43.801 et seq. of this title chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.702 Eligibility.**

In order to be eligible for consideration for MPD district designation, a parcel of land must be under unified ownership or development control and be not less than twenty acres in size if in an IND-Industrial District, or forty acres in size if in any other district. The area of the parcel is computed using the exterior boundaries and without deduction for roads, dedicated areas, or other areas that may be unusable. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.703 Preapplication conference.**

A. A developer requesting a MPD district rezone shall schedule a preapplication conference with the City Planner Director. The purpose of the conference is:

1. To provide an opportunity for the proponents of a MPD district to explain the concept of their development to City and ~~Borough~~ officials; and
2. To permit City and ~~Borough~~ officials to explain to the Developer the requirements of applicable City, ~~Borough~~, and other agency regulations and plans; and
3. To permit City and ~~Borough~~ officials to outline socio-economic and natural environmental concerns inherent in the proposed development.

B. The City Planner Director may require a joint preapplication conference with Borough Platting Division personnel.

C. The developer is encouraged to have informal discussions with the City Planner Director concerning the his proposal prior to scheduling a formal preapplication conference.

D. The developer shall submit the following documents to the City Planner Director at least five working days before the preapplication conference:

1. Written documents containing:
  - a. Legal description of the parcel,
  - b. Goals and objectives of the development, and
  - c. An explanation of any unique features of the area proposed for Master Planned Development;
2. Maps of existing conditions on the site and the vicinity showing:
  - a. Topography contour lines at intervals of five feet or less,

- b. Water features, such as the location of streams, lakes, wetlands, and drainage courses including location of floodplain areas,
  - c. Existing vegetation such as stands of trees and shrubs, ground cover, and description thereof,
  - d. Location of existing facilities and structures such as buildings, water lines, sewage system, utility easements of record or in use, excavations, bridges, culverts, storm drain systems, natural drainage ways, and wells.
  - e. Existing access to and within the site including road, peripheral roads, trails, and sidewalks,
  - f. Soils and surface geology;
3. Proposed sketch plan showing:
- a. Topography and water features,
  - b. Streets and pedestrian access,
  - c. Conceptual uses and densities, and
  - d. Open space and recreational areas. (Ord. 86-23 § 12 (part), 1986)

**1617.43.704 Application requirements.**

Using forms and guidelines provided by the City Planner Director, the developer shall provide a site plan and development standards addressing the following concerns. They may be proposed for the entire MPD district or be specified for subdistricts within it:

- A. Permitted, accessory, and conditional uses;
- B. The number and type of dwelling units;
- C. The amount of commercial, industrial, and office floor area;
- D. Principal drainage systems or drainage requirements;
- E. Principal traffic circulation elements;
- F. Open space and common facilities, and maintenance thereof;
- G. Public facilities (school, playground, fire stations, etc.), and
- H. Such other requirements as may be applicable to the establishment of the particular district;
- I. Minimum lot size;
- J. Minimum setback requirements;
- K. Maximum lot coverage;
- L. Maximum height of structures;
- M. Signs;
- N. Parking;
- O. Loading;
- P. Open Space and landscaping;
- Q. Circulation (vehicular and pedestrian);
- R. The number of dwelling units and gross building area of commercial or industrial structures. (Ord. 86-23 § 12 (-art), 1986)

**1617.43.705 Adoption.**

A. Master plan development (MPD) districts are processed and adopted pursuant to the relevant rezoning provisions of this chapter except, the proposal is evaluated against the policies of the Comprehensive Plan instead of the requirements and policies of Section 1617.43.801 et seq.

~~The Council may recommend and the Borough Assembly may place conditions on development within a MPD district and, at a minimum, The the materials submitted with the application as altered by the Council and Assembly are conditions on approval of the Master Planned Development district.~~

B. A master plan development district must be identified on the official zoning map by the letters "MPD" followed by a serial number, and any subdistrict within it appropriately identified with reference to standards for development therein. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.706 Amendments.**

A. Major changes. Council ~~and Assembly~~ approvals ~~are~~ is required for the following amendments of an MPD district:

1. Any increase in the total number of authorized dwelling units;
2. Any decrease in the total open space acreage;
3. Any increase in the total gross building area of commercial or industrial structures;
4. Any addition or deletion of any permitted principal use, conditional use, or accessory use;
5. Any changes in the development standards for a subdistrict or the MPD district as a whole;
6. Cumulative density amendment(s) that will result in a twenty-five percent or greater increase or decrease in the number of dwelling units in any subdistrict or the MPD district as a whole;
7. Cumulative change(s) in the acreage of a subdistrict equal to or more than twenty-five percent of the total acreage of the subdistrict.

B. Minor Changes. Approval by the Commission is required for the following amendments of the MPD district:

1. Cumulative amendment(s) of density between subdistricts that will result in an increase or decrease of more than ten percent but less than twenty-five percent in the number of dwelling units in any subdistrict;
2. Cumulative change(s) in the acreage of a subdistrict equal to more than ten percent but less than twenty-five percent of the total acreage of the subdistrict;
3. Changes in the development schedule, if any.

C. Alterations. Approval by the City Planner Planning Director is required for the following alterations to the Master Plan:

1. Cumulative transfer(s) of density between subdistricts that result in an increase or decrease of ten percent or less in the number of dwelling units in any subdistrict;
2. Cumulative change(s) in the acreage of a subdistrict equal to ten percent or less of the total acreage of the subdistrict.

D. Appeals. All decisions of the Planning Commission and City Planner Planning Director on Master Plan amendments shall be final unless appealed by the petitioner within fifteen working days as provided in this chapter. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.707 Development and zoning permits required.**

A. Development or zoning permits are required as appropriate for each development within a MPD district.



B. Unless a different permit procedure is provided for the district, development and zoning permits are processed pursuant to procedures in Sections 1617.43.400 et seq. or Sections 1617.43.500 et seq. except that standards and site plans approved with the MPD district shall be the basis of review, supplemented by public improvement standards approved by the Council. (~~Ord. 86-23 § 12 (part), 1986~~)

### **XXIII General Requirements**

#### **1617.43.801 Applicability.**

The standards set out in Sections 1617.43.806 through 1617.43.899 apply to all development in the City. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.802 Improvement standards.**

A. The Public Works Department shall propose standards for off-site public improvements that may be required under this chapter or a permit issued under this chapter. The Commission may propose standards for private, on-site improvements such as buffers, screens, and landscaping that may be required as a condition of a permit under this chapter. Such standards become effective upon approval by the Council by ordinance or by resolution. The Director of Public Works shall maintain a file of all approved standards and make it available for public inspection in the City Planner's ~~Director's~~ office. Copies of approved standards may be made available to the public for a fee determined by the Council.

B. Improvements for which standards have been approved by the Council that are identified by the Council as being applicable to all subdivisions of land within the city are required of all such subdivisions unless the requirements of the Borough Subdivision Code Title 16 are greater. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.803 Improvement inspections and guarantee.**

A. The City Engineer or ~~his~~ designee shall review and approve or reject all plans for off-site improvements to be constructed as a condition of a subdivision plat or development permit under this chapter. Upon completion of improvements, the City Engineer shall inspect and accept or reject the improvements. Upon acceptance of improvements, the City Engineer shall make such certifications as may be required under the other provisions of this chapter.

B. The Borough platting authority may not give final approval to the plat of the subdivision of any land within the City until it receives certification by the Director of Public Works that all improvements required as a condition of plat approval have either been satisfactorily installed and accepted by the city or guaranteed to the satisfaction of the City. (~~Ord. 86-23 § 12 (part), 1986~~)

### **XXIV Parking and Loading**

#### **1617.43.806 Off-street parking and loading requirements - General applicability.**

Off-street parking spaces for automobiles must be provided and maintained in accordance with the requirements set out in this chapter at the time any building or structure is erected, enlarged or expanded or when there is a change in or expansion in the use. Parking spaces in existence on May 15, 1986 may be used to meet the off-street parking requirement of this chapter for a new use, enlargement or change in use only if such spaces are in excess of those required by this chapter for the existing use as provided in Section 1617.43.181. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.807 Enlargement or change in use.**

In cases of enlargement of a building or use or a change in use existing on May 15, 1986, the number of additional off-street parking spaces required shall be based only on the floor area or capacity added, provided however, that no additional parking space need be provided in the case of a building enlargement or change in principal use where the number of additional parking spaces required is less than a cumulative total of ten percent of the spaces required under this chapter for all enlargements or change in use qualifying for this exception. If additional parking space requirements or enlargements or changes in use have been previously excepted and the number of previously excepted spaces, when added to the requirements for an enlargement or change in use equal or exceed ten percent of the spaces required under this chapter, all such previously excepted spaces must be provided. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.808 Mixed occupancies.**

