



**CITY OF WASILLA**

290 E. HERNING AVE.  
WASILLA, ALASKA 99654-7091  
PHONE: (907) 373-9050  
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**CODE ORDINANCE**  
REQUESTED BY: PLANNING COMMISSION  
PREPARED BY: PLANNING

**ORDINANCE SERIAL NO. 96-29**

AN ORDINANCE OF THE CITY OF WASILLA, ALASKA, REPEALING CHAPTER 16.43 (WASILLA DEVELOPMENT CODE) OF THE WASILLA MUNICIPAL CODE; AND ADOPTING CHAPTER 16.43 (WASILLA REVISED DEVELOPMENT CODE), AS PART OF THE WASILLA MUNICIPAL CODE, INCLUDING THE ADOPTION OF A REVISED WASILLA ZONING MAP, DATED MAY 30, 1996.

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 replace the regulatory framework for land use and development in the City of Wasilla with a new, revised code that is responsive and convenient for the residents of Wasilla.

SECTION III. Enactment. Chapter 16.43, (Wasilla Development Code) of the Wasilla Municipal Code, and the "Zoning Map of the City of Wasilla, Alaska", dated March 26, 1986, and referenced in Section 16.43.301 (Zoning Map) of the Wasilla Development Code, are hereby repealed in their entirety.

SECTION IV. Enactment. Chapter 16.43, (Wasilla Revised Development Code) of the Wasilla Municipal Code, as contained in Attachment A of this ordinance, and the revised "Zoning Map of the City of Wasilla, Alaska", dated May 30, 1996, and referenced in Section 16.43.326 (Zoning Map) of the Wasilla Revised Development Code, are hereby adopted in their entirety as part of the Wasilla Municipal Code.


SECTION V. Effective Date. This ordinance becomes effective upon adoption.

Introduction: 06/24/96

Public Hearing: 07/08/96 & 07/22/96

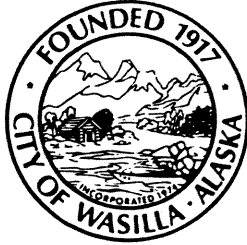
ADOPTED by the Council of the City of Wasilla on this 12th day of August, 1996.

ATTEST:

  
\_\_\_\_\_  
MARJORIE D. HARRIS, CMC  
City Clerk

  
\_\_\_\_\_  
JOHN C. STEIN, Mayor

(SEAL)



# CITY OF WASILLA

290 E. HERNING AVE.

WASILLA, ALASKA 99654-7091

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## WASILLA PLANNING COMMISSION RESOLUTION NO. 96-18

A RESOLUTION OF THE WASILLA PLANNING COMMISSION (WPC) OF THE CITY OF WASILLA, ESTABLISHING A FEE SCHEDULE, A LIST OF REVIEW AGENCIES, AND AN ENFORCEMENT POLICY AND PROCEDURE TO ACCOMPANY THE WASILLA REVISED DEVELOPMENT CODE THAT WAS RECENTLY FORWARDED TO THE WASILLA CITY COUNCIL.

WHEREAS, the Public Hearing Draft of the Wasilla Revised Development Code calls for certain fees, and policies to be established by resolution; and,

WHEREAS, it is necessary to establish those prescribed fees and policies prior to the adoption of the proposed new development code; and,

WHEREAS, the Wasilla Planning Commission, having spent many months developing the draft ordinance now being considered by the City Council, can now turn its full attention to the issue of fees, review agencies and enforcement policies;

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla Planning Commission of the City of Wasilla, hereby establishes the following provisions in accordance with requirements of the Wasilla Revised Development Code:

1. FEES, a fee schedule to accompany the Wasilla Revised Development Code is hereby established in accordance with Section 16.43.312 of the proposed code as follows:

Administrative Approval	\$ 50.00	
Use Permit	100.00	
Conditional Use Permit	500.00	
Rezoning	500.00	
Planned Unit Development	500.00	
Enforcement Order Review Hearing	50.00	
Appeal to Commission	100.00	
Appeal to Council	200.00	plus reasonable cost of City Clerks Office to produce appeal record.
Temporary Use Permit	50.00	

2. REVIEW AGENCIES, a list of review agencies is hereby established in accordance with Section 16.43.308 of the Wasilla Revised Development Code:

City

Public Works  
Neighborhood Boards, when a neighborhood plan is adopted as part of the overall City comprehensive plan.

Borough

Planning Director  
Public Works  
Fire Chief  
Coastal Management  
Platting Division

Federal

Corps of Engineers/Wetlands  
HUD  
FAA

State

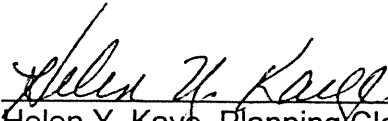
ADEC  
ADF&G  
DNR Water Resources  
DNR Technical Services  
DOT/PF Aviation  
DOT/PF Driveways/ROW  
Fire Marshal  
Alaska Railroad  
Wasilla Soil and Water Conservation District

Utilities

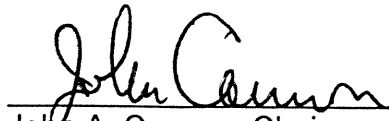
MEA  
MTA  
Enstar  
Rogers Cablesystems

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the Wasilla Planning Commission this 2<sup>nd</sup> day of Aug., 1996.

RESPECTFULLY SUBMITTED:

  
\_\_\_\_\_  
Helen Y. Kaye, Planning Clerk

APPROVED:

  
\_\_\_\_\_  
John A. Cannon, Chair



## CITY OF WASILLA

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### WASILLA PLANNING COMMISSION RESOLUTION NO. 96-14

A RESOLUTION OF THE WASILLA PLANNING COMMISSION (WPC) OF THE CITY OF WASILLA, RECOMMENDING THE REPEAL OF CHAPTER 16.43, WASILLA DEVELOPMENT CODE, OF THE WASILLA MUNICIPAL CODE; AND RECOMMENDING ADOPTION OF CHAPTER 16.43, WASILLA REVISED DEVELOPMENT CODE, OF THE WASILLA MUNICIPAL CODE, INCLUDING THE ADOPTION OF A REVISED WASILLA ZONING MAP, DATED MAY 30, 1996.

WHEREAS, the current Wasilla Development Code and zoning map were adopted in 1995 by the City of Wasilla, as an interim measure, to facilitate the delegation of planning and zoning authority from the Matanuska-Susitna Borough to the City of Wasilla, and;

WHEREAS, the current Wasilla Development Code has been in effect within the City of Wasilla in substantially the same form for the past ten or eleven years, and;

WHEREAS, the WPC has held many advertised public work sessions, meetings and public hearings on proposed revisions to the development code in order to encourage public input, and;

WHEREAS, the WPC, with the aid of consultants, staff and interested public, have developed a new development code framework, with revised land use standards, new administrative procedures, and a revised zoning map to reflect the new development district designations as they will be applied to all lands within the City of Wasilla, and;

WHEREAS, the intent of these changes is to benefit the residents of Wasilla, by making land use development rules easier to understand, by reducing the time needed to obtain basic development permits, by maintaining a reasonable level of development standards in the community, and by promoting the goals and objectives of the comprehensive plan, and;

WHEREAS, the Commission now believes that the Wasilla Revised Development Code, dated June 15, 1996, and the related Zoning Map, dated May 30, 1996, are ready for consideration and adoption by the Wasilla City Council;

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla Planning Commission of the City of Wasilla, hereby forwards to the Wasilla City Council, a recommendation to repeal Chapter 16.43, Wasilla Development Code, of the Wasilla Municipal Code, in its entirety, including the existing Zoning Map dated April 22, 1987, as it has been amended over time, and;

FURTHER BE IT RESOLVED, that the Wasilla Planning Commission of the City of Wasilla, recommends that the Wasilla City Council adopt an ordinance to enact Chapter 16.43, Wasilla Revised Development Code, of the Wasilla Municipal Code, including the revised Zoning Map dated May 30, 1996.

I certify that a resolution in substantially the above form was passed by a majority of those voting at a duly called and conducted meeting of the Wasilla Planning Commission this \_\_\_\_ day of \_\_\_\_\_, 1996.

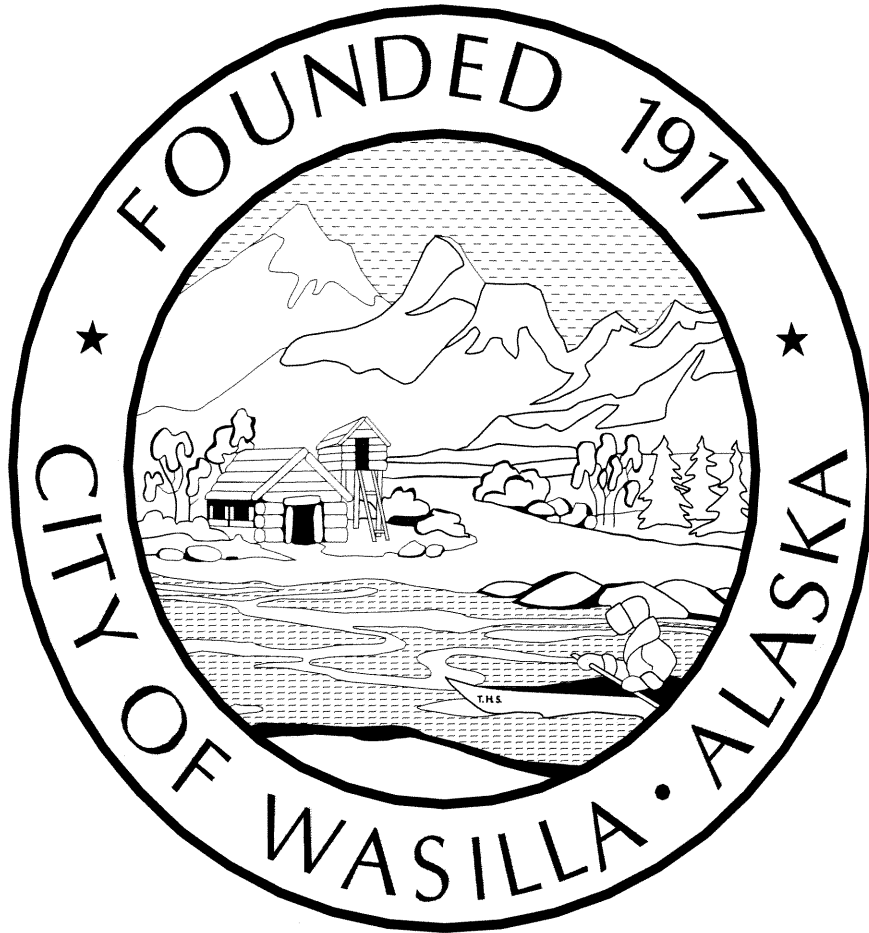
RESPECTFULLY SUBMITTED:

APPROVED:

\_\_\_\_\_  
Helen Y. Kaye, Planning Clerk

\_\_\_\_\_  
John A. Cannon, Chair

# CITY OF WASILLA DEVELOPMENT CODE



Prepared by the Wasilla Planning Commission, with assistance from:

Community Planning, Planning Consultants  
Wasilla Planning Office

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## **16.43.100 GENERAL PROVISIONS**

**16.43.102 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 ensure public involvement in permitting, planning and zoning decisions;
- E. To identify and avoid, mitigate, or prohibit the negative impacts of growth; and
- F. 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.

**16.43.104 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.

**16.43.106 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.

**16.43.108 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.

**16.43.110 Comprehensive Plan.** The Wasilla Comprehensive Plan is a compilation of policies, plans, maps and associated materials and forms the basis for approvals under these regulations. The Wasilla Comprehensive Plan is implemented, in part, by the regulations set out in this chapter.

**16.43.112 Effective Date and Transition.** The ordinance codified in this Title shall become effective on August 12, 1996. The enactment of this Title or repeal of its predecessor law does not release or extinguish any penalty, forfeiture, or liability incurred, nor right accruing or accrued under the predecessor law. Permits, hearings and appeals filed and accepted prior the effective date of this Title shall be conducted according to the provisions of the predecessor law.



## **16.43.200 DEFINITIONS**

**16.43.202 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:

1. Words used in the present tense include the future tense.
2. The singular number includes the plural and the plural the singular.
3. The words "must" and "shall" are mandatory and the term "may" is permissive.
4. The words "including" or "includes" means "including but not limited to."
5. The provisions of this Title shall be liberally construed favoring the purposes of this Title, the purposes of the specific zoning districts and the approval criteria of sections 16.43.508 and 16.43.510.

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

1. Accessory use or structure means a use or structure customarily subordinate or incidental to a primary use, and located on the same lot with the principal use or building and includes garages, required parking areas, small parks or playgrounds, living quarters necessary for caretakers, guards or employee overnight accommodations.

2. Adjacent or Adjoining 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.

3. Administrative Approval means an approval made by the Planner under section 16.43. 402 with out public notice.

4. Adult Businesses means a use which is the retail or wholesale display, sale, rental, or provision of adult oriented entertainment, goods, merchandise, or activities. Any commercial use where at least 25 percent of its interior floor area, or at least 25 percent of the showing time, or where at least 25 percent of its merchandise, is devoted to the display, sale, viewing, or rental of adult-oriented entertainment, goods, merchandise, or activities is an adult business. Adult-oriented entertainment, goods, merchandise, or activities refers to books, magazines, films, videos, photographs, or other such similar materials whose dominant content or theme is the actual or simulated depiction of sexual activities, display or exhibition of specified anatomical areas, or total nudity. Adult oriented entertainment, goods, merchandise, or activities is intended to include goods, merchandise, or activities depicting, describing, or pertaining to human sex acts or that include an emphasis on the display or depiction of male or female genitals, male or female buttocks, or female breasts. Typical examples of such adult businesses would include, but not be limited to, adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcades, adult video rental stores, adult bookstores, and nude or partially nude dancing establishments commonly referred to as "exotic dancing" or strip tease dancing businesses, and otherwise including dancing performed to emphasize the display of nude or partially nude aspects of the human anatomy referred to herein. Adult business includes hotel, motels or similar establishment which offers a sleeping room for a period of time less than 10 hours or allows a tenant or

occupant to sub-rent the room for a period of time that is less than ten hours. For purposes of the definition of adult businesses, establishments found not to be subject to or regulated by Chapter 13.20 (Lewdness) but otherwise within the definition of adult businesses, as provided for herein, are to be included as within the meaning of adult businesses.

5. Agriculture is a use involving the commercial growing of vegetation or the raising of animals.

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

7. Approval means any Administrative Approval, Use Permit or Conditional Use issued under this Title.

8. Automotive sales is a commercial use involving the display of three or more vehicles for sale.

9. Bed and Breakfast (B&B) means an owner occupied residential dwelling with up to four guest rooms, and includes residential uses offering overnight accommodations to registered transient guests and in which a breakfast is customarily provided to registered guests and included in the charge for the room.

10. Borough (MSB) means the Matanuska-Susitna Borough.

11. Building means any structure over 120 square feet intended or used for the support, shelter or enclosure of persons, animals, or property of any kind.

12. Building height (for purposes of determining the maximum height of a building) means the vertical distance from the average elevation of the finished grade at the foundation 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 mechanical features.

13. Building line for purposes of determining a front setback, means the exterior line of all existing buildings in a block projected on a horizontal plane including steps, open porches and similar appurtenances.

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

15. Campground means a private or publicly owned use which includes two or more campsites that are located, established or maintained for rent or public use for temporary occupancy by any tent, camper, travel trailer, recreational vehicle, cabin or similar building for recreation, vacation, education or rehabilitation purposes.

16. Cemetery means a use providing of burial plots for individuals from different families. The provision of burial plots for family members is not a cemetery.

17. Church means a use involving the organized worship of any deity(s) or the practice of any religious or occult discipline including ceremonies, services and accessory uses.

18. City means the City of Wasilla, Alaska.

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

20. Clerk means the Clerk of the Planning Commission of the City of Wasilla.

21. Commercial means an a use involving the storing, wholesaling, retailing or rental of any article, service or substance for cash, trade or any form of compensation, and supporting activities and buildings.

22. Commission means the City of Wasilla Planning Commission.

23. Communication equipment includes navigational aides, commercial satellite dishes, antennas over 35 feet in height, and airport approach lighting.

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

25. Conditional use is a use reviewed and decided upon by the Commission under section 16.43.506. A Conditional use requires a public hearing.

26. Convenience store is a commercial use not involving the sale of automotive fuels which is conducted only on the first floor of a building, occupies 1,000 square feet or less of the building, retails merchandise or services primarily to the neighborhood and is located on a lot with frontage on a street designated as a collector street in the City Comprehensive Plan.

27. Council means the City Council of the City of Wasilla.

28. Correctional Facility means a use, in a public or private facility, providing living quarters in a secure situation for prisoners or people awaiting trial. This term includes prisons, penitentiaries, trial holding facilities and other similar uses.

29. Day means any calendar day, Monday through Friday, exclusive of City holidays. A day commences at the time of receipt of an application or notice and ends after 24 hours in a day.

30. Day Care Facility means a commercial use where more than five children or adults are cared for during the day or night or by the hour. This term does not include similar uses were 24 hour care is offered.

31. Developer means any person who causes a use to occur or applies for an approval under this Title.

32. Due Deference means that deference which is appropriate in the context of the reviewing party's expertise and area of responsibility, and all the evidence available to support any factual assertions.

33. Duplex means a use or building on a lot containing two dwelling units.

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

35. Dwelling, single-family means a use or detached building on a foundation dug into the ground that has a frost resistant footing and foundation wall, designed for or occupied by and providing housekeeping facilities for one family, including factory-built, prefabricated, and modular homes.

36. Dwelling unit means a use or 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.

37. Engineer means the Wasilla City Engineer or designee.

38. Existing use means a lawful use or uses on the effective date of this Title.

39. Family means one person, or two or more persons related by blood, marriage, or adoption. The term includes a group of eight persons or less who are unrelated by blood, marriage, or adoption, any of which are living together as an independent housekeeping unit.

40. Farm Animal means an accessory use involving 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 the orders Felidae (cats) and Ursidae (bears) which, in the opinion of the Planner, may pose a threat to human safety are not a Farm Animal.

41. Fence means an artificially constructed barrier of any material or combination of materials erected to enclose or screen an area. Fences used for the keeping of Farm Animals must be constructed and maintained in a manner that will effectively contain the animals and protect adjacent lots from intrusion.

42. Gross floor area (GFA) means the sum of the covered and enclosed usable horizontal area of the floors of a building or buildings, measured on the exterior perimeter. The GFA may include outside display areas for businesses that conduct outside sales.

43. Group Home means a use of a residential dwelling(s) or any living unit or accessory buildings thereof, designed, used or intended for use as long term human habitation in a home-like family setting. The principal use of which is to serve as a dwelling for assisted living for eight people or less who seek rehabilitation or recovery from any long-term illness, physical, mental, or other infirmity or disability.

44. Guest Room means a room used or intended to be used by a guest for sleeping purposes. Every 100 square feet of floor area in a room occupied by more than two guests will be considered a guest room.

45. Hazardous materials means any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act (FWPCA), any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation and Liability Act, any hazardous waste having the

characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act, any toxic pollutant listed under section 307(a) of the FWPCA, (E) any hazardous air pollutant listed under section 312 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator of the Federal Environmental Protection Agency has taken action pursuant to section 7 of the Toxic Substances Control Act.

46. Heavy Equipment Storage is a use including the commercial storage or repair of semi-trailer tractors, commercial buses, construction and earth-moving equipment such as a front end loader, backhoe, dump truck, grader, bulldozer and other tracked or large-tired vehicle. This term does not include privately used recreational vehicles including air-boats, airplanes and vehicles designed for off-highway use.

47. Helipad means the specific site designated for landing and takeoff by helicopters.

48. Heliport means a use or designated site for the routine commercial or private general operations, landing, takeoff, parking, storage, fueling, and/or maintenance of helicopters.

49. Home Occupation means a small scale commercial use carried out in a dwelling unit that meets the criteria in section 16.43.510 .

50. Hotel means a commercial use in a building containing more than six guest rooms intended, used, designed to be used, rented out or occupied on a temporary basis for sleeping purposes. At least twenty-five percent of all rooms have inside access to the main lobby of the building.

51. Industrial means a use that has potential for significant negative impact on adjoining uses. This category includes uses that incorporate buildings that are large, tall, or unsightly and uses that generate offensive odors, noise, or glare; 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 definition includes uses such as airports, landing strips, and heliports; truck or rail terminals; concrete batching plants, asphalt or concrete mixing plants; resource extraction; unenclosed bulk material or machinery storage; fuel generation plants (petroleum refineries); grain elevators; meat packing plants or slaughterhouses; resource recycling facilities; commercial flammable or hazardous material storage; sanitary landfills, large scale sewage treatment facilities and manufacturing plants.

52. Institutional Home means a use of a residential dwelling(s) or any living unit or accessory buildings thereof, designed, used or intended for use as relatively permanent human habitation in a home-like family setting. The principal use of which is to serve as a dwelling for assisted living for more than eight people who seek rehabilitation or recovery from any long-term illness, physical, mental, legal or other infirmity or disability. The term includes limited care facilities for the elderly, homes for children, sanitariums, nursing homes, living quarters for people with long term illness and transitional homes for criminals.

53. Junkyard means a lot or portion thereof which is used for the purpose of the outdoor storage, handling, dismantling, wrecking, keeping or sale of more than two unregistered, discarded, wrecked or abandoned airplanes, appliances, vehicles, boats, and building and

building materials, machinery, equipment, or parts thereof, including scrap metals, wood, lumber, plastic, fiber or other tangible materials.

54. Kennel means a use or lot in which more than three dogs, over four months of age, are kept.

55. Lot means a distinct parcel of land for ownership and tax purposes which is delineated and fixed on a plat filed for record or described by aliquot parts.

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

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

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

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

60. Mayor means the Mayor of the City of Wasilla, Alaska.

61. 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. The meter base for incoming wiring is usually not attached to the exterior wall of the mobile home. A travel trailer is not a mobile home.

62. Mobile home park means one or more mobile homes on a lot.

63. Modular home means a building constructed as a prefabricated or assembled unit at a place other than the building site, and is moved on the highway by a licensed commercial trailer and then placed on a permanent foundation. The meter base for incoming wiring is attached to the exterior wall of the modular home.

64. Motel means a commercial use 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.

65. Multi-family means a residential use with three or more dwelling units.

66. Neighborhood means the physical area within a minimum of 600 feet of the proposed use. This term also means an area having certain characteristics in common, including traffic flow, attendance at an elementary school, subdivision boundaries, or a short distance to frequently needed services.

67. Nonconformity means a lot, building, use, or portion thereof, which was lawfully erected, altered or maintained, but no longer conforms to the provisions for the zoning district in which it is located.

68. Peak Use means the time period during which those characteristics of a use including traffic, parking, visitation and other activities are at the most active or intense levels.

69. Person means a partnership, corporation, company, joint venture, public agency, the City and any other municipality, or other association, as well as a natural person.