In the case of two or more uses on the same lot, the total requirements for off-street parking facilities is the sum of the requirements for the several uses computed separately. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.810 Location.**

Off-street parking facilities must be located as hereinafter specified; where a distance is specified, such distance is the walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve. Off-street parking facilities for residential uses must be on the same lot with the building they are required to serve. Off-street parking facilities for nonresidential uses may not be more than three hundred feet from the building that are required to serve. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.811 Joint use.**

The Commission may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

- A. Up to twenty-five percent of the parking facilities required by this chapter for primarily "nighttime" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by other types of buildings or uses herein referred to as "daytime" uses such as banks, offices, retail, personal service shops, clothing, food furniture, manufacturing or wholesale and related uses.
- B. Up to twenty-five percent of the parking facilities required by this chapter for primarily "daytime" uses may be supplied by primarily "nighttime" uses.
- C. Up to fifty percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or private school, may be supplied by the off-street parking facilities provided by uses primarily of "daytime" nature.
- D. The building or use for which application is being made to use the off-street parking facilities provided by another building or use, must be located within three hundred feet of such parking facilities in addition to which:
  - 1. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed; and

2. The applicant shall submit to the city an appropriately drawn agreement executed by the parties concerned for joint use of the off-street parking facilities. The term of the agreement must be for a minimum of ten years and be renewable at the sole option of the party requiring the additional facilities. The agreement must be prepaid for the initial term and may not be ~~canceled~~ ~~cancelled~~ or terminated for any reason unless written notice of the cancellation or termination has been delivered to the City Planner ~~Director~~ at least sixty days before such cancellation or termination. The agreement may not operate to provide required parking facilities until it has been approved as to form, content and manner of execution by the City Attorney and approved by the Commission. A copy of the approved, executed agreement must be filed with the City Clerk;

3. Upon the cancellation or termination of a joint use agreement for any reason or the loss or unavailability of off-street parking facilities made available under the agreement, the development must immediately replace such facilities. Failure to replace such facilities is a violation of this chapter. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.813 Boundary protection.**

Parking spaces along the property line of a development must be provided with a setback, wall, fence or continuous barricade located far enough within the property to prevent any portion of a car from extending over the adjoining lot or over a public right-of-way. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.814 Screening.**

Where a parking lot is visible from an abutting residential lot, such parking lot must be screened by a sight-obscuring fence or planting of not less than five feet in height. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.815 Lighting.**

Lighting used to illuminate any off-street parking spaces must be so arranged as to reflect the light away from adjoining residential uses and public streets. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.817 Space size and aisle width.**

Each perpendicular parking space must be at least ten feet by twenty feet with a least twenty-five feet of backing and loading separation. Diagonal spaces must meet comparable requirements established by the City Engineer. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.818 Paving.**

All parking spaces including the access thereto must be paved, except for single-family homes, duplexes, permitted temporary uses, and minor development which requires eight or less parking spaces.

**1617.43.820 Table of minimum standards.**

The minimum number of off-street parking spaces required is set out in the following table:

Use	Spaces Required
Single-family, duplex or multifamily uses	2 spaces per dwelling unit
Motels/Hotels	1 per guest room

Hospitals, group homes, and boarding houses	1 per 4 beds based on maximum capacity
Churches, auditoriums, theaters, and similar places of assembly	1 per 5 seats based on maximum capacity
Warehouses, storage and wholesale business	1 per each 1,000 sq. ft. GFA but not less than 8 spaces
Industrial uses	1 per 400 sq. ft. of gross floor area
Restaurants, bars	1 per 100 sq. ft. GFA or 1 for every 3 seats, whichever is greater, plus 1 for each employee on the largest workshift
Offices and commercial uses	1 per 300 sq. ft. GFA

In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities are the same as the use set out above which in the opinion of the City Planner ~~Director~~ is deemed most similar. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.822 Handicap parking requirements.**

A. Major development must provide one handicap space per fifty parking spaces, with a minimum of one space.

B. Handicapped car spaces must be at least eight feet wide with an access aisle at least five feet wide adjacent to the car space. Where more than fifty parking spaces are required, two handicapped car spaces must be located within two hundred feet of an accessible entrance to the building or structure served. Access aisles must be ~~by~~ on an accessible route of traffic to ensure that the route of travel does not cross traffic lanes nor pass behind car spaces.

C. Each handicapped car space must be identified by a sign conforming to applicable federal standards. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.824 Off-street loading areas.**

A. The provision and maintenance of off-street loading facilities is a continuing obligation and joint responsibility of the owner and occupants. Loading areas are required as set out in this section.

B. Each off-street loading space must be not less than thirty feet by twelve feet and have an unobstructed height of fourteen feet six inches and be made permanently available for such purposes.

C. Nonresidential development of greater than five thousand square feet GFA must provide one loading space per thirty thousand square feet GFA, with a minimum of one space. (Ord. 86-23 § 12 (part), 1986)

**XXV Signs**

**1617.43.1.01 Purpose**

The purpose this ordinance is to coordinate the type, placement, and physical dimensions of signs within the different land-use zones; to recognize the commercial

communication requirements of all sectors of the community; to encourage the innovative use of design; to promote both renovation and property maintenance; to allow for special circumstances; to recognize traffic safety considerations; enhance the aesthetics of the community; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use, and maintenance of signs. The use of signs is regulated according to zone. The placement and physical dimensions of signs are regulated primarily by type and length of street frontage. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this Section.

#### **1617.43.837.1.02 Scope**

(A) This ordinance shall not relate to building design; nor shall the ordinance regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays, product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organization; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign.

(B) The primary intent of this ordinance is to regulate signs of a commercial nature intended to be viewed from any vehicular public right-of-way.

#### **1617.43.837.1.03 Definitions**

The following definitions pertain only to this subsection of 1617.43.

(1) **Abandoned Sign:** A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

(2) **Administrator:** The City Planner ~~Planning Director~~ or his designee.

(3) **Animated Sign:** Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.

(4) **Area:** See "Sign, Area of"

(5) **Awning:** A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework.

(6) **Awning Sign:** A sign painted on, printed on, or attached flat against the surface of an awning.

(7) **Banner Sign:** A sign made of fabric or any nonrigid material with no enclosing framework.

(8) **Billboard:** See "Off-Premise Sign"

(9) **Building:** Any roofed structure intended or used for the support, shelter or enclosure of persons, animals, or property of any kind.

(10) **Cabinet, Sign:** A complete, fully enclosed, unit or module of a sign.

(11) **Changeable Copy Sign (Automatic):** A sign on which the copy changes automatically on a lampbank or through mechanical means (i.e., electrical or electronic time and temperature units.)

(12) **Changeable Copy Sign (Manual):** A sign on which copy is changed manually in the field (i.e., readerboards with changeable letters.)

(13) **City:** Unless the context clearly discloses a contrary intent, the word "City" shall mean the City city of Wasilla.

(14) **Clearance (of a Sign):** The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

(15) **Construction Sign:** A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction the property on which the sign is located.

(16) **Copy:** The wording on a sign surface in either permanent or removable letter form.

(17) **Directional/Information Sign:** An on-premises sign giving directions, instruction or facility information and which may contain the name or logo of an establishment but no advertising copy (i.e., parking or exit and entrance signs).

(18) **Double/Multiple-Faced Sign:** A sign with more than one message face.

(19) **Electrical Sign:** A sign or sign structure in which electrical wiring, connections, or fixtures are used.

(20) **Electronic Message Center:** See "Changeable Copy Sign, Automatic".

(21) **Facade:** The entire building front including the parapet.

(22) **Face of Sign:** The area of a sign on which the copy is placed.

(23) **Festoons:** A string of ribbons, tinsel, small flags, or pinwheels.

(24) **Flashing Sign:** A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Does not include changeable copy signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light.

(25) **Freestanding Sign:** A sign supported upon the ground by poles or braces and not attached to any building.

(26) **Frontage:** The length of the property line of any one premise along a public right-of-way on which it borders.

(27) **Frontage, Building:** The length of an outside building wall on a public right-of-way.

(28) **Government Sign:** Any temporary or permanent sign erected and maintained by the city, borough, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.

(29) **Height (of a Sign):** The vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.

(30) **Icon:** An image, symbol or emblem.

(31) **Identification Sign:** A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

(32) **Illegal Sign:** A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.

(33) **Illuminated Sign:** A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

(34) **Incidental Sign:** A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises (i.e., a credit card sign or a sign indicating hours of business).

(35) **Lot:** A distinct parcel of land for ownership and tax purposes which is delineated and fixed on a plat filed for record.

(36) **Maintenance:** For the purposes of this ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

(37) **Mansard:** A sloped roof or roof-line facade architecturally comparable to a building wall.