70. Planned Unit Development (PUD) means a use or combination of uses that are designed to occupy the same lot and complement each other through design and operational characteristics. The developer must demonstrate that creative approaches are used that will result in a more efficient, aesthetic and harmonious development with uses in the surrounding area, while at the same time providing higher population density or increased intensity or mix of uses than is permitted in the zone(s) in which the project is located. A PUD is approved as a conditional use under specific approval criteria.

71. Planner means the City Planner of Wasilla or designee.

72. Play Field means an area set aside for outdoor games or recreation including soccer fields, baseball diamonds, football fields, golf ranges and courses, and other uses having similar characteristics.

73. Public Facility is a use, lot or building owned or used by a federal, state, or local government agency, school board or utility company, including fire stations, public education facilities, libraries, hospitals, and accessory uses.

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

75. Residential means a use and accessory uses involving the occupation of a building for living, cooking, sleeping, and includes a single-family dwelling, duplexes, or a multi-family dwelling. Group homes and mobile homes are specifically excluded from this definition.

76. Resource extraction is a use involving clearing or grading or the removal for commercial purposes of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics.

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

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

79. Sidewalk means the portion of a street intended for non-motorized vehicle and pedestrians use only.

80. Site Plan means an accurate to scale graphic depiction of a plan of development that shows existing and planned future conditions including topography, waterbodies, buildings, uses, parking areas and vegetation on the lot and in the general area of the proposed development.

81. 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.

82. 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 the following:

1. Signs bearing only property numbers, post office box numbers, names of occupants or premises, or other identification of premises ;
2. Flags and insignia when temporarily displayed in connection with commercial promotion;
3. 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;
4. Integral decorative or architectural features of buildings.

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

84. Subdivision means any division of land which results in the creation or elimination of lots for development and requiring a review by the Matanuska Susitna Borough Platting Board. A survey that does not result in the creation or elimination of lots such as lot-line adjustments are exempt from this definition.

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

86. Temporary building or use means a building that is capable of being immediately moved to provide access or a use which is for a limited time up to six months.

87. Transitional Home for Criminals means a use which serves as a place of residence for criminals who are in transition between a correctional facility and living in the community.

88. 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. The term includes travel trailers, truck campers, camping trailers and self-propelled motor homes.

89. Use includes any significant activity on a lot. A use 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 building. A temporary use is a use that lasts less than thirty days within any six month period. A use includes the following:

1. Construction, reconstruction, relocation, placement, or alteration of a building;
2. Change in the use or material increase in use of a site, including any building thereon;
3. Disturbance of the surface of the land. Disturbance includes dredge, excavation or fill activities; creation of an equipment or material storage site, or tailing pile; creation of a refuse pile, dump or landfill; and



4. Subdivision or re-subdivision of land.

90. Use Permit means an approval of a use made by the Planner under section 16.43.402 that includes public notice.

91. Utility facilities means a use either public or private, which is above or below ground level and which is used to treat, condition, or convey water, sewer, energy, electricity, and communication services. The term includes, pipes, cables, utilidors, substations, transformers, switching devices, lift stations, public satellite dishes, public antennas, and towers. This term does not include minor accessories to the existing system or utility connections necessary for an individual lot.

92. Variance means the relaxation of the strict application of the requirements of Section 16.43.700 the Dimensional standards of this chapter

93. Walking Distance means the area within three hundred feet measured from the nearest point of the parking or storage facility to the nearest point of the building that such facility is required to serve.

94. Waterfront Use means any use, including accessory uses or buildings on a lot within 75 feet of a water body.

95. Yard means an open space within the required setbacks.

### **16.43.300 ADMINISTRATIVE PROVISIONS**

**16.43.302 Permits Required.** The developer of a use shall apply for and obtain the appropriate approval prior to the establishment of a use or any site work except surveying.

A. Duration. Permit approvals are valid only during developer's compliance with this Title and the terms and conditions of approval. However, approvals and permits expire automatically twelve months after issuance if no significant construction, activity, or occupancy has commenced.

B. Extensions. Requests for extensions of an approval period or after a twelve month period are a new application and subject to the appropriate approval process. The Planner or Commission may place limits on the duration of an approval or establish a longer duration.

C. Approved uses. Approved uses, unless ordered to cease by the Planner, shall be allowed to continue during the appeal of the issuance of an approval.

D. Conditions. The Council, Commission, or Planner may place conditions upon issuance of any approval which are necessary or desirable to ensure that a rule, policy, standard or intent will be implemented in a manner consistent with this Title, the comprehensive plan and any rule, policy or standard implementing them.

E. Compliance. Any permit or approval issued under this Title shall require compliance with the state fire code and any other federal, state or local regulations which are applicable to the activity.

F. Liability. The issuance of a permit or approval under this Title or enforcement or lack of enforcement of any such permit or approval shall not be deemed grounds for City liability arising out of the errors or omissions of the permittee or the person who received the approval.

**16.43.304 City Planner.** The Planner is authorized and empowered to carry out all of the duties set forth in this chapter, serve as staff to the Commission, and shall have all other power and authority reasonably necessary and desirable to carry out those duties, including the power to delegate those duties as appropriate. The Planner is authorized to levy fines, seek remedies, initiate compliance plans, make inspections and take such actions authorized herein as may be necessary to ensure compliance with this Title. All questions of the Planners' interpretation or administration of the provisions of this Title shall be treated as an appeal, pursuant to section 16.43.320.

**16.43.306 Planning Commission.** The Commission has all powers and duties of a Commission of a first class city as set forth in state law. The Commission specific powers and duties are set forth in Chapter 8 of the Wasilla Municipal Code.

**16.43.308 Reviewing Parties.** The Commission may by resolution identify those parties that are to be included in the review of certain proposed actions under this Title. These parties may include City departments, the school district, borough, state, or federal agencies and private individuals or groups potentially affected or with interests in the proposed action. The reviewing parties will be provided all relevant materials and may submit comments and recommendations concerning the proposed actions. The comments of a reviewing party shall be given due deference during reviews of proposed uses by the Planner or Commission.

**16.43.310 Neighborhood Plans.** The City encourages areas to develop neighborhood plans which may be reviewed, modified and adopted by the City as an amendment to the City comprehensive plan. City adopted neighborhood plans shall contain policies to guide land use and improvements within the area and shall be used as a basis for approvals in the effected

area under this Title.

**16.43.312 Application Fees.** The Commission shall establish a schedule of fees for actions under this chapter by resolution. The fees in this schedule may be waived or reduced by the Mayor when the City, borough, state, federal or a local government body or agency is the applicant and is one who reciprocates.

**16.43.314 Compliance.** Any use may be ordered to cease by the Planner if in conflict with the provisions of this Title, or if the terms and conditions of any rezoning, or Commission approval, or administrative approval are violated. The Commission may establish by resolution an enforcement priority for violations of this Title.

A. Violation Complaint. Any person may bring to the attention of the Planner suspected violations of this Title. The complaint may be by phone or in writing but must include the full name of the person making the complaint.

B. Violation Notice. After a violation has been discovered, investigated and verified, the Planner will notify by written finding the person responsible for violation and the property owner by personal notice, certified mail or notice posted on the site of the violation. The finding will specify the violation(s) and order abatement and may also (but is not required to) specify the range of fines or penalties to be imposed. The finding shall direct the person to cease the violation, or appeal the finding within 2 days after receipt or posting, of the notice, as the case may be. All violation notices will be reported to the Commission at its next meeting.

**16.43.316 Enforcement Orders.** Upon substantiation of a violation, the Planner may order:

A. The discontinuance of activity for any use which does not comply with the terms of this Title;

B. The removal or abatement of buildings;

C. Submittal of a plan for compliance with the terms of this Title. The plan shall include a schedule for completion and procedures to accomplish compliance. The Planner will review and approve, condition, or deny the plan under the administrative approval process.

D. Any other action necessary to ensure compliance with all provisions of this Title, including revocation or suspension of approvals and filing of a notice of action against property.

**16.43.318 Penalties and Remedies.** Violations of this Chapter may be subject to the "Compliance" and "Enforcement Orders," as provided above in this Chapter, and may be further subject to the following penalties and remedies.

A. General Provisions. Regardless of the alternative penalty/remedy that may be pursued by the Planner or City, the following general provisions shall apply:

1) All remedies hereunder are cumulative and are in addition to those existing at law or equity.

2) At any stage in any proceeding to penalize or remedy a violation of this Chapter, the Mayor may mitigate fines or other penalties in order to promote settlement of a dispute on terms deemed just and equitable under the circumstances.

3) A proceeding to penalize or remedy a violation of this Chapter may include, but is not required to include, the owner of the site or part thereof, any lessee or occupant of the site or any part thereof, and/or the developer (including the developer's agents, contractors, subcontractors, and employees).

4) Each act in violation of this Chapter and every day a violation of this Chapter exists may be considered to constitute a separate violation.

5) The City may file a civil action to enforce this Chapter and/or issue an infraction citation

pursuant to the procedures and substantive provisions that follow.

B. **Infraction Citation.** The City may file an infraction citation to enforce this Chapter pursuant to the "General Penalty" procedures and substantive provisions set forth in WMC 1.24. The "General Provisions" set forth in this section, above, shall be considered to supplement the penalties and procedures of WMC 1.24.

C. **Civil Action.** The City may file a civil action to enforce this Chapter. In such a civil action the City may request that the Court enter an order to enjoin a violator(s) from violating any provision of this Chapter. On application for injunctive relief and a finding of a violation or threatened violation, the court shall grant the injunction. The civil penalty that may be imposed by the Court for each violation may be in a sum not to exceed \$1,000.00, payable to the City. The City may request an award of its costs and attorneys fees incurred in the course of preparing, filing and prosecuting the civil action.

**16.43.320 Appeals to the Commission.** Any aggrieved person, including the developer, may appeal any decision of the Planner by serving written notice of appeal to the planning clerk and the developer within three (3) days of the decision. Notice of an appeal is considered served when actually received or when properly mailed. Approved uses may proceed during the appeal process unless specifically ordered by the Planner to cease.

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

B. Public notice, comment period and the hearing format of the appeal shall be conducted following the procedures for a conditional use in section 16.43.506. The provisions for a super majority do not apply to appeals to the commission.

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 all or any part of the Planners' decision, it may hear and decide the appeal at its next regular meeting.

D. If the Commission determines to hear the appeal, it will hear only those parts of the Planners' 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. The evidence shall be limited to a review of the record, although further argument may be allowed. The Commission shall give due deference to the judgment of the City staff and other review agencies regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication shall be considered as true if, based upon a review of the whole record, they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record as a whole affords a substantial basis of fact from which the fact in issue may be reasonably inferred, the fact is supported by substantial evidence. The burden of proof shall be on the appellant to demonstrate the facts and resolution of the issues on appeal by substantial evidence.

E. The Commission may affirm or reverse the Planners' decision, return the matter to the Planner for further evidence and action, or change the conditions attached to any approval issued by the Planner. The planning clerk shall, by certified mail, serve a copy of the Commissions' decision and appeal record on the applicant. A copy of the appeal record shall be available for public inspection at the Planners' office.

**16.43.322 Appeals to the Council.** An appeal to the Council of a Commission decision shall be by serving written notice of appeal on the City Clerk within three (3) days of the decision. Notice of an appeal is considered served when actually received or when properly mailed. Approved uses may proceed during the appeal process unless specifically ordered by the Planner to cease.

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

B. At the meeting at which the Council receives the appeal, it shall determine whether to accept the appeal. The failure of the Council to accept the appeal constitutes a refusal by the City to hear the appeal. If the Council determines to hear the appeal, it shall refer the appeal to a hearing officer for hearing and decision. The City Clerk shall refer the hearing to the first hearing officer who can hear the appeal expeditiously.

C. Public notice, comment period and the hearing format of the appeal shall be conducted in front of the hearing officer following the procedures for a conditional use in section 16.43.506.

D. The burden of proof is on the party challenging the Commission decision. The hearing officer may hear and decide an appeal based solely on the record or may open the record. Only persons who have submitted written argument on appeal or testified before the Commission, or submitted written comments to the Commission may present oral argument. Any party to an appeal from a Commission decision may cause the appeal record to include a verbatim transcript of the proceedings before the Commission by filing a request therefor, accompanied by a cash deposit in the amount of the estimated cost of preparing the transcript. Within five days of notice of completion of the transcript the person requesting it shall pay the actual cost thereof, or the deposit shall be forfeited to the City. A request by the City for a transcript is not subject to the deposit or refund provisions of this subsection.

E. 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. The City Clerk shall, by certified mail, serve a copy of the hearing officers decision and appeal record on the applicant. A copy of the appeal record shall be available for public inspection at the City Clerks office.

F. The decision of the hearing officer is the decision of the Council and is final for the City. 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.

G. An aggrieved party may seek an appeal before the appropriate State of Alaska court only after final exhaustion of all administrative remedies and appeals. All such judicial appeals are appeals on the record, and no new evidence or issues may be presented. Both parties are limited to the record on appeal, except to the extent that the Alaska Rules of Civil Procedure require otherwise.

**16.43.324 Hearing Officer.** All appeals under this chapter to the Council are heard by an City appointed hearing officer.

A. A roster of qualified individuals shall be maintained by the City Clerk. Qualifications

for placement on the roster include a knowledge of (or an ability to comprehend, for the purposes of the proposed hearing) this chapter and general land use regulation, principles of due process, and some familiarity with the development 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. Hearing officers may not be a current city employee or a current member of the Council or Commission.

B. The City Clerk shall solicit persons who are willing to serve as hearing officers. The City Clerk shall maintain a list of those interested persons determined to be 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, or by direction of the Mayor in absence of the Council resolution.

**16.43.326 Zoning Map.** The map entitled "Zoning Map of the City of Wasilla, Alaska", 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.

A. Where uncertainty exists as to the boundaries of districts as shown on the zoning map of the City the Planner shall apply the following rules to interpret district boundaries.

1. Boundaries indicated as approximately following the center lines of easements, streets, highways, or alleys shall be construed to follow such center lines;

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following City limits shall be construed as following such City limits;

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

5. 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;

6. 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;

7. 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 City Commission shall interpret the district boundaries.

8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Planner 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.

**16.43.328 Annexation.** All territory which may hereafter be annexed to the City shall be placed in an appropriate zoning district(s) by recommendation of the Commission based upon existing and proposed land use and the comprehensive plan.

**16.43.330 Emergency Actions.** Notwithstanding any regulation to the contrary, emergency actions may be conducted without any approval or permit, subject to the following criteria:

A. The developer shall make reasonable efforts to conduct emergency operations in a manner that avoids or minimizes significant harm to the environment, consistent with the need

to protect property or human life.

B. In the event of a natural disaster, fire, uncontrolled release or discharge of oil, petroleum products, or hazardous materials any person may undertake emergency construction and other activities reasonably necessary to control and contain discharge, consistent with an approved oil spill or other emergency plan.

C. A developer shall inform the Planner of any action taken within the scope of this section within twenty-four hours of the taking of the emergency action.

**16.43.400 APPROVALS by the PLANNER.**

A. Section 16.43.602 includes a use chart describing the type of permit needed before initiating a use of land. Some uses noted by the section 16.43.602 chart do not require a permit before initiating uses. However, other uses require approval in the form of a permit. Permits are generally of three types: 1) Administrative Approval, 2) Use Permit or 3) Conditional Use. Depending on the type of permit, there are different procedures that apply, as set forth herein. Sections 16.43.401 - .408 describe the procedures that apply to uses categorized as "Administrative Approval" ("AA") or "Use Permit" ("UP"); Sections 16.43.500 - .506 describe the procedures that apply to Elevations of "AA" and "UP" permits for Commission approval, pursuant to 16.43.406, and to uses categorized as "Conditional Use" ("CU"). Applications are also required for uses within the meaning of Planned Unit Developments (16.43.510L), for Rezoning (16.43.512), for Subdivisions (16.43.804), for Signs (16.43.900) and for Variances (16.43.820). The procedures and requirements for such use applications are as set forth in this Chapter.

B. The Planner may approve uses that are listed as administratively approved ("AA") or as a use permit ("UP") in the use chart of section 16.43.602. Approvals by the Planner are intended to provide assistance to developers in locating and designing uses to be in conformance with the neighborhood character and city adopted policies and standards. The application and approval process is also intended to ensure that uses comply with other laws that may apply such as state fire codes and Matanuska Susitna Borough programs including; coastal management, shoreline protection program and flood damage prevention.

**16.43.402 Administrative Approval and Use Permits.** An Administrative Approval ("AA") or a Use Permit ("UP"), as defined in section 16.43.204 or listed on the district use chart in section 16.43.602 are within the authority of the Planner to approve. Developers must file an application with the Planner and receive a permit or approval prior to commencement of the use.

A. Application. A completed application on a form supplied by the City and appropriate fee shall be submitted to the Planner. Within one (1) day of receipt of the application, the Planner shall determine if the application is complete and the submission requirements are met. If the requirements are not met, the Planner shall return the application to the applicant for modification or correction. If the Planner fails to act on the application within one day, the application shall be considered complete and accepted for review.

B. Administrative Approval (AA). If the accepted application is for an administratively approved use (see section 16.43.602), the Planner may issue an approval. The Planner may place reasonable conditions on the permit to ensure that the use will comply with the General Approval Criteria in section 16.43.508. The Planner will act on an application for an administratively approved use within two (2) days after acceptance. Prior to the expiration of the two day review, the Planner may elevate (see section 16.43.406) the review upon written notice to the developer or the developer may request an extension of the administrative review in writing. The elevation shall be in compliance with section 16.43.406. For good cause, the Planner may extend the time for issuance of the decision on the permit, not to exceed an additional five (5) days.

C. Use Permit. If the accepted application is for a use permit, the Planner shall, within three (3) days of acceptance of the application, issue a draft use permit for review and comment based upon the General Approval Criteria in section 16.43.508.

1. Public Notice. The Planner shall mail or electronically transmit the draft use permit to the applicant, reviewing parties, Commission members, and to the owners of property, as listed on the Matanuska Susitna Borough property tax rolls, located within a



minimum of 600 feet of the lot lines of the development. The draft use permit shall be posted in City hall and on the site.

2. Comment Period. Comments on the draft use permit must be received within five (5) days following the date of public notice.

3. Decision. The Planners' decision to approve the draft use permit, approve a revision of the draft use permit, deny approval or elevate the decision shall be issued within one (1) day of the close of the comment period. The decision shall be sent to all who submitted comments, the planning Commission, and the applicant. For good cause, the Planner may extend the time for issuance of the decision, not to exceed an additional five (5) business days. The Planners' decision shall be based upon compliance with the General Approval Criteria in section 16.43.508 and comments received from the public notice.

D. Appeal. A decision of the Planner may be appealed pursuant to 16.43.322.

**16.43.404 Temporary Uses And Buildings.** A developer proposing a temporary use of land or building which would otherwise require an approval under provisions of this chapter is required to obtain a temporary use permit prior to any site work except surveying, and except that temporary buildings associated with the construction of a permitted use do not require a permit. The Planner may issue an approval under the same procedures as for an administrative approval pursuant to section 16.43.402. No building or use shall be permitted under this section which requires a variance from the dimensional standards of section 16.43.604.

A. Within five days of the expiration of a temporary use permit, all buildings and other materials associated with the temporary use shall be removed from the site and the site restored to a suitable condition prior to the development of the temporary use. The Planners' inspection of the property shall determine compliance. If the Planner determines that site restoration is not satisfactory, then the City 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.

**16.43.406 Elevation.** The Planner may elevate any use permit decision to the planning Commission at any time between the acceptance of the application and the close of the decision period. The elevation must be based on a written finding that the permit decision satisfies one or more of the following criteria:

A. The proposed use could have significant negative effects on or conflict with existing land uses adjoining the site in a manner or to a degree that warrants consideration by the Commission.

B. The proposed use could have significant negative impacts on the utility system, traffic flow or City provided services.

C. The proposed use could conflict with adopted City policies or raises a particular issue or set of issues in a manner or to a degree that warrants consideration by the Commission.

D. A written request for elevation has been received from an official reviewing party. To be valid an objection from a reviewing party must cite conflict(s) with City policy or unusual negative impacts from the proposed use.

E. A request to elevate has been received from two or more members of the Commission. The Planner must determine that the request from the Commission member satisfies one or more of the criteria above.

**16.43.500 PLANNING COMMISSION APPROVALS.** Approvals by the Commission are intended to address uses and issues of community wide importance and are therefore subject to a broader public process and higher standards than approvals by the Planner.

**16.43.502 Procedure for Elevations.** Once a permit approval has been elevated for review (see section 16.43.406), the following procedures apply:

A. Public Notice. If the Planners' approval is elevated the Planner shall;

1. Place the application on the agenda of the next available meeting of the Commission;

2. Publish the agenda item in a newspaper of general circulation or place a public service announcements on radio or television. The published notice must set out the time, date and place of the hearing, the name of the applicant the address or general location of the property and subject or nature of the action;

3. Within three (3) days of elevation issue a draft recommendation based upon the criteria of this title;

4. Mail or electronically transfer a copy of the agenda item and draft recommendation to the applicant, the Commission members, the neighborhood association if the neighborhood has an approved neighborhood plan and to appropriate reviewing parties;

5. The agenda item and draft recommendations shall be sent to the property owners of record adjoining the site. The Planner may expand the area for notification, based on an assessment of the impacts of the proposed use;

B. Decision. The Commission shall review the Planners draft recommendation, and may hear comment(s) from reviewing parties, the applicant and the public. The Commission shall decide either to deny, approve or approve with conditions, or the Commission may with concurrence of the applicant return the approval to the Planner for further review as a new use permit application.

**16.43.504 Approval Required.** All conditional uses and elevated approvals must receive approval by the Commission prior to commencement. In all applications for an approval, the burden of proof shall be on the developer to prove, by a preponderance of the evidence, that the criteria set forth in this Title are met. The uses eligible for approval by the Commission as a conditional use are listed in the use chart in Section 16.43.602. Hearings held by the Commission use the following procedure.

**16.43.506 Procedure for Commission Approvals.** The following procedures apply to approvals by the Commission including conditional uses, rezonings and variances.

A. Application. A completed application on a form supplied by the City and appropriate fee shall be submitted to the Planner. Within two days of receipt of the application, the Planner shall determine if the application is complete and the submission requirements are met. If the requirements are not met, the Planner shall return the application to the applicant for modification or correction. If the Planner fails to act on the application within two days, the application shall be considered complete and accepted for review.

B. Public Notice. If the application is accepted the Planner shall;

1. Place the application on the agenda of the next available meeting of the Commission;

2. Publish the agenda item in a newspaper of general circulation or place a public service announcements on radio or television. The published notice must set out the time, date and place of the hearing, the name of the applicant, the address or general location of the property and subject or nature of the action;

3. Within three days of acceptance, issue a draft recommendation based upon the criteria of this Title;

4. Mail or electronically transfer a copy of the agenda item and draft recommendation to the applicant, the Commission members, the neighborhood association if the neighborhood has an approved neighborhood plan and to appropriate reviewing parties;

5. The agenda item and draft recommendations shall be sent to the property owners of record adjoining the site. The Planner may expand the area for notification, based on an assessment of the impacts of the proposed use;

6. The Planner will post the notice on the site at least five days prior to the hearing. The notice shall be posted so that it may be easily seen from the public right-of-way. The applicant is responsible for maintaining the notice.