(38) **Marquee:** A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building.

(39) **Marquee Sign:** Any sign attached to or supported by a marquee structure.

(40) **Nameplate:** A nonelectric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

(41) **Nonconforming Sign:**

(a) A sign which was erected legally but which does not comply with subsequently enacted sign restriction and regulations.

(b) A sign which does not conform to the sign code requirements but for which a special permit has been issued.

(42) **Occupancy:** The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

(43) **Off-Premise Sign:** A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located (i.e., billboards or outdoor advertising).

(44) **On-Premise Sign:** A sign which pertains to the use of the premises on which it is located.

(45) **Owner:** A person recorded as such on official records. For the purposes of this ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the City Planner Planning Director or his designee. (i.e., a sign leased from a sign company).

(46) **Painted Wall Sign:** Any sign which is applied with paint or similar substance on the face of a wall.

(47) **Parapet:** The extension of a false front or wall above a roofline.

(48) **Person:** Means a partnership, firm, joint venture, public agency, government, company, corporation or other association, as well as a natural person.

(49) **Point of Purchase Display:** Advertising of a retail item accompanying its display (i.e. an advertisement on a product dispenser).

(50) **Pole Cover:** Covers enclosing or decorating poles or other structural supports of a sign.

(51) **Political Sign:** A temporary sign used in connection with a local, state, or national election or referendum.

(52) **Portable Sign:** Any sign designed to be moved easily and not permanently affixed to the ground to a structure or building. For the purposes of setbacks, a portable sign is a "Freestanding Sign".

(53) **Premises:** A parcel of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

(54) **Projecting Sign:** A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

(55) **Real Estate Sign:** A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

(56) **Roofline:** The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

(57) **Rotating Sign:** A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

(58) **Sign:** Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

(59) **Sign, Area of:**

(a) **Projecting and Freestanding:** The area of a freestanding sign or projecting sign shall have only one face (the largest one) of any double- or multi-faced sign counted in calculating its area. The area of a sign shall be measured as follows if the sign is composed of one or two individual cabinets:

(1) The area around and enclosing the perimeter of each cabinet or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall not include embellishments such as pole cover, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments.

(2) If the sign is composed of more than two sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign. Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy.

(b) **Wall Signs:** The area shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined areas of the individual figures shall be considered the total sign area.

(60) **Snipe Sign:** A temporary sign or poster affixed to a tree, fence, etc. (erected for three days or less)

(61) **Subdivision Identification Sign:** A freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

(62) **Temporary Sign:** A sign not constructed or intended for long-term use (erected for less than thirty days).

(63) **Under-Canopy Sign:** A sign suspended beneath a canopy, ceiling, roof, or marquee.

(64) **Use:** The purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.

(65) **Wall Sign:** A sign attached parallel to and extending not more than 18 inches from the wall of a building. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

(66) **Window Sign:** A sign installed inside a window for the intended purpose of being viewed from the outside.

**1647.43.837.2.01 GENERAL PROVISIONS**

No person shall erect, place, or maintain a sign in the city of Wasilla except in accordance with the provisions of this ordinance.

**1647.43.837.2.02 SIGNS PROHIBITED**

The following types of signs are prohibited in all districts:

- (1) Abandoned signs



(2) Signs imitating or resembling official traffic or government signs or signals or emergency response vehicles.

(3) Snipe signs or signs attached to telephone or utility poles, public benches, or streetlights.

(4) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. (This does not apply to allowed portable signs or to signs or letters on buses, taxis or vehicles operating during the normal course of business)

(5) Signs with flashing, intermittent, revolving, or blinking illumination, or an alternating light pattern or which are animated, other than electronic message centers. No sign regulated by this ordinance may utilize:

(a) An exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion

(b) Any revolving beacon light

(c) Signs using exposed incandescent light sources exceeding sixty watts per source.

(6) Signs using reflectors, mirrors, or other devices intended to focus or direct illumination from the sign to any other place.

(7) Signs exceeding a maximum height of thirty feet or the height of the roofline whichever is less.

(8) Off-premise signs.

#### **1617.43.837.2.03 PERMITS REQUIRED**

Unless otherwise provided by this ordinance, all signs shall require permits and payment of fees as described in the section covering Administration and Enforcement. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.

#### **1617.43.837.2.04 SIGNS NOT REQUIRING PERMITS**

The following types of signs are exempted from permit applications but must be in conformance with all other requirements of this ordinance:

(1) Construction signs of 24 square feet or less

(2) Directional/information signs of 6 square feet or less

(3) Holiday or special events decorations

(4) Nameplates of 12 square feet or less

(5) Political signs (also see Chapter 11, city of Wasilla Municipal Code)

(6) Public signs or notices, or any sign relating to an emergency

(7) Real estate signs

(8) Window signs

(9) Incidental signs

(10) Point of Purchase Display signs

#### **1617.43.837.2.05 MAINTENANCE**

All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The City Planner ~~Planning Director~~ or his designee shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated.

**1617.43.837.2.06 CHANGEABLE COPY**

Unless otherwise specified by this ordinance, any sign herein allowed may use manual or automatic changeable copy.

**1617.43.837.2.07 SIGN SETBACK REQUIREMENTS**

(A) The base of structural members supporting signs mounted on the ground shall be set back at least three feet from any public right-of-way except that of the George Parks Highway.

(B) The base of structural members supporting signs mounted on the ground shall be set back at least five feet from the George Parks Highway.

(C) No part of any sign shall encroach into a public right-of-way or the air space above such a right-of-way, nor shall any part of a sign obscure a sight triangle.

**1617.43.837.2.08 SIGNS PERMITTED IN ALL ZONES**

(A) The following signs are allowed in all zones:

(1) All signs not requiring permits.

(2) One construction sign for each street frontage of a construction project, not to exceed 32 square feet in sign area. Such signs may be erected 14 days prior to beginning of construction and shall be removed 7 days following completion of construction.

(3) One nonilluminated real estate sign per lot or premises, not to exceed 32 square feet in sign area. Such signs must be removed 1 week following sale, rental, or lease.

(4) One attached nameplate per occupancy, not to exceed 2 square feet in sign area.

(5) Erection of political signs shall be in compliance with the Wasilla Municipal Code 11.40.

(6) One directional/information sign per lot, not to exceed 8 square feet in sign area or six feet in height.

(7) Two temporary special event signs and decoration per premises for special events, grand openings, or holidays. Such signs and decorations may be erected seven days prior to a special event or holiday and shall be removed seven days following the event or holiday. For grand openings such signs may be used for no more than fourteen days.

(8) Snipe signs for three days or less. Signs must be dated.

**1617.43.837.2.09 SIGNS PERMITTED IN RESIDENTIAL ZONES**

(A) Signs are allowed as follows in residential zones:

(1) All signs as permitted in Section 1617.43.837.2.04

(2) Two subdivision signs per neighborhood, subdivision or development not to exceed thirty-two square feet in sign area.

(3) One identification sign per apartment or condominium complex, not to exceed six square feet in sign area.

(4) For allowed nonresidential uses, including churches and synagogues, one freestanding sign, not to exceed thirty-two square feet in sign area, and one wall sign not to exceed six square feet in sign area.

(B) Special regulations for residential zones are as follows:

(1) All allowed freestanding signs shall have a maximum height limit of six feet.

**1617.43.837.2.10 SIGNS PERMITTED IN THE CORE AREA, INTERMEDIATE, AND INDUSTRIAL AREA**

- (A) All signs as permitted in Section 1617.43.837.2.08 and 2.09.
- (B) One freestanding sign per premises, not to exceed one square foot in sign area for each linear foot of main street frontage up to a maximum of 150 square feet. Such signs may not exceed a height of 30 feet or the height of the building, whichever is less.
- (C) One wall sign per occupancy, not to exceed two square feet in sign area for each linear foot of the occupancy's building frontage up to a maximum of fifty square feet.
- (D) One under-canopy sign per occupancy, not to exceed fifty square feet in sign area.
- (E) Incidental signs, not to exceed six square feet in aggregate sign area per occupancy.
- (F) Where an occupancy is on a corner or has more than one street frontage, one wall sign and one additional freestanding signs will be allowed on the additional frontage, not to exceed the size of the other allowed wall and freestanding signs.
- (G) One awning sign, with text, per occupancy not to exceed thirty percent of the surface area of an awning, or one marquee sign, not to exceed one square foot in sign area for each linear foot of marquee front and side.
- (H) One portable sign per lot, not to exceed thirty-two square feet in sign area or five feet in height. Such signs may be displayed four times per year for periods not to exceed two weeks.
- (I) Where a lot has in excess of 400 feet of street frontage, one additional freestanding sign will be allowed for each additional 100 feet of street frontage. Such signs shall be subject to the size and height limitations of the first allowed freestanding sign and may be placed no closer than 250 feet to any other freestanding sign on the same premises.
- (J) A projecting sign may be used instead of any allowed wall or freestanding sign, not to exceed a sign area of one square foot for each linear foot of an occupancy's building frontage up to a maximum of fifty square feet.