C. Comment Period. Written comments on the proposal and draft recommendation must be received prior to the start of the public hearing. The Commission may extend the written comment period to a date and time after completion of public testimony.

D. Public Hearing. The public hearing shall be held no later than two regular meetings of the Commission after the acceptance of the application by the Planner. The hearing date may be postponed to a later date only with agreement by the applicant.

E. Hearing Format. At the hearing before the Commission, any interested person may present oral argument. Failure to observe the procedures in a hearing shall not affect the validity of the decision so long as the appellant has had a reasonable opportunity to be heard. Oral argument shall be subject to the following order and time limitations, unless the Commission for good cause shown, permits a change in the order or an enlargement of time.

1. City staff, ten minutes each to present the city position and to set forth the evidence and reasons relied upon for the decision.

2. Applicant or representative, ten minutes;

3. Private person supporting the proposal five minutes each;

4. Private person opposing the proposal five minutes each.

5. Applicant, for rebuttal, ten minutes.

F. Decision. The Commission shall decide to deny, approve or approve with conditions the proposal or appeal. The burden of proof shall be on the applicant. The Commission's decision may be made immediately following the public hearing portion of the Commission meeting. The decision of the Commission shall set forth the facts it finds relevant to its decision and the reasons for its decision. The effective 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.

G. Super Majority. If written objections are timely received from more than 50 per cent of the property owners of record notified in number 5 of B above or are presented in writing by the same by the close of the written testimony period, the Commission may only act if five members of the Commission vote in agreement.

**16.43.508 General Approval Criteria.** An administrative approval, use permit, elevated administrative approval, elevated use permit or conditional use may be granted if the following general approval criteria and any applicable specific approval criteria of section 16.43.510 are complied with. The burden of proof is on the applicant to show that the proposed use meets these criteria and applicable specific criteria for approval. An approval shall include a written finding that the proposed use can occur consistent with the Comprehensive Plan, harmoniously with other activities allowed in the district and will not disrupt the character of the neighborhood. Such findings and conditions of approval shall be in writing and become part of the record and the case file.

A. Plans. The proposal is substantially consistent with the City comprehensive plan and other City adopted plans.

B. Special Uses. The proposal is substantially consistent with the Specific Approval Criteria of section 16.43.510.

C. Reviewing Parties. Due deference has been given to the comments and recommendations of reviewing parties.

D. Neighborhoods. Due deference has been given to the neighborhood plan or comments and recommendations from a neighborhood with an approved neighborhood plan.

E. Fire Safety and Emergency Access. The proposal shall not pose a fire danger as determined by the State Fire Marshal or the fire chief of the district in which the proposed use is located. Adequate access for emergency and police vehicles must be provided.

F. Traffic. The proposed use shall not overload the street system with traffic or result in unsafe streets or dangers to pedestrians.

G. Dimensional Standards. The dimensional requirements of section 16.43.700 are met.

H. Parking. The parking, loading areas and snow storage sites for the proposal shall be adequate, safe and properly designed. The developer may be required to install acceptable lighting at pedestrian or vehicular access points.

I. Utilities. The proposed use shall be adequately served by water, sewer, electricity, on site water or sewer systems and other utilities.

J. Drainage. The proposed use shall provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate runoff into public streets, adjoining lots and protect rivers lakes and streams from pollution. Uses may be required to provide for the conservation of natural features such as drainage basins and watersheds, land stability.

K. Large Developments. Residential development of more than four units or non-residential development of more than ten thousand square feet gross floor area may be required to provide a site plan showing measures to be taken for the preservation of open space, sensitive areas and other natural features; provision of common signage; provision for landscaping (section 16.43.408) and provisions for safe and effective circulation of vehicles, pedestrians and bicycles. Non-residential large developments must be located with frontage on one the following class of streets; interstate, minor arterial, major collector or commercial.

L. Peak Use. The proposed use shall not result in significantly different peak use characteristics than surrounding uses or other uses allowed in the district.

M. Off site Impacts. The proposal shall not significantly impact surrounding properties with excessive noise, fumes or odors, glare, smoke, light, vibration, dust, litter, or interference in any radio or television receivers off the premises, or cause significant line voltage fluctuation off the premises. Buffering may be required to ameliorate impacts between residential and nonresidential uses. The owner of the property upon which the buffer is constructed is responsible for the maintenance of the buffer in a condition that will meet the intent of this criteria.

N. Landscaping. A reclamation or landscaping plan may be required by the Planner or Commission as a condition of approval of any multi-family, commercial or industrial use. The purpose of the reclamation or landscaping plan includes the control of dust, soil erosion, storm water runoff and siltation which otherwise would be generated on the lot and affect the surrounding area. The Commission may adopt City landscaping standards that establishes the type of vegetation and acceptable methods to be used for compliance. The owner(s) of the property shall be responsible for maintenance of the landscaping for a minimum of one year to allow the establishment of the planted materials and stability of other physical improvements

such as earthen berms. The Planner or Commission may require a bond and/or a maintenance guarantee pursuant to sections 16.43.614 and 16.43.616. The Planner or Commission shall not impose requirements inconsistent with the requirements of any other governmental entity, but may impose more stringent requirements and may work with the applicant to reach a satisfactory compromise with any other governmental entity. If a suitable plan is already in existence, the Planner may find that plan fulfills the requirements of this Section. The plan shall contain elements as may be required by the landscaping standards adopted by the Commission and may in any event include any or all of the following:

1. A grading and site plan, indicating the areas excavated or filled, the proposed finished grades and contours, drainage directions and any control structures to be installed;
2. The methods to be employed for reclamation of the site during and after the activity along with a time table for completion;
3. A description of all roads, parking areas and buildings and a site map showing the locations of all improvements which will be built;
4. A description of any known reclamation requirements of any other governmental entity, and a copy of any reclamation plan under development or an existence for the activity;
5. All maps shall be submitted at an accurate scale determined by the Planner and extend beyond the site area. The scale requirements and any contour intervals may be adjusted by the Planner to fit the circumstances; and
6. The design and contents of the landscaping and a description and site plan of the number, type and variety of plants, shrubs or trees to be used.
7. Storage. A fenced storage area for common use, adequate to store boats, trailers, snowmobiles, recreational vehicles or other items may be required.
8. Trash Receptacles. Adequately sized, located and screened trash receptacles and areas may be required.

P. Walkways, Sidewalks and Bike Paths. Pedestrian walkways or bicycle paths may be required where necessary to provide reasonable circulation or access to schools, playgrounds, shopping areas, transportation or other community facilities. Improvements must be constructed to standards adopted by the Engineer.

Q. Water, Sewage and Drainage Systems. If a proposed use is within five hundred feet of an existing, adequate public water system, the developer may be required to construct a distribution system and the connection to the public system. A developer may be required to increase the size of existing public water, sewer or drainage lines or to install a distribution system within the development. The Commission may require any or all parts of such installation to be oversized. The developer must submit to the Engineer an acceptable plan that shows that if within ten years an increase in capacity will be required to serve other areas how these needs will be met by oversized facilities. When installation of oversized facilities is required, the developer shall install such facilities at their own expense. The developer shall be reimbursed the amount determined by the Engineer to be the difference in cost between the installed cost of the oversized utility lines and the installed cost of the utility lines adequate to serve both the development concerned and all other land to be served by the lines which is owned or under the control of the developer; provided, the developer may not be required to install facilities unless funds for such over-sizing 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 personal property including lines, lift stations and valves and conveyances of land or rights in land, as the City determines may be necessary to ensure complete control by the City of its sewer, drainage and water lines when they are extended to serve the property of the developer. Notwithstanding the requirement that the developer

construct improvements to existing systems, the Commission may elect to accomplish the design or construction, or both, of improvements to be made to existing public systems. In such a case, the Commission 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. A public system is adequate if, in the judgment of the 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. Prior to approval of a use for which a community water system is required, the developer must submit evidence showing that there is available a satisfactory source of water. 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. The water system 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 and that the developer has obtained or can obtain a water appropriation permit or certificate for the water from the state. The system must be built to City specifications available from the Engineer.

U. Historic Resources. The proposed use shall not adversely impact any historic resource prior to the assessment of that resource by the City.

R. Appearance. The proposed use may be required to blend in with the general neighborhood appearance and architecture. Building spacing, setbacks, lot coverage, and height must be designed to provide adequate provisions for natural light and air.

S. Open space and facilities. The applicant may be required to dedicate land for open space drainage, utilities, access, parks or playgrounds. Any dedication required by the City must be based on a written finding that the area is necessary for public use or safety and the dedication is in compliance with adopted municipal plans and policy. The City finding shall conclude that a direct connection exists between the development and the need for the provision of the dedication. No land may be accepted by the City unless:

1. The location, shape, size, and character of the area is suitable for the planned use.

2. The uses authorized for an area are appropriate to the scale and character of the uses considering its size, density, expected population, topography, and the number and type of dwellings and uses to be conducted.

3. The area must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved.

4. If the final development plan provides for buildings, landscaping or other improvements in the dedicated area, the developer must provide a bond or other adequate assurance that such improvements will be completed. The City shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

5. All land must be conveyed under one of the following options:

a. It may be conveyed to an agency that will agree to maintain in perpetuity the area and any buildings, structures, or improvements which have been placed on it.

b. When no maintenance of the area is required, it may be conveyed to all new owners in undivided joint ownership.

c. When the land is not dedicated to a public agency and maintenance of the common space is required, an association for maintenance of the area must be established. Covenants establishing the association must be approved as to form by the City Attorney, and by the Commission as to

whether the covenants provide for maintenance of the area in a manner which assures its continuing use for its intended purpose.

d. Conveyance of an area must be consistent with AS 34.07 the Horizontal Property Regime Act.

T. Winter Hassles. The proposed use shall not significantly increase the impact on the surrounding area from glaciation or drifting snow.

**16.43.510 Specific Approval Criteria.** The following uses are subject to the preceding general criteria and these additional approval standards:

A. Home Occupation. Limited commercial activity may be allowed in a dwelling unit provided that:

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

2. The use of the dwelling unit 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;

3. There is no significant 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 principle building.

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

5. 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;

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

B. Day Care. In the RR, R1, R2 and C districts the following apply:

1. Only one day care facility is allowed per block or 600 feet radius, whichever is less.

2. A day care facility is limited to less than 25 people.

3. Play areas must be adequately screened and buffered from adjacent residential property.

C. Helipad. A helipad that is not located at an airport or heliport will be allowed only for incidental emergency use as an accessory to a permitted principle use such as a hospital or public facility and may not be used for routine transportation, parking, maintenance, fueling, storage, or operations of a helicopter.

D. Junkyard. No junkyard shall be established or operated unless it is completely obscured from view of any traveled or public right-of-way or adjacent properties with a non-compatible use (i.e., residential, commercial). The Planner or Commission may require a continuous solid fence to prevent the unsightly display of the yard. The fencing provided shall be continuous and of sufficient height and density to provide visual screening required by this chapter on a year-round basis.

E. Farm Animals. Farm animals are allowed as an accessory use to agriculture in the Industrial Zone. In the Rural Residential and Single Family Residential farm animal(s) may be

allowed as described in the following.

1. A residential use in the RR, R1 or R2 district 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 a suitable fence is provided and no stable or building used for farm animals may be closer than 25 feet from any exterior lot line. Two farm animals may be kept provided that a site plan is approved by the Planner.

2. A residential use in the RR, R1 or R2 district may include the keeping of three or more farm animals if all of the above is met and the total lot area is 80,000 square feet or more.

3. Up to three dogs are allowed per residence. Keeping of more than three dogs more than four months of age is a kennel (see kennel in use chart).

4. 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:

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

G. Resource Extraction. A permit for the commercial extraction of a natural resource may be issued with such reasonable conditions as necessary. The use must meet all other pertinent requirements of this Title and include an acceptable operation and reclamation plan 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 environmentally and aesthetically acceptable condition:

1. Methods and process of reclamation including stockpiling of topsoil for reuse;
2. Initial site conditions including existing land use, vegetation, soils, geology and hydrology;
3. Limits of operational areas;
4. Days and hours of operation;
5. Traffic patterns;
6. Fencing and screening;
7. Control of dust and noise;
8. Phasing of operations and reclamation steps;
9. Final condition of site including;
  - a. Relation to adjoining land forms and drainage features,
  - b. Relation of reclaimed site to planned or established uses of the surrounding area,
  - c. Demonstration that the final land form will have a viable land use compatible with land use trends in the surrounding area.
10. Methods to minimize potential conflict with existing uses that are significantly impacted by the development.

H. Adult Business. An adult business may be allowed in the commercial district, subject to conditions, if separated from any residential zoned (RR, R1, R2, RM) lot line, public or private school, pre-school, educational institution, church or other religious facility, public or private park, and from a youth oriented facility or business by a buffer distance of at least 600 feet.

I. Bed and Breakfast (B&B). A Bed and Breakfast may be allowed as an accessory to a residential use provided that the use of the dwelling unit or detached building for the B&B is



clearly incidental and subordinate to the use for residential purposes by its occupants. One sign, not exceeding four square feet in area, illuminated by indirect lighting and on the same lot as the B&B use is allowed.

J. Correctional Facility or Transitional Home for Criminals. Correctional facilities or transitional homes for criminals may be allowed if separated from any business licensed to serve alcohol beverages or package store, public or private school, pre-school, educational institution, church or other religious facility, or youth oriented facility or business by a buffer distance of at least 600 feet. Suitable buffering must be constructed and building(s) containing the principal use must be set back from any adjoining residential district lot line by a minimum of 50 feet. Lighting must be provided at all developed pedestrian and vehicular access points. Additional lighting may be required by the Commission. The minimum lot area for these uses is 40,000 square feet for up to 12 beds. Each additional 12 beds or less requires an additional 20,000 square feet of lot area. The bond requirements set forth herein are based upon, in part on past incidents of harm to the general public involving injury to and criminal acts perpetrated upon residents of south-central Alaska by clients/inmates of transitional criminal facilities; and further based upon the desirable precautions that are more likely to be taken to avoid such harm to the public when financial security is at risk in the event of harm to the public caused by clients/inmates of transitional criminal facilities. Prior to initiation of operation of a transitional home or correctional facility, the developer shall post a bond in the amount of no less than \$50,000 00 per client inmate bed that the facility is licensed to maintain. The bond shall be payable upon the event of damage to property or injury to persons caused by or perpetrated by a client/inmate while a resident of the facility and be written by a corporate surety of veritable financial accountability or other comparable form that assures the fiscal responsibility of the entity or person(s) underwriting the bond. The bond requirement set forth herein shall not apply to facilities owned and operated by the State of Alaska and/or a municipal subdivision of the State of Alaska.

K. Kennel. A kennel may be allowed if a site plan is approved and the kennel building, dog runs or other outside canine housing area is separated from any residential zoned lot line by a minimum of 50 feet.

L. Planned Unit Development. The intent of the Planned Unit Development (PUD) is to allow flexibility in regulation, design, placement of buildings and use of open spaces. The modifications may include requirements for lot frontage, building setbacks, and design of circulation facilities to best use site potentials afforded by special features of location, topography, size, or shape. A PUD must demonstrate creative approaches that will result in a more efficient, aesthetic and harmonious development with uses in the surrounding area, while at the same time providing higher population density or increased intensity or mix of uses than is permitted in the zone(s) in which the project is located. Any mobile home park must receive approval as a PUD.

1. Planned unit development site must abut, and the major internal street serving the planned unit development must be directly connected to, a public road which is maintained by the City, Borough, or State.

2. The minimum size area for a PUD is 20,000 square feet. The minimum size area may be waived when planned unit development is used to facilitate redevelopment in the downtown area as described in the Comprehensive Plan.

3. Any land uses may be permitted, subject to the general and specific criteria of this section, if such uses are deemed by the Commission to be appropriate in furtherance of the goals of the Comprehensive Plan and designed to complement each other. All mobile home parks must be reviewed and approved as a PUD. The Commission may establish conditions of approval and may modify the dimensional and parking requirements of the

underlying district or districts in which the project is located. However, all streets, paving, curbs, sidewalks, utilities, lights, and similar facilities must be developed according to City of Wasilla standards unless specifically waived by the Commission upon recommendation of the Engineer.

4. A proposed plan shall first be submitted for informal review to the Planner. The plan must include the location, general layout of streets, parking areas, ingress and egress, building design and type of uses proposed. A report on the proposed plan will be provided to the developer, the Borough and the Commission which summarizes the concerns and recommendations of the Planner. The report shall be available within 5 days following the informal review. At any time within six months of the date of the Planners' report on the informal review, the applicant may file to initiate formal review of the PUD request.

5. An application for a PUD must include ten copies of accurate site plans drawn to an appropriate scale and topographic maps showing present and proposed contours at intervals of not more than two feet unless the Planner requests plans at a different scale or maps with different contour intervals. The maps and plans must be of standard size format as required under the Matanuska-Susitna Borough Platting code and show or contain:

- a. Boundaries of the site;
- b. The name and dimensions of all streets bounding or touching the site;
- c. Proposed location and horizontal and vertical dimensions of all buildings proposed to be located on the site;
- d. Proposed location and dimensions of any private open space or trails within the site;
- e. Proposed public dedications within the site;
- f. Location, dimensions and design of off-street parking facilities showing points of ingress and egress;
- g. The location, direction and bearing of any major features such as controlled intersections, public buildings and railroad tracks;
- h. Proposed grading, drainage and landscaping plans;
- i. Existing and proposed utility systems including sewers, storm drains, water, electric, gas and communication lines;
- j. A preliminary plat if a re-subdivision of the site required or proposed;
- k. Surrounding and underlying zoning and existing land uses and buildings.
- l. A statement of objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant. The developer shall demonstrate how the PUD conforms to the purposes of the Comprehensive Plan, and the approval criteria;
- m. A proposed development schedule indicating the approximate dates when the development of the PUD or stages of the PUD can be expected to begin and be completed. The PUD may include two or more phases of development provided that each phase must be developed successively and each succeeding phase is subject to the then current development standards of the City;
- n. Quantitative data for the following: total number and type of dwelling units, proposed coverage of buildings, approximate residential densities, total amount of non-residential construction, the location and floor area of all existing and proposed buildings and other improvements, and any

architectural renderings of typical buildings and improvements; and  
o. Any other material requested by the Commission or the Planner.

6. The applicant shall, within one year of the date of Commission approval of the preliminary PUD plan, submit a final PUD plan to the Planner, which shall incorporate all the changes and conditions required by the Commission. The final PUD plan must include a Mylar or electronic media copy of all necessary maps and drawings. The Planner shall approve of the final PUD plan if the plan is substantially the same as the plan approved by the Commission and all changes and conditions of the approval have been satisfactorily met. The Commission may grant one six-month extension of the deadline for final PUD plan submittal.

7. No activity may commence on the site in furtherance of the approved PUD or PUD phase until all construction guarantees have been posted with and approved by the City.

8. Minor alterations to the PUD, as determined by the Planner, may be approved by the Planner. Major revisions to a PUD shall be brought before the Commission as a conditional use. All development approved by the Commission on the PUD plan will be administratively approved at the actual time of development.

**16.43.512 Rezoning.** Rezoning is a change to zoning district boundaries as shown on the official zoning map. Application must be made on a form supplied by the City to the Planner. Prior to submission of an application, the applicant is encouraged to contact the Planner for the purpose of discussing the site, the proposed use and the approval procedure.

A. Initiation. A rezoning may be initiated by the developer, the Planner, any member of the Commission, a City council member; the Mayor or by a petition bearing the signatures of the owners of at least fifty-one percent (51%) of the owners of property within the area proposed to be rezoned.

B. Restrictions. Rezoning of an area less than two (2) acres shall not be considered unless the rezoning involves the contiguous expansion of an existing zone. Streets or other rights-of-way shall not be included in calculating the minimum area for a rezoning. The area to be rezoned shall be a logical, integrated area.

C. Procedure. The application, acceptance notice, review and decision procedures for a rezoning shall follow the procedures set forth for a conditional use in section 16.43.506. If the Commission fails to act within twenty (20) days of the close of the hearing the rezoning request shall be considered approved and shall be forwarded to the council.

E. Criteria. The Commission shall make a recommendation to the council based on written findings that the appropriate following criteria have been addressed:

1. The proposed rezoning substantially complies with section 16.43.508, General Approval Criteria.

2. The proposed rezoning is in an area with adequate services, including as appropriate; roads, parking, sidewalks, water, sewer, garbage collection, gas, electricity, drainage, police and fire protection, or the developer has agreed to provide all the necessary improvements or services for the area.

3. The comments from reviewing parties (section 16.43.308) on the proposed rezoning have been adequately addressed.

4. Due deference has been given to the neighborhood plan or comments and recommendations from a neighborhood with an approved neighborhood plan.

5. There is a demonstrated need for additional land in the zoning district to accommodate uses allowed;

6. The resulting district or expanded district will be a logical, integrated area; and

7. The rezoning is in conformance with the City comprehensive plan.

F. Council. The council shall review and act on a rezoning by ordinance. The council

shall consider the application and Commission recommendation at its next available meeting after receipt of the Commission recommendation. Upon enactment of the ordinance, the Planner shall cause the official zoning map to be changed accordingly. The councils decision shall be final.

**16.43.600 ZONING DISTRICTS.** The City is hereby divided into the following zoning districts. These districts are depicted on the official City zoning map.

A. RR - Rural Residential District. The intent of the RR district is to provide areas for very low-density rural residential and agricultural uses. This district is intended for areas where development trends, transportation systems and physical features indicate the appropriateness of a very low intensity of residential use. This zone is intended to have a broader mix of compatible uses than other large lot residential areas.

B. R1 - Single-Family Residential District. The intent of the R1 district is to provide areas for development of individual family home sites. The primary purpose of this district is to protect and provide for low density, quiet residential areas on large lots. This district provides an zone for single-family homes on large lots that provide ample storage area for vehicles, boats and other recreational equipment. All development in this zone should maintain and enhance the single-family residential character of the neighborhood.

C. R2 - Residential District. The intent of the R2 district is to provide areas for a higher residential density than either the RR or R1 districts. This zone may have some multifamily and a higher density of different uses but is generally a residential area with neighborhood commercial, and some larger commercial uses.

D. RM - Residential Multifamily District. The multifamily district is intended to provide and protect areas for the highest density residential development. Other compatible uses that are commonly associated with higher density residential areas may be allowed.

E. Commercial District. The intent of the commercial district is to protect areas of existing commercial development and to provide areas for the continued growth of commercial enterprise. The uses in this zone are oriented towards serving the commercial needs of the residents of the City and the surrounding area.

F. Industrial District. The intent of the industrial district is to provide for and protect productive Industrial areas. These areas are usually served by major highways or collector streets, the Alaska Railroad, the airport and public or community water or sewer. The designation of an area as Industrial 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.

G. Public District. The public district is intended to provide for and protect areas of public lands for public uses.

**16.43.602 District Use Chart.** The following chart summarizes the uses allowed and the standard of review for each use. In the commercial and industrial districts, more than one building housing a permissible principal use may be erected on a single lot, provided that each building and use shall comply with all applicable requirements of this chapter and other borough, state or federal regulations.