**1617.43.837.3.01 - NONCONFORMING SIGNS - DETERMINATION OF LEGAL NONCONFORMITY**

Existing signs which do not conform to the specific provisions of the ordinance may be eligible for the designation "legal nonconforming" provided that:

- (1) Such signs are properly maintained and do not in any way endanger the public.
- (2) The sign was covered by a valid permit or variance or complied with all applicable laws on the date of adoption of this ordinance.

**1617.43.837.3.02 LOSS OF LEGAL NONCONFORMING STATUS**

A legal nonconforming sign may lose this designation if:

- (1) The sign is relocated or replaced.
- (2) The structure or size of the sign is altered in any way except towards compliance with this ordinance. This does not refer to change of copy or normal maintenance.

**1617.43.837.3.03 MAINTENANCE AND REPAIR OF NONCONFORMING SIGNS**

The legal nonconforming sign is subject to all requirements of this ordinance regarding safety, maintenance, and repair. However, if the sign suffers more than fifty percent

appraised damage or deterioration, it must be brought into conformance with this ordinance or removed.

#### **1617.43.837.3.04 CONSTRUCTION INFORMATION**

All electrical signs shall be constructed and located in such a way as to meet required federal, state, and city laws statutes and ordinances and meet the requirements of the National Electrical Code.

#### **1617.43.837.3.05 ANCHORING**

(A) No sign shall be suspended by nonrigid attachments that will allow the sign to swing in a wind.

(B) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(C) All portable signs on display shall be braced or secured to prevent motion.

#### **1617.43.837.3.06 ADDITIONAL SAFETY INFORMATION**

(A) No sign shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.

(B) No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be erected in front of and may cover transom windows when not in violation of Fire Prevention Codes.

(C) Signs shall be located in such a way as required to meet state, ~~borough~~ and city safety standards.

#### **1617.43.837.4.01 ADMINISTRATION AND ENFORCEMENT - CODE ADMINISTRATOR**

(A) The City Planner ~~Planning Director~~ or his designee is authorized to process applications for permits and variances, hold public hearings as required, and enforce and carry out all provisions of this ordinance, both in letter and in intent. The City Planner ~~Planning Director~~ or his designee is authorized to promulgate regulations and procedures consistent with this function.

(B) The City Planner ~~Planning Director~~ or his designee is empowered, upon presentation of proper credentials, to inspect any structure, or premises in the city for the purpose of inspection of a sign to ensure compliance with this ordinance. Such inspections shall be carried out during business hours unless an emergency exists.

#### **1617.43.837.4.02 APPLICATION FOR PERMITS**

Application for a permit for the erection, alteration, or relocation of a sign shall be made to the City Planner ~~Planning Director~~ or his designee on a form provided by the City Planner ~~Planning Director~~ or his designee and shall include the following information:

- (1) Name and address of the owner of the sign.
- (2) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- (3) The type of sign or sign structure as defined in this ordinance.
- (4) A site plan showing the proposed location of the sign along with the locations and square footage areas of all existing signs on the same premises.
- (5) Specifications and scale drawings showing the materials, design, dimensions, structural supports.

#### **1617.43.837.4.03 PERMIT FEES**

All applications for permits filed with the City Planner Planning Director or his designee shall be accompanied by a payment in the amount of \$50.00. Religious icons used by churches, synagogues or, signs used by civic organizations shall be exempt from payment of permit fees.

#### **1617.43.837.4.04 ISSUANCE AND DENIAL**

(A) The City Planner Planning Director or his designee shall issue a permit for the erection, alteration, or relocation of a sign within five working days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the city. In all applications, where a matter of interpretation arises, the more specific definition or higher standard shall prevail.

(B) When a permit is denied, a written notice shall be provided to the applicant along with a brief statement of the reasons for denial. The City Planner Planning Director or his designee may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application.

#### **1617.43.837.4.05 PERMIT CONDITIONS AND PENALTIES**

(A) Permit fees are nonrefundable.

(B) A permit becomes null and void if work is not completed within one year of the date of issuance.

#### **1617.43.837.4.06 REMOVAL OF SIGNS BY THE ADMINISTRATOR**

In cases of emergency, the City Planner Planning Director or his designee may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety.

#### **1617.43.837.4.07 APPEALS**

(A) Any failure to respond to an application within ten days of receipt or any decision rendered by the City Planner Planning Director or his designee in denying a permit or variance or in alleging a violation of this ordinance may be appealed to the Wasilla Planning & Utilities Commission with fourteen days of the City Planner's Planning Director's or his designee's receipt of application.

(B) The action being appealed shall be held in abeyance pending the decision of the Wasilla Planning & Utilities Commission.

#### **1617.43.840 Sensitive Areas**

##### **1617.43.840 Hazard areas.**

Development in the flood plain designated on the Comprehensive Plan constraints map or under Chapter 1617.29 of the Matanuska-Susitna Borough Code and development on slopes exceeding thirty percent must be designed and built to minimize the risk of loss of life or destruction of property and must be designed by a registered professional engineer. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.842 Waterbody protection.**

A. No structure or footing may be located closer than seventy-five feet from the high-water mark of a water course or body of water; provided, docks, piers, marinas, and boathouses may be located closer than seventy-five feet if they:

1. Are located primarily over water;
2. Are not used for habitation; and
3. Do not contain sanitary facilities.

Structures permitted over water under this subsection must conform to all applicable state and federal statutes and regulations. Water wells may be located within the setback area provided they are at least ten feet from the high-water mark.

B. The City may require dedication of a maintenance easement of up to fifteen feet from the high-water mark or cut bank of a body of water, whichever produces the greatest protection. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.843 Wetlands.**

All development within wetlands as defined or identified by the U. S. Army Corps of Engineers must comply with the adopted Matanuska-Susitna Borough Coastal Management Plan. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.844 Dedications.**

Development in areas adjacent to waterbodies and in wetlands is required to provide open space easements in areas where development is prohibited. (~~Ord. 86-23 § 12 (part), 1986~~)

**XXVII Flood Damage Prevention**

**1617.43.847 Flood damage prevention.**

All development within a Flood Hazard Area as established by the Matanuska-Susitna Borough must conform to the procedures and standards set out in Chapter 17.29 (Flood Damage Prevention) of the Matanuska-Susitna Borough Code. (~~Ord. 86-23 § 12 (part), 1986~~)

**XXVIII Performance Requirements**

**1617.43.849 More Than One Principal Use Per Lot.**

In any district, more than one structure housing a permissible principal use may be erected on a single lot, provided that each structure shall comply with all applicable requirements of this chapter including, but not limited to minimum lot area and all "General Requirements" of Sections 1617.43.801 through 899. (~~should read 1617.43.899~~)

**1617.43.850 Building height.**

The maximum building height in all districts except CA and IND is thirty-five feet. In the CA and IND districts the maximum height of any projection into air space whether trees, other vegetation or a structure, may not exceed the limits established by the FAA under FAR Part 77 as it applies to a publicly-owned airport affecting the airspace. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.851 Lot area.**

A. The minimum lot area in square feet per dwelling unit for residential development of public or community water and sewer is as follows:

District	SF	Duplex	Multi
CE	40,000	20,000	20,000
WC	10,000	6,200	6,200
CA	7,200	4,300	4,300
I	10,000	6,200	6,200
IND	N/A	N/A	N/A
R-1	7,200	N/A	N/A
R-2	10,000	6,200	6,200

For residential development not on public or community water and sewer the minimum lot area per dwelling unit is forty thousand square feet for single-family and twenty thousand square feet for duplexes and multifamily uses. Except in the R-1 district, developments on public or community sewer and water may exceed the densities of this section pursuant to the density bonus system set out in Sections 1617.43.555 and 1617.43.559 of this title chapter.