AA = Administrative Approval  
 CU = Conditional Use

UP = Use Permit  
 EX = Excluded

Blank = No City approval necessary

Districts →	RR Rural	R1 Single Family	R2 Residential	RM Multi- Family	C Commercial	I Industrial	P Public
<b>USES</b>							
Accessory Uses	AA	AA	AA	AA	AA	UP	AA
Adult Business	EX	EX	EX	EX	CU	EX	EX
Agriculture	UP	EX	EX	EX	EX	EX	EX
Animal Husbandry	UP	EX	UP	EX	EX	EX	EX
Animal Shelter	EX	EX	EX	EX	CU	UP	UP
Automotive Sales	UP	EX	EX	EX	AA	AA	EX
Bed and Breakfast		UP	AA	AA		EX	EX
Campground	UP	EX	EX	EX	UP	EX	AA
Cemetery	UP	EX	EX	EX	UP	UP	UP
Church	UP	EX	UP	UP	UP	EX	EX
Commercial 10,000 GFA or less	AA	EX	EX	CU	AA	UP	UP
Commercial more than 10,000 GFA	EX	EX	EX	EX	CU	UP	EX
Communication Equipment	AA	UP	AA	AA	AA	AA	AA
Convenience Store	AA	EX	UP	EX	UP	EX	EX
Correctional Facility	EX	EX	EX	EX	EX	CU	CU
Day Care	AA	UP	UP	UP	UP	EX	EX
Duplex	AA	EX	AA	AA	UP	EX	EX
Farm Animals	AA	UP	UP	EX	EX	AA	EX
Group Home	UP	UP	UP	UP	UP	EX	UP
Districts →	RR Rural	R1 Single Family	R2 Residential	RM Multi- Family	C Commercial	I Industrial	P Public

USES							
Heavy Equipment	AA	EX	EX	EX	UP	AA	AA
Helipad	EX	EX	EX	EX	UP	AA	UP
Heliport	EX	EX	EX	EX	CU	AA	CU
Home Occupation		AA	AA	AA		EX	EX
Hotel	EX	EX	EX	EX	UP	EX	EX
Institutional Home	CU	EX	CU	CU	CU	EX	CU
Junkyard	EX	EX	EX	EX	EX	UP	EX
Kennel	UP	EX	CU	EX	UP	EX	EX
Mobile Home	EX	EX	CU	EX	EX	EX	EX
Motel	EX	EX	EX	EX	UP	EX	EX
Multi-Family	EX	EX	UP	AA	UP	EX	EX
Planned Unit Development	CU	CU	CU	CU	CU	CU	CU
Play Field	UP	UP	UP	UP	UP	EX	UP
Public Facility	UP	CU	UP	UP	UP	AA	AA
Resource Extraction	CU	EX	EX	EX	CU	UP	UP
Single-family dwelling	AA	AA	AA	AA	UP	EX	EX
Subdivision	UP	UP	UP	UP	UP	UP	UP
Utility Facility	AA	UP	UP	UP	AA	AA	AA
Waterfront Use	AA	AA	AA	AA	UP	UP	UP
Zoo	UP	EX	EX	EX	CU	EX	CU

**16.43.700 DENSITY AND DIMENSIONAL REQUIREMENTS.** The following are the requirements governing density of residential development, building height, setback requirements for buildings from lot lines and parking. In calculating the number of dwelling units allowed on a lot or the number of parking, loading or storage spaces required, the Planner shall round fractional units above two up to the next whole number if that fraction equals or exceeds  $\frac{1}{2}$ . (Example: 4 units are required if the density calculating yields 3.50 units. If the density calculation yielded 3.48 units, only 3 units would be allowed).

**16.43.702 Density.**

District	RR	R1	R2	RM, C, I, P
Maximum residential density and dwelling units per square feet of lot area.	2/40,000	1/lot	1/10,000	None

**16.43.704 Setbacks and Height.** Setbacks are measured from the outer-most portion of the building to the nearest lot line or building as appropriate. Temporary buildings may be permitted within the side or rear yard area as Administrative Approval by the Planner. The setbacks may be reduced up to 10% by the Planner after an investigation and finding that the resulting lesser setback would meet the purpose of the standards. However, where other setback standards are applicable, the most restrictive setback standards apply. The following are the building setback and additional standards:

A. Front and rear yard setbacks are twenty-five (25) feet from the lot line. In the Commercial district the Planner may modify the front and rear setbacks by averaging the existing building line and applying this average setback to the building.

B. In all residential districts (RR, R1, R2 and RM) the side yard setback is ten (10) feet. The Commercial, Industrial and Public districts the set back is 10 feet or no side yard setbacks, as long as all requirements of the state fire code or other applicable regulations are met.

C. Building height is limited to 35 feet above the average finished grade of the lot. Building height in the Commercial and Industrial districts may exceed 35 under the provisions of a use permit approved by the Planner.

D. Additional Standards:

1. Unattached residential dwelling units on same lot must be separated by twenty-five (25) feet.

2. The Planner shall designate the front yard for corner lots.

3. Incidental architectural features such as window sills, cornices and eaves may project not more than three (3) feet into any required setback. This provision does not apply to cantilevered floors or other similar building extensions.

4. Industrial uses or buildings must be setback a minimum 100 feet from any residential zoned lot line. Commercial buildings must be setback thirty (30) feet from any residential zoned lot line. Industrial or commercial accessory uses may be located within this setback, provided that all other setback requirements are met.

5. No building 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 bathhouses may be located closer than seventy-five feet if they are located primarily over



water, not used for habitation; and do not contain sanitary facilities. The City may require dedication of a maintenance easement of up to fifteen feet from the high-water mark or bank of a body of water, whichever produces the greatest access.

**16.43.706 Parking.** Off-street parking facilities must be provided as hereinafter specified. Off-street parking facilities for residential uses must be on the same lot with the building that they are required to serve. Off-street parking facilities for nonresidential uses must be within walking distance (300 feet). All parking, except that which serves residences, shall be arranged so that ingress and egress are possible without backing over a sidewalk area or onto a collector or larger street designation. Turning and maneuvering space shall be located entirely on private property, provided that the usable portion of an alley may be credited as turning and maneuvering space. 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. Changes of use with an increase in gross floor area must provide parking, loading and storage area in conformance with this section. The parking, loading and storage space requirements for any listed use or use not listed may be established under the provisions of a use permit under section 16.43.402.

A. Minimum Standards. Parking required for a use must conform to the following:

1. All parking spaces shall be located far enough within the lot to prevent any portion of a car from extending over an adjoining lot or over a public right-of-way or side-walk.
2. Excluding residential uses less than five dwelling units and temporary uses, all required off-street parking areas, including ingress and egress routes, shall be surfaced with at least two inches of hot bituminous pavement or a durable surface approved by the Engineer that is designed to control dust and able to bear the weight of expected traffic.
3. Multifamily uses of more than four dwelling units may be required to, provide additional an storage area for boats, recreational vehicles, off-road vehicles and trailers. The storage area is equal to 200 square feet for each three parking spaces. The storage area may be located on another lot of common ownership if the lot is located within 300 feet (walking distance).
4. Where parking or storage areas are in a residentially zoned lot or contiguous with a residential zoned lot line, the area shall be screened by a wall, fence, or by landscaping designed to screen the view of the parking area from the residential area. The screen shall have a minimum height of 3.5 feet and shall be maintained in good condition subject to street intersection visibility requirements. Landscaped buffers at least twenty feet wide along all lot lines adjoining residential zoned land are required for all industrial or commercial uses.
5. Excluding temporary uses, one flood light per 25 spaces is required to illuminate off-street parking spaces. The lighting must be arranged as to reflect the light away from adjoining residential uses and to prevent glare to traffic. The lighting may be combined with access lighting required under section 16.43.508.
6. The parking requirement for mixed uses is the total sum of the requirement for spaces for the various uses computed separately.
7. Handicapped spaces shall be 13 feet wide. (see Table of Parking Requirements)
8. A single parking area may be used to service more than one use if the normal hours of operation of the uses do not overlap. If a single parking area is so used, additional parking may be required by the Planner as a condition of continued occupancy at any time the hours of operation of the establishments are altered to run con-currently. Before joint use is allowed, a contractual agreement setting out the terms of the use must be created by the joint users and approved as a use permit by the Planner.
9. The provision and maintenance of off-street loading, snow storage and other

storage areas is a continuing obligation and joint responsibility of the owner and occupants. Each off-street loading space must be not less than thirty feet by twelve feet, have an unobstructed height of at least fourteen feet six inches and be made permanently available for such purposes. These areas are required as follows.

a. Nonresidential development over 5,000 square feet GFA must provide one loading space for each 20,000 square feet or less GFA.

b. A snow storage area of 25 square feet for each parking space shall be provided for any use except single family and duplex. Snow storage areas must be designed to minimize drainage and run off problems and not overload or impair the City storm drainage system. The required snow storage area may be reduced by the Planner in consultation with the Engineer.

10. Pick up areas for taxi, bus and other vehicles may be required for uses that customarily need such services, including auditoriums, theaters, and other places of public gathering.

B. The minimum number of off-street parking spaces required and their dimensions are set out in the following tables:

<b>Table of Parking Requirements Uses:</b>	<b>Spaces Required (GFA=Gross Floor Area) Plus one space for each employee on the largest work-shift.</b>
Single-family, duplex or multifamily uses	2 spaces per dwelling unit
Motels, Hotels, Bed & Breakfast	1 per guest room
Hospitals, group homes, and other health care facilities	1 per 4 beds based on maximum capacity
Churches, auditoriums, theaters, mortuary 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
Self storage Mini-Warehouses	1 per each 25 storage units
Industrial uses	1 per each employee
Restaurants, bars	1 per 150 sq. ft. GFA or 1 for every 3 seats, whichever is greater.
Offices	1 per 300 sq. ft. GFA
Commercial Uses	1 per 300 sq. ft. GFA
<b>Handicapped Parking:</b>	
<b>Total Parking Spaces in Lot</b>	<b>Accessible Spaces Required</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
each additional 100 spaces or fraction thereof	1

Table of Minimum Dimensions

Angle →	30 degrees	45 degrees	60 degrees	90 degrees
Aisle Width	11 feet	13 feet	18 feet	25 feet
Stall Length	18 feet	20 feet	21 feet	20 feet
Stall Width	10 feet	10 feet	10 feet	10 feet

**16.43.800 GENERAL PROVISIONS.** The following general provision may apply to both existing and proposed uses.

**16.43.802 Nonconformities.** The purpose of this section is to control, reduce or eliminate conflicts from the presence of buildings and uses not conforming to district regulations. Nonconformities which are maintained in full compliance with the provisions of this section are not subject to fines or remedial actions.

A. Types of Nonconformities. There are three basic types of nonconformities:

1. Nonconforming Uses. A nonconforming use is a use which is prohibited under this title, but which was lawful prior to the effective date of this Title or any subsequent revisions.

2. Nonconforming Buildings. A nonconforming building is one which was lawful at the time of construction but which does not presently conform to the provisions and standards of the district in which it is located.

3. Nonconforming Lots of Record. Nonconforming lots of record are those lots in existence on the effective date of this Title or any subsequent revisions which do not meet applicable minimum lot size requirements.

B. Regulation of Nonconformities. Priority regulatory attention shall be given to nonconformities which are fire and safety hazards or which are clearly inconsistent with surrounding uses or buildings. The following are the regulations for the various types of nonconformities:

1. Uses. A nonconforming use may be changed to an allowed use or another nonconforming use with approval of the Planner as a use permit. The Planner must find the new use is more consistent with the uses allowed in the zoning district, or is less of a fire or safety hazard. When a nonconforming use is discontinued or abandoned for twelve months or more at any time after the effective date of this Title, it shall not thereafter be resumed unless an extension is approved by the Commission under the procedures specified for a conditional use. When a nonconforming use is damaged so that the cost of repair exceeds sixty-five percent of the current assessed value of the building, the use must be changed to a use which is allowed in the district.

2. Buildings. The moving, replacement, repair and maintenance of the nonconforming portion of a building is allowed; provided that no additional building or new building is added within the yard and that the building complies with all other district requirements. Any nonconforming residential building which has been damaged may be repaired, rebuilt or replaced within one year of such damage unless an extension is approved by the Commission under the procedures for a conditional use; provided, that such replacement does not extend or expand the previously existing nonconformity. Other nonconforming buildings which are damaged so that the cost of repairs exceeds sixty-five percent of the current assessed value of the building shall not be continued unless the building conforms with all requirements of the applicable zoning district.

3. Lots. Nonconforming lots of record in existence on the effective date of this Title which do not meet applicable minimum lot size requirements for the district in which they are located may be used for all uses permitted in the district, provided that all other provisions of this Title are met.

**16.43.804 Subdivision.** All subdivisions are reviewed as a use permit under section 16.43.402 of this chapter. No subdivision of land may be given final approval until the Planner has certified that requirements of this chapter and/or other ordinances of the City 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 Borough with a copy of all conditions imposed on the permit. To ensure the installation of the on and off-site required improvements the developer shall guarantee the installation thereof by one or a combination of the methods specified in this Title. The guarantee must be approved as to method and form by the City Attorney and Engineer.

**16.43.806 Performance Bonds.** Conditions on any approval may require the posting of a bond or other surety or collateral or deposit in escrow to ensure timely and adequate construction of all improvements required by this Title or permit. 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. The developer may be required to furnish and file with the City a corporate surety bond in an amount equal to up to one hundred ten 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 if the permit requiring the improvements was approved by the City Planner. 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 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 guarantee, the performance bond may be released.

**16.43.808 Maintenance Guarantee.** The developer may be required to warrant and guarantee that landscaping or 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 maintenance guarantee must be in an amount equal to ten percent of the cost of improvements. The maintenance guarantee repair is to provide funds for 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. The developer shall make all repairs to and maintain the landscaping or improvements in good condition during the one year period at no cost to the City.

**16.43.810 Compliance.** When in the judgment of the Planner, landscaping or improvements are deemed in need of reconstruction, repair or maintenance during the first year after date of preliminary acceptance, the developer shall be notified in writing, by certified mail, outlining the areas of discrepancy and the required remedial action. If satisfactory remedial action is not taken within the period specified by the Planner, the City may cause the improvements or landscaping to be maintained at the property owners expense.

**16.43.812 Public Improvements.** All 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.

A. The Engineer in consultation with the Commission shall establish standards for improvements that may be required under this chapter. Such standards become effective upon approval by the Council by resolution. Improvement standards are applicable to all subdivisions of land or approvals in this chapter.

B. The Engineer shall maintain a public construction standards manual of approved

standards. The design, criteria, specifications and standard details in this manual 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 unless the requirements of the Borough or other government agency are greater.

C. 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 Engineer may 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 in this manual or may require changes if the standards are inadequate to address a specific situation.

D. All plans, surveys, soil reports or design 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.

E. The street system must be devised for the most advantageous development of the entire neighborhood and appropriate contribution to regional transportation.

#### **16.43.814 Improvement Construction.**

A. No person may begin construction of any community water system, community sewer system, or drainage facilities until the developer has complied with Title 5, Utilities, of the City Code. No person may begin construction of any improvement until they have:

1. Submitted to the Engineer a detailed method of construction, which may include engineered plan and profile drawings at the option of the 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.

B. After the improvements are constructed, evidence of construction and approved as-built drawings must be submitted to the Engineer by the developer's engineer.

C. Improvements must be conveyed to the City by bill of sale or deed.

#### **16.43.816 Improvement Inspections and Guarantee.**

A. The Engineer shall review and approve or reject all plans for improvements to be constructed as a condition of a subdivision plat or development permit under this chapter. Upon completion of improvements, the Engineer shall inspect and approve or reject the improvements. After approval of improvements, the Engineer shall make such certifications as may be required or appropriate.

**16.43.818 Acceptance - Release Of Guarantee.** The following method must be used for acceptance of improvements and release of guarantees:

A. Preliminary acceptance after installation must be in writing from the Council after written approval has been received from the Engineer;

B. Final inspection must be made by the Engineer prior to release of the maintenance or warranty period guarantee. All defects must be corrected prior to final acceptance;

C. Final acceptance of the improvements and release of any maintenance and warranty period guarantee must be in writing by the Council by resolution after written approval of the Engineer;

D. Upon vacation of a plat or portion thereof, the guarantee may be released if no lots have been conveyed or improved.

**16.43.820 Variance.** A variance is the relaxation of the density, setback or height standards of this chapter beyond those provided for by this Chapter. Prior to submission of a variance application, the developer encouraged to attend a pre-application conference with the Planner. The purpose of the pre-application conference is to permit the applicant to explain the situation that gives rise to the need for a variance and for City 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 pre-application conference may be combined with a any permit pre-application conference.

A. Application. An application for a variance must be submitted to the Planner. The application must be accompanied by a site plan of the relevant part of the parcel or lot. The Planner may require that the site plan be produced by a registered professional engineer or land surveyor. The site plan shall depict all information relevant to the variance request.

B. All variances require a public hearing by the Commission. The notice, comment period and hearing procedure shall be the same as those for a conditional use in section 16.43.506.

C. Variance Standards. 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.

D. If a property qualified for a variance under 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 significantly adversely affect other property.

**16.43.900 SIGNS** The purpose of this chapter 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 except in accordance with the provisions of this Section.

**16.43.902 Scope.**

A. This chapter shall not relate to building design; nor shall the chapter 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 non-commercial 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 chapter is to regulate signs of a commercial nature intended to be viewed from any vehicular public right-of-way.

**16.43.902.2 Definitions.** The following definitions pertain only to this subsection of 16.43.

A. 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.

B. Planner: The City Planner or designee.

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

D. Area: See "Sign, Area of"

E. Awning: A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

F. Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

G. Banner Sign: A sign made of fabric or any non-rigid material with no enclosing framework.

H. Billboard: See "Off-Premise Sign"

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

J. Cabinet, Sign: A complete, fully enclosed, unit or module of a sign.

K. 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.)

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

M. City: Unless the context clearly discloses a contrary intent, the word "City" shall mean the City of Wasilla.

N. 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.

O. 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.

P. Copy: The wording on a sign surface in either permanent or removable letter form.

Q. 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).

R. Double/Multiple-Faced Sign: A sign with more than one message face.

S. Electrical Sign: A sign or sign structure in which electrical wiring, connections, or fixtures are used.

T. Electronic Message Center: See "Changeable Copy Sign, Automatic".

U. Facade: The entire building front including the parapet.

V. Face of Sign: The area of a sign on which the copy is placed.

W. Festoons: A string of ribbons, tinsel, small flags, or pinwheels.

X. 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.

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

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

AA. Frontage, Building: The length of an outside building wall on a public right-of-way.

AB. 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.

AC. 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.

AD. Icon: An image, symbol or emblem.

AE. 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.

AF. Illegal Sign: A sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

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

AH. 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).

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

AJ. Maintenance: For the purposes of this chapter, 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.

AK. Mansard: A sloped roof or roof-line facade architecturally comparable to a building wall.

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

AM. Marquee Sign: Any sign attached to or supported by a marquee structure.

AN. Name plate: A non electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

AO. Nonconforming Sign:

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

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

AP. Occupancy: The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

AQ. 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).

AR. On-Premise Sign: A sign which pertains to the use of the premises on which it is located.

AS. Owner: A person recorded as such on official records. For the purposes of this chapter, 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 or designee. (i.e., a sign leased from a sign company).

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

AU. Parapet: The extension of a false front or wall above a roof line.

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

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

AX. Pole Cover: Covers enclosing or decorating poles or other structural supports of a sign.

AY. Political Sign: A temporary sign used in connection with a local, state, or national election or referendum.

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

BA. 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.

BB. 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.

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

BD. Roof line: The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

BE. 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.

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

BG. Sign, Area of:

1. 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:

a. 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.

b. 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.

2. 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.

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

BI. Subdivision Identification Sign: A freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

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

BK. Under-Canopy Sign: A sign suspended beneath a canopy, ceiling, roof, or marquee.

BL. Use: The purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.

BM. 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.

BN. Window Sign: A sign installed inside a window for the intended purpose of being viewed from the outside.

**16.43.904 General Provisions.** No person shall erect, place, or maintain a sign in the City of Wasilla except in accordance with the provisions of this chapter.

**16.43.904.2 Signs Prohibited.**

A. 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 chapter may utilize:

- a. An exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion;
  - b. Any revolving beacon or flashing 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 roof line whichever is less.
  8. Off-premise signs.

**16.43.904.4 Permits Required.** Unless otherwise provided by this chapter, 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.

**16.43.904.6 Signs Not Requiring Permits.**

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

1. Construction signs of 32 square feet or less;
2. Directional/information signs of 8 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.

**16.43.904.8 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 or designee shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated.

**16.43.904.10 Changeable Copy.** Unless otherwise specified by this chapter, any sign herein allowed may use manual or automatic changeable copy.

**16.43.904.12 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 right-of-way of 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.

**16.43.906 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 non-illuminated 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.

**16.43.906.2 Signs Permitted In Residential Zones.**

- A. Signs are allowed as follows in residential zones:
1. All signs as permitted in Section 16.43.837.2.04
  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 districts are as follows:
1. All allowed freestanding signs shall have a maximum height limit of six feet.

**16.43.906.4 Signs In The Commercial And Industrial Zone.**

- A. All signs as permitted in Section 16.43.837.2.08 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 one hundred 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.

#### **16.43.908 Nonconforming Signs - Determination Of Legal Nonconformity.**

A. Existing signs which do not conform to the specific provisions of the chapter 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 chapter.

#### **16.43.908.2 Loss Of Legal Nonconforming Status.**

A. 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 chapter. This does not refer to change of copy or normal maintenance.

**16.43.908.4 Maintenance And Repair Of Nonconforming Signs.** The legal nonconforming sign is subject to all requirements of this chapter 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 chapter or removed.

**16.43.910 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.

#### **16.43.910.2 Anchoring.**

A. No sign shall be suspended by non-rigid 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.

#### **16.43.910.4 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 and City safety standards.

**16.43.912 Administration And Enforcement - Code Planner.**

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

B. The City Planner or 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 chapter. Such inspections shall be carried out during business hours unless an emergency exists.

**16.43.912.2 Application For Permits.**

A. Application for a permit for the erection, alteration, or relocation of a sign shall be made to the City Planner or designee on a form provided by the City Planner or 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 chapter.
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.

**16.43.912.4 Permit Fees.** All applications for permits filed with the City Planner or 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.

**16.43.912.6 Issuance And Denial.**

A. The City Planner or 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 or designee may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application.

**16.43.912.8 Permit Conditions And Penalties.**

A. Permit fees are non-refundable.

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

**16.43.912.10 Removal Of Signs By The Planner.** In cases of emergency, the City Planner or 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.

**16.43.912.12 Appeals.**

A. Any failure to respond to an application within ten days of receipt or any decision rendered by the City Planner or designee in denying a permit or variance or in alleging a

violation of this chapter may be appealed to the Wasilla Planning Commission with fourteen days of the City Planners' or designee's receipt of application.

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