B. Minimum lot area and floor area ratios for nonresidential development are as follows:

District	Minimum Lot Area	FAR
CE	existing	0.2:1
R-1	N/A	N/A
R-2	40,000	0.4:1
WC - resorts campgrounds	200,000	N/A
WC - other	40,000	0.4:1
CA - industrial	200,000	0.4:1
CA - other	20,000	0.4:1
IND	20,000	0.4:1
I	40,000	0.4:1

The minimum lot area may not be less than the area required by the Alaska Department of Environmental Conservation. Nonresidential development may exceed the FAR limitation of the section under the intensity bonus system set out in Sections 1617.43.557 and 1617.43.559 of this title chapter. (Ord. 86-23 § 12 (part), 1986)

**1617.43.853 Setback requirements.**

- A. Setbacks from waterbodies are set out in Section 1617.43.842.
- B. Buildings only must be set back fifty feet from the right-of-way of the Parks Highway. The applicable setback from streets and rights-of-way apply to all other structures of lots abutting the Parks Highway.
- C. The structure setback for nonresidential development adjacent to residential development or to a vacant lot in the CE, R-1, R-2 and I districts is thirty feet.
- D. Other setbacks are as follows:

District	Front	Side	Rear
CE	25		25
R-1	25		25

R-2	25	10	25
WC	25	10	10 Except as required by Section <u>1617.43.842.A.</u>
CA - SF and duplex	25	10	10
CA - Multi	25	10	25
CA- Nonres.	10	none or 10	none or 10
IND		25	25
I - SF and duplex	25	10	10
I - Multi	25	10	25
I - Nonres.	25	10	10

Nonresidential structures in the CA District may be constructed on the property line; however, a structure that is not constructed on the property line must be set back at least ten feet from the property line. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.854, Salvage Yards**, is hereby adopted to read as follows:

(A) A salvage yard established on a lot which was a lawful use prior to the effective date of the adoption of this section, but which would not be permitted under this chapter, may continue as a use-by-right on the lot upon which it is located and may be expanded in area subject to all requirements of a use-by-right for the lot on which it is located. Such a use may not be renewed if abandoned for more than one year.

(B) No salvage yard shall be established or operated unless it is completely obscured from view of any traveled or public right-of-way or adjacent properties with conflicting use (i.e., residential, commercial). The development permit shall require a continuous solid fence no less than eight feet in height. Such a requirement is necessary to prevent the unsightly display of the yard, and may be a combination of the following:

- (1) Conventional solid wood or metal fencing;
- (2) Evergreen or other natural planting sufficient to provide year-round screening;
- (3) Earthen berm or topography.

(C) In all cases, fencing provided shall be continuous and of sufficient density to provide visual screening required by this chapter on a year-round basis.

**16.43.855 Buffering of residential development.**

Development is required to provide adequate buffering between residential and nonresidential uses.

The later developer on the property line is responsible for implementing this policy unless the development is an industrial use or is a nonresidential use adjacent to a R-1 or R-2 district. The buffer must incorporate at least one of the following:

- A. A substantial planting, such as trees, shrubbery and ground cover;
- B. A solid fence or wall to eight feet high; or
- C. A densely planted earth berm.

The ~~City Planner Director~~ or Commission, as appropriate, must specify the contents of the buffer. The owner of the property upon which the buffer is constructed is responsible for the maintenance of the buffer in good condition. (~~Ord. 86-23 § 12 (part), 1986~~)



**1617.43.857 Water supply and sewage disposal.**

No individual water supply system or sewage disposal system may be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards, and recommendations of the Alaska Department of Environmental Conservation. All wastewater treatment and disposal systems must be set back ten feet from public utility easements for water lines, property lines, and street rights-of-way. No on-lot water supply well or on-lot wastewater treatment or disposal system may be located within any utility easement. All on-lot water supply wells must be set back the following minimum distances from all street rights-of-way and public utility easements unless the City has determined that the easement is not intended for sewer utility purposes or that the easement or street right-of-way is not needed for a sewer utility; except, no on-lot water supply well may be located within 10 feet of a property line or street right-of-way.

Well Classification as defined defined in 18 AAC 72	Minimum Setback (Feet)
Private	75
Class A Private	200
Class B Public	200
Class C Public	100

(Ord. 86-23 § 12 (part), 1986)

**1617.43.858 Water pollution.**

Development is prohibited from introducing any contaminant into the groundwater supply. Single-family homes on individual wastewater systems that meet ADEC standards are presumed to meet this policy. (Ord. 86-23 § 12 (part), 1986)

16.43.859 Animals. Farm animals are allowed in the Industrial Zone (IND) as a light industrial use. Farm animals are not allowed in the Core Area and R-2 zones. Farm animals may be permitted in the R1, I zones and Creekside Estate zones as described in the following.

The definitions in this section are intended to be specific to this section. Any word or term not defined shall be used with the meaning of common or standard usage as determined by a current edition of the Webster's Unabridged Dictionary.

Fence means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Fences required for the keeping of Farm Animals must be constructed and maintained in a manner that will effectively contain the animals and protect adjoining properties from intrusion.

Lot area means the total area within the property lines of a lot or the total area of lots with a common boundary line and ownership.

A. A residential use in the R1, I zones and Creekside Estate zones with a total lot area of 40,000 square feet or more may include the keeping of one farm animal as an accessory use. Provided that:

1. A suitable fence is provided;

2. No stable or building used for farm animals may be closer than 25 feet from any exterior lot line.

B. A residential use in the R1, I zones and Creekside Estate zones with a total lot area of 40,000 square feet or more may include keeping two farm animals as a use by right. Provided that:

1. A zoning permit is obtained;

2. A suitable fence is provided;

3. No stable or building used for animals may be closer than 25 feet from any exterior lot line;

4. A site plan is approved by the City Planner.

C. A residential use in the R1, I zones and Creekside Estate zones may include the keeping of three or more farm animals as a minor development if the total lot area is 80,000 square feet or more in size. Provided that:

1. Suitable fencing is provided;

2. No stable or animal building may be closer than 25 feet from an exterior lot line;

3. A site plan is approved by the City Planner.

D. Up to two dogs are allowed per residence. Keeping of more than two dogs more than four months of age is a light industrial use and will be conditioned on the following: size of lot, provision of secure fencing and or dog runs, solid waste disposal and leashing capabilities of the site, and noise control measures. Particular attention will be given to the comments of neighbors in deciding these issues.

E. No more than four hives per 10,000 square feet of lot area shall be allowed and bee colonies shall be managed in such a manner that their flight path to and from the hive will not bring them into contact with people on adjacent property. To accomplish this, the colonies shall:

1. Be at least 25 feet from any exterior lot line not in common ownership and be oriented with entrances facing away from adjacent property; or

2. Be placed behind a fence at least six feet in height and extending at least 10 feet beyond the hive in both directions.

F. Approval criteria for the site plan and any conditions on the approval shall be based on the following sections of this chapter:

1. Sensitive Areas 17.43.840 through 17.43.844;

2. Flood Damage Prevention 17.43.847;

3. Noise and light Pollution 17.43.862;

4. Trash Receptacles 17.43.863; and

5. Storm Drainage Plan 17.43.892.

**17.43.859 — Animals.**

A. To quarter a horse a lot must be at least two acres in size. One acre of lot is required for each additional horse after the first horse.

B. Up to two dogs are allowed per residence. Keeping of more than two dogs more than four months of age is a light industrial use and will be conditioned on the following: size of lot,

~~provision of secure fencing and/or dog runs, solid waste disposal and leashing capabilities of the site, and noise control measures. Particular attention will be given to the comments of neighbors in deciding these issues.~~

~~C. One acre is required for keeping a farm animal other than a horse. Keeping of more than one such animal will be conditioned on the following: size of lot, facilities for the animals, solid waste disposal and security capabilities of the site, and noise control measures. Particular attention will be given to the comments of neighbors in deciding these issues. (Ord. 86-23 § 12 (part), 1986)~~

#### **1617.43.861 Building codes.**

All development is required to meet the provisions of applicable building and life safety codes. (Ord. 68-23 § 12 (part), 1986)

#### **1617.43.862 Noise and light pollution.**

A. Except in the CA and IND districts a use may not produce any noise on an abutting lot that exceeds the level of noise that would normally be expected from uses-by-right authorized on the abutting lot or that would be expected from any lawful use being made of the lot, whichever is higher.

B. Exterior lighting of a development in any district may not shine directly onto a single-family, duplex or multifamily residential structure on an adjacent lot. (Ord. 86-23 § 12 (part), 1986)

#### **1617.43.863 Trash receptacles.**

Adequately located, sized and screened trash receptacles and areas are required. (Ord. 86-23 § 12 (part), 1986)

### **XXIX Public Improvements**

#### **1617.43.865 Construction plans.**

A. All of the required improvements must be installed by the developer to the boundaries of the development and shall be designed to provide for future extension to and service of contiguous areas. Prior to construction of off-site improvements, the City Engineer shall be notified in order that the proper plans, reviews, permits, inspection and financial responsibility may be provided.

B. Prior to construction, the developer shall obtain all necessary federal, state and local permits.

C. Prior to commencement of construction, the developer shall furnish to the City Planner Director a complete set of construction plans and profiles of all streets and other construction requirements of this chapter, existing and proposed, within the development, prepared by a licensed professional engineer or surveyor. The City Planner Director shall refer the plans to the City Engineer for review.

D. Plots, plans and drawings must meet the requirements of this subsection.

1. Plans and profiles and all construction drawings must be submitted in triplicate on twenty-two inch by thirty-four inch or twenty-four inch by thirty-six inch sheets.

2. The drawings must contain the following information:

- a. Name of development;
- b. Type of work;

- c. Date;
- d. Name of engineer or surveyor preparing the drawings;
- e. Space for approval of City Engineer.

3. North Arrow and Scale. Horizontal scale is preferred at one inch equals fifty feet. Vertical scale is preferred at one inch equals five feet; minimum is one inch equals ten feet.

4. Location of permanent bench marks must be shown. All profiles must be drawn using true elevations.

5. Profiles of streets must indicate finished and existing grades for the centerline of the street and must extend a minimum to two hundred feet beyond the limits of the proposed project.

6. Plans and profiles where applicable will also include details of curb and gutter, sidewalks, street cross-sections, location and elevations of manholes, catch basins, storm sewers and their appurtenant works, elevations of fire hydrants, water mains, type of pipe, valves and their appurtenant works, and location, size and elevation of sewer mains with their grades and type of pipe, manholes, cleanouts and any other appurtenances.

7. Complete survey data must be shown for all horizontal and vertical curves.

E. Upon completion of required improvements, a reproducible copy of "as-built" plans stamped by a licensed engineer or surveyor together with the engineer's inspection findings must be submitted by the developer in accordance with the requirements of the City of Wasilla Public Works Department. As-built plans must accurately reflect the actual conditions and be based on field observations and measurements made during or after construction. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.866 Improvement construction.**

No person may begin construction of any community water system, community sewer system, or drainage facilities required for development approval until the developer has complied with Title 5 of the City Code. No person may begin construction of a road until ~~he has~~ they have:

- 1. Submitted to the City Engineer a detailed method of construction, which may include engineered plan and profile drawings at the option of the City Engineer, cost, and time schedule of all public improvements within the development;
- 2. Submitted to the Engineer required approvals from all other governmental agencies; and
- 3. Received written approval from the Engineer to proceed with construction and has paid the required inspection fees. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.867 Certification of construction.**

After the improvements are constructed, evidence of construction must be submitted to the City Engineer by the developer's engineer. ~~(Ord. 86-23 § 12 (part), 1986)~~

**XXX Streets, Curb, Gutter, and Sidewalks**

**1617.43.869 General requirements.**

A. The design, criteria, specifications and standard details approved by the Council under Section 1617.43.802 are minimum standards for the design of improvements, kind and use of

materials, and methods of construction of roadways and appurtenances, alleys, drainage and other improvements. It is the policy of the City to adhere to these standards and specifications; however, if the design standards cannot be followed due to unusual terrain, soil characteristics or drainage, the Public Works Department will consider alternate solutions and may approve changes when substantiated by a design analysis prepared and certified by an engineer to be equal in performance and safety to the standards approved by the Council or may require changes if the standards are inadequate to address a specific situation.

B. All soils reports or certification documents of public improvements submitted by the developer must be certified by a registered professional engineer or surveyor. This certification must signify that the documents were prepared by the engineer or under his direct supervision and in accordance with the laws of the State of Alaska governing such practices.

C. The street system must be devised for the most advantageous development of the entire neighborhood area. Collector streets must be continued and be of at least equal width. Street jogs should be avoided wherever possible. The street system must provide for connecting streets into adjoining undeveloped lands. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **17.43.870 Street classifications.**

Streets within the City are classified as follows:

A. Highways provide for the movement of traffic at relatively high rates of speed (forty to fifty-five miles per hour) within and through the Borough, providing service to larger cities and towns. They facilitate through traffic and are not intended to provide access to or from abutting properties. Access is usually limited to traffic from arterials or collector streets. Highways typically serve traffic volumes in excess of one thousand Average Annual Daily Traffic (AADT).

B. Arterial streets provide for intra-city and cross-Borough traffic between principal traffic generators and destinations. The length of the typical trip on an arterial exceeds one mile. Average speeds range from thirty-five to fifty-five miles per hour depending on physical road conditions and spacing of access. Typical traffic volumes range from four hundred to four thousand AADT. Arterials collect and distribute traffic to collector roads or other arterials and do not serve as principal means of direct access to abutting property.

C. Collector streets move traffic from local roads to arterial roads and serve internal traffic within an area of the city such as a subdivision. They do not handle long through trips. A collector may provide access to abutting property as a secondary function. Traffic speeds are moderate and volumes range from sixty to six hundred AADT.

D. Local/residential streets function primarily to provide access to abutting property and carry traffic to collector and arterial roads. They are frequently designed to discourage through traffic. Traffic speeds are relatively low and traffic volumes are typically under two hundred AADT.

E. Frontage roads separate properties from heavily traveled through-streets, provide access to those properties and eliminate the need for unlimited access to through-streets.

F. Alleys are service ways providing a secondary means of public access to abutting property and are not intended for general traffic circulation. (Ord. 86-23 § 12 (part), 1986)

#### **17.43.871 Cul-de-sacs.**

A. Cul-de-sac roads may be used in subdivision design where internal road circulation is restricted by topography and adjacent land use, or for safety and privacy of the residents. Cul-de-

sac roads should be designed to facilitate the movement of emergency and maintenance equipment within the subdivision. Cul-de-sacs may not be used:

1. Where a stub road to an adjacent unsubdivided parcel is feasible and necessary for access to that parcel; or
2. Where the road, if extended, will connect with an existing road and is necessary or desirable to provide circulation of traffic.

B. No cul-de-sac road may be used as the sole access for a nonresidential use or to serve more than a potential of twenty dwelling units. Where land that has not been divided into lots abuts a cul-de-sac road, that land will be considered as though divided into building lots of the size typical to the area for the purpose of determining the maximum number of lots and dwelling units that may be served by the cul-de-sac. A cul-de-sac must terminate with a dedicated turnaround which must be constructed to City standards for public improvements.

C. No cul-de-sac, for a road within a recorded subdivision plat, may exceed eight hundred fifty feet in length, measured from intersection to center point.

**1617.43.873 Walkways.**

Pedestrian walkways not less than four feet wide are required where necessary to provide reasonable circulation or access to schools, playgrounds, shopping center, transportation or other community facilities. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.874 Sidewalks.**

The developer shall construct sidewalks to City standards in all development within the WC and CA districts. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.875 Bike paths.**

Bike paths, where required, must be constructed to the standards established by the Alaska Department of Transportation and Public Facilities for bicycle paths or ways. ~~(Ord. 86-23 § 12 (part), 1986)~~

**XXXI Water System**

**1617.43.878 Water system.**

If a major development is proposed within five hundred feet of an existing, adequate public water system, the developer shall construct a distribution system and the connection to the public system if the public system is adequate or can be made adequate to serve the addition. The developer shall construct and pay for any increase in the size of existing public water lines and production facilities required to serve the proposed development. A public system is adequate if, in the judgement of the City Engineer, it is feasible for the developer to make improvements to the public system which will provide the increased capacity necessary to serve the existing users and the new development at the same level as is being provided to the existing users. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.879 Community water systems.**

A. If an adequate public water system is not available, the developer shall construct a community water system unless the developer he has clearly demonstrated that individual wells will provide an adequate source of safe drinking water.

B. All community water systems must be approved by the Alaska Department of Environmental Conservation or other state agency which has prescribed standards of quality or quantity for domestic water supplies.

C. Prior to approval of a subdivision or development permit for which a community water system is required, the developer must submit evidence showing that there is available a satisfactory source of water for the development. A source of water is satisfactory only if it can be shown that the proposed source will produce water sufficient in quality and quantity to supply the development and that the developer has obtained or can obtain a water appropriation permit or certificate for the water from the state.

D. The developer shall, through formation of a homeowners' association, utility company or by other means, provide for the operation and continued maintenance of the community water system in a manner satisfactory to and approved by the Commission. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.880 Fire flows.**

For all water distribution systems within a development, the system itself and the connection between such distribution systems and the source must be sized and constructed to meet fire flow and hydrant requirements for fire protection, without regard to the capacity of the proposed source. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.882 Oversizing.**

When the developer is required to install connecting lines, to increase the size of existing public lines or to install a distribution system within the development, the City Engineer may require any or all parts of such installation to be oversized if the City Engineer ~~he~~ reasonably believes that within the expected life of the new construction an increase in capacity will be required to serve other areas. The installation, compensation and other relevant matters will be accomplished in the same manner as provided for oversized sewers under Section 1617.43.886.

Notwithstanding the requirement that the developer construct improvements to existing systems, the City Engineer may elect to accomplish the design or construction, or both, of improvements to be made to existing public systems. In such a case, the City Engineer ~~he~~ may require advance payment to the City of the estimated cost of work to be accomplished by the City. The developer shall reimburse the City for all expenses of such design or construction not paid in advance. ~~(Ord. 86-23 § 12 (part), 1986)~~

**XXXII Sanitary Waste**

**1617.43.885 Public sewer.**

Where public sewer facilities are available within five hundred feet of the boundary of a proposed major development the developer shall install collectors and laterals as required by the City Engineer. ~~(Ord. 86-23 § 12 (part), 1986)~~

**1617.43.886 Oversizing.**

When installation of oversized sewer pipelines is required by the City Engineer, the developer shall install such sewer pipeline at their ~~his~~ own expense. The developer shall be reimbursed the amount determined by the City Engineer to be the difference in cost between the installed cost of the oversized sewer lines and the installed cost of the sewer lines adequate to serve both the

development concerned and all other land to be served by the sewer lines which is owned or under the control of the developer; provided, the developer may not be required to install oversized sewer lines unless funds for such oversizing have been appropriated for the purpose by the City and there is a sufficient unencumbered balance in the balance in the appropriation. No reimbursement may be made unless the developer has entered into such agreement with the City, including conveyances of land or rights in land, as the City determines may be necessary to ensure complete control by the City of its sewer and water lines when they are extended to serve the property of the developer.-  
(Ord. 86-23 § 12 (part), 1986)

**1617.43.888 Community sewer systems.**

A. Where an existing approved community sewage treatment facility is near or within the boundary of a proposed development, the developer and the state regulatory agency having jurisdiction shall evaluate the feasibility of connecting to the system.

B. Any proposed community sewage treatment facility shall be designed by the developer's engineer and the design approved by the State regulatory agency having jurisdiction prior to construction. Construction of the system shall be inspected and approved by the developer's engineer and the appropriate state agency. Two sets of as-built drawings, stamped by the developer's engineer, shall be submitted for each community system installed. A letter of approval to the City and the developer from the appropriate state agency is required before the system by be placed in service.

C. The developer shall, through formation of a homeowners' association, utility company or by other means, provide for the operation and continued maintenance of the community sewer or sewage treatment system in a manner satisfactory to and approved by the Commission. (Ord. 86-23 § 12 (part), 1986)

**1617.43.890 Septic system.**

A. If a public or community sewer system is not available sewage shall be disposed of by an on-site subsurface system, except where the Commission approves an alternate method, such as a community sewage treatment facility, or a mechanical or incineration system. The Commission may not approve a system using soil absorption where it finds that such a system will impair water quality. The Commission may approve an alternative sewage disposal method only if it is furnished a satisfactory guarantee assuring that the system employed will be installed and maintained in accordance with the statutes and regulations of the State governing sewage systems and water wells.

B. When the Commission finds that a development may result in hazard to persons or property on or beyond the boundaries of a proposed development, the Commission may impose more restrictive standards than established in this chapter, and may require construction of public improvements in addition to those required by this or other provisions of law.

C. Water table and ability of soils to accept effluent shall be determined by a number of twelve foot deep borings or test holes sufficient to indicate subsurface conditions over the entire area of the development. These borings or test holes must be accomplished under the direct supervision of a registered engineer who shall submit his soil logs and other findings in writing to the Alaska Department of Environmental Conservation for review and recommendations and to the City.

D. When soil logs indicate a questionable seepage capacity, percolation testing is required on individual lots or any marginal area of the development. Percolation tests must be



conducted according to the "EPA Design Manual, On-Site Wastewater Treatment and Disposal Systems" and in compliance with statutes and regulations of the State which govern these requirements. Percolation tests shall be conducted under the direct supervision of a registered professional engineer.

E. The developer is responsible for ensuring that all test hole data, percolation tests data, soil logs and Department of Environmental Conservation recommendations are made available to the Commission for consideration.

F. No part of a subsurface sewage disposal system may be closer than one hundred feet from any body of water or watercourse. The Commission shall require that this distance be increased where necessary to protect waters within or passing through the City.

G. No surface discharge of treated or untreated sewage shall be allowed. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **XXXIII Storm Drainage**

#### **1617.43.892 Storage drainage plan.**

The developer shall be responsible for a total surface drainage plan subject to approval of the City Engineer, including the methods to be used, such as storm drains, culverts or other facilities, and the effect of the propose drainage changes on the adjacent properties, it any. ~~(Ord. 86-23 § 12 (part), 1986)~~

#### **1617.43.893 City drainage system.**

The developer shall install that part of the city-planned area drainage system that is within the development if the rights-of-way, easements or other permits necessary to construct a functional system exist or will probably exist prior to such date as is established by the Commission. If the Commission does not set a date, the date is six months from development permit or preliminary plat approval, whichever is later. If adequate easements or permits do not exist when preliminary plat approval is given, the City shall immediately attempt to acquire the necessary easements or permits without cost to the City or at a cost not to exceed either the fair market value or the amount available that has been appropriated for the purpose of acquiring such easements or permits. If the Engineer determines the easement or permit will be acquired by the City before the development is developed, the developer shall deposit with the City the amount determined by the Engineer to be the applicant's fair share of the easement cost. The developer may acquire for the City the necessary easements or permit or may contribute to the City part or all the cost of acquiring such easements or permits the City is willing to acquire but for which adequate funds are unavailable. The Commission may require the developer to make improvements to the downstream parts of the City's planned area drainage system necessary to accommodate the drainage from his development if the cost of such improvements is not substantial compared to all other development costs. If the developer does not install that part of the City's planned area drainage system that is within the development, the developer he shall make a payment-in-lieu to the City equal to the cost of such installation as estimated by the City Engineer and ~~he~~ the developer -shall install an interim drainage system as prescribed by the City Engineer. Payments-in-lieu made by a developer under this section must be used to offset special assessments made against the property for City's planned area drainage system improvements within the development or applied to the cost of such improvements within the development. ~~(Ord. 86-23 § 12 (part), 1986)~~

### **XXXIV Mobile Home Parks**

**1617.43.896 Requirements.**

- A. A permit for the establishment of a mobile home park may be issued provided that the proposed mobile home park meets all of the requirements of this section.
- B. Individual mobile home spaces must have an area of not less than three thousand square feet. No density bonus may be awarded above this density.
- C. Maintenance of existing trees or planting of trees and shrubs is required to the extent needed to provide for screening of objectionable views from neighboring uses and a suitable setting for the mobile homes in the park.
- D. A minimum of twenty-five feet measured from any entrance, lean-to or other extension from a mobile home must be maintained between mobile homes.
- E. A mobile home park must have an area of not less than two acres. In the I district, no mobile home park may be larger than ten acres or closer to an existing mobile home park than one-fourth mile, measured by the most direct route on an improved public right-of-way. No structure may be closer to a street right-of-way or other property line than twenty-five feet. All other setback requirements of this chapter, including those applicable to sewage systems, wells, the Parks Highway, and waterbodies, apply to all structures within a mobile home park.
- F. The area of the mobile home or trailer stand must be improved to provide adequate and approved foundation for the placement and tie-down of the mobile home or trailer, to secure the superstructure against uplift, sliding, rotation or overturning. ~~(Ord. 86-23 § 12 (part), 1986)~~

**XXXV Resource Extraction**

**1617.43.899 Requirements.**

A permit for the commercial extraction of a natural resource other than timber may be issued by the Commission with such reasonable conditions as it finds necessary. The application must meet all other pertinent requirements of this chapter and include an operation and reclamation plan acceptable to the Commission that addresses the following concerns and assures that the adverse impact of the operation is minimized and the site will be left in a safe, stable and aesthetically acceptable condition:

- A. Methods and process of reclamation (e.g., stockpiling of topsoil for reuse);
- B. Initial site conditions;
- C. Limits of operational areas;
- D. Days and hours of operation;
- E. Traffic patterns;
- F. Fencing and screening;
- G. Control of dust and noise;
- H. Phasing of operations and reclamation steps;
- I. Final condition of site;
  - 1. Relation to adjoining land forms and drainage features,
  - 2. Relation of reclaimed site to planned or established uses of the surrounding area.
  - 3. Demonstration that the final land form will have a viable land use compatible with land use trends in the surrounding area. ~~(Ord. 86-23 § 12 (part), 1986)~~

**XXXVI Relative Policies**

**1617.43.901 Application.**

The relative policies in Section 1617.43.901 through 1617.43.984 of this chapter are used in conjunction with the scoring system set out Section 1617.43.509 to encourage positive impacts of development and to discourage the negative impacts. Numbers in parentheses in the text and tables in Sections 1617.43.902 through 1617.43.984 are the importance multipliers used in the scoring system set out in Section 1617.43.509. Letters used in the text and tables in Sections 1617.43.902 through 1617.43.984 have the following meanings:

- "A" means the policy is an absolute requirement.
- "O" means the policy is not applicable.
- "CA" means the importance multiplier applies only in the CA District.
- "X" means the importance multiplier applies in all districts except the CA District.

Importance multipliers may not be used where the policy sets out a requirement for an action or an improvement that is made a requirement by another section of this chapter. (~~Ord. 86-23 § 12 (part), 1986~~)

### **XXXVII High Quality of Life**

#### **1617.43.905 Public improvements provided by the developer/user.**

Subdividers provide the designated items at the time of platting. Except where the improvement is an absolute requirement, development on already platted lots may implement the policies of this section by the execution by the property owner of a recordable waiver of the right to protest the formation of a special assessment district and the levy of an assessment for the construction of the improvements.

<b>Existing Platted Lots</b>		<b>New Subdivisions</b>		<b>Item</b>
<b>CA</b>	<b>X</b>	<b>CA</b>	<b>X</b>	
5	3	A	3	(a) Paved Streets
3	2	3	3	(b) Trail Linkage
3	2	A	2	(c) Curb, Sidewalk
4	4	A	3	(d) Storm Drainage System were not required by Section <u>1617.43.893</u>
A	3	A	4	(e) Public Sewer System
A	3	A	3	(f) Public Water System
0	0	4	2	(g) Public Park
0	0	3	3	(h) Site for school or other public building
2	2	4	3	(i) Public Access to a waterbody
4	2	5	3	(j) Street Lights

(~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.908 Other improvements provided by the developer/user.**

Existing Platted Lots		New Subdivisions		ITEM
CA	X	CA	X	
0	0	3	2	(a) Development Area (private) park or recreation feature
0	0	3	3	(b) Development Area Access to water body
5	3	5	4	(c) Underground Utilities
3	2	3	2	(d) Snow Storage Area
A A-Multi & nonres. 2 - Other	A A-Multi & nonres. 2 - Other			(e) Covered, secure screened trash receptacles
0	0	4	2	(f) Covenant against mobile homes/temporary buildings
0	0	2	0	(g) Covenants requiring architectural review
4	2	4	2	(h) RV storage - multifamily

Except where the improvement is an absolute requirement, development on already platted lots may implement the policies of this section by the execution by the property owner of a recordable waiver of the right to protest the formation of a special assessment district and the levy of an assessment for the construction of the improvements (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.910 Ambience.**

A. Development is encouraged (CA=4, X=5) to provide grass yards within or outside of setback areas as follows:

	CA	X
10 feet front		25 feet
5 feet side & rear		10 feet

B. Development is encouraged (CA=5, X=3) to screen building mechanical equipment, and outdoor storage of vehicles and equipment.

C. Development is encouraged (CA=4, X=5) to incorporate landscaping including trees, shrubs and flowers in setback and yard areas. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.915 Mobile homes and mobile home parks.**

Where allowed by Sections 1617.43.301 through 1617.43.364 of this chapter, mobile homes and mobile home parks are discouraged (3). (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.920 Use compatibility.**

Nonresidential development, other than garden-style commercial is discouraged (3) in the WC and I districts. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.923 Density compatibility.**

A. In the CA district, residential development at twice or greater than the average density of adjacent developed lots is discouraged (2). Such development at four times the average is discouraged (4).

B. In districts other than the CA District, development at 1.5 or greater than the average density of adjacent developed lots is discouraged (3). Development at four times the average is discouraged (5). (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.928 Public amenities.**

Development which contains, fosters or encourages the following is encouraged:

CA	X	Item
4	2	(a) Public Library
4	2	(b) Health Care
3	3	(c) Recreation
4	1	(d) Car Pooling/Public Transportation
4	3	(e) Pedestrian/Bike Paths
4	3	(f) Police Surveillance Protection
5	4	(g) Fire Protection

(~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.930 Coordinated development.**

Residential development of more than ten units and nonresidential development of more than ten thousand square feet gross floor area are encouraged (3) to be designed to provide for all of the following: preservation of open space, sensitive areas and other natural features; provision of buffers and screens between residential and nonresidential development within the development, common signage, and provisions of safe and convenient parking and circulation for autos, pedestrians and bicycles. This concept incorporates a holistic approach to development planning rather than just meeting minimum standards. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.940 Sensitive areas.**

A. Multifamily or commercial development of property adjacent to water bodies is encouraged (CA=2, X=4) to provide public access to the water.

B. Development is encouraged (4) to preserve scenic vistas from public places. "Scenic vistas" include significant views of lakes or mountains from public streets or parks. Preservation techniques include siting of improvements on the lot, sensitive treatment of height and bulk, landscaping, preservation and/or opening of trees on the site, and/or permanent open space easements on the site.

C. Development in sensitive areas set forth in Section 1617.43.910 is encouraged (CA=4, X=3) to dedicate those areas as common facilities. The developer may cluster the density

ascribed to the sensitive area elsewhere on the site. The points under this policy are doubled if the sensitive area is dedicated to the public. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.943 Hazard areas.**

A. Development in flood hazard areas, floodways, and flood plains designated under Chapter ~~17.18 (should read 17.29)~~ of the Matanuska-Susitna Borough Code or on the Constraints Map in the Comprehensive Plan is discouraged (CA=4, X=3).

B. Development on slopes over thirty percent is discouraged (3).

C. Development on slopes between fifteen and thirty percent is discouraged (2) unless designed, engineered and constructed to maintain slope stability and minimize erosion through contouring and replanting.

D. Development not on the city designated storm drainage system is discouraged (4) from discharging storm water runoff at a different rate, amount, velocity, turbidity or location than present immediately prior to development.

E. Development covered by this section must be designed by a registered professional engineer and must minimize risk of loss of life or property and meet the requirements of Chapter 17.29 where applicable. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.946 Air Pollution.**

Major development projects are encouraged (3) to take affirmative steps beyond those required by the State Department of Environmental Conservation to reduce potential air pollution on the site. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.949 Noise Pollution.**

Development in the CA and IND districts which would likely produce more than seventy dB(A) of noise at the property line during daytime, or fifty-five dB(A) at night is discouraged (4). (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.952 Trees.**

Development is discouraged (4) from clearing more than the minimum trees necessary for construction of improvements and access. (~~Ord. 86-23 § 12 (part), 1986~~)

**XXXVIII Business and Commerce**

**1617.43.960 Core Area.**

Nonresidential development is encouraged (5) in the CA District. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.963 Remainder of the City.**

A. Commercial and public/institutional development is discouraged (2) outside the core area.

B. Light industrial development other than agriculture is discouraged (4) outside the core area except within "IND" Industrial Districts.

C. Notwithstanding subsection A of this section, properly sited, lighter and buffered small retail projects designed to serve the immediate neighborhood are encouraged (3) where collectors and arterials intersect with each other in the I district. (~~Ord. 86-23 § 12 (part), 1986~~)

**1617.43.966 Shared parking.**

Nonresidential development which uses shared or common parking facilities with neighboring development is encouraged (4). (~~Ord. 86-23 § 12 (part), 1986~~)

### **XXXIX Economy**

#### **1617.43.970 New jobs.**

Development which contains new facilities for jobs in the City is encouraged (4). One additional point will be awarded for every four full-time equivalent jobs created in the development. The raw score multiplier determined under Section 1617.43.509 of this title chapter does not apply to the additional points awarded under this section. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.972 Local hire.**

The points awarded in Section 1617.43.970 of this title chapter are doubled if the developer or occupant adopts and implements a viable local hire program. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.974 New basic jobs.**

The additional points awarded in Section 1617.43.970 of this title chapter are doubled for all permanent jobs which are new to the community, as opposed to new accommodations for existing jobs. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.976 Recreation development.**

Development incorporating or promoting recreation opportunities available to the public is encouraged (CA=5, X=4). (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.978 Resorts.**

Destination resort development containing at a minimum lodging, restaurant, and facilities for recreation or meetings is encouraged (CA=5, X=4). (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.980 Jobs.**

The additional points awarded under Section 1617.43.970 of this title chapter are doubled if the jobs are in the recreation or resort/convention visitor industry. (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.982 Public buildings and facilities.**

Development containing Federal, State, or Borough (other than the school district) offices or facilities are encouraged (5). (~~Ord. 86-23 § 12 (part), 1986~~)

#### **1617.43.984 Public jobs.**

The points set out in Section 1617.43.970 of this title chapter are doubled if those jobs are in the public section. (~~Ord. 86-23 § 12 (part), 1986~~)

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