

TITLE 13

PLANNING AND LAND USE REGULATIONS1/

Chapters:

- 13.01 Comprehensive Plan
 - 13.02 Planning Commission
 - 13.03 Platting Administration
 - 13.04 Board of Adjustment
 - 13.05 Subdivision Requirements
 - 13.06 Zoning
 - 13.07 Building (Land Use) Permit
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1/ Ord. 88-08 enacted Jan. 7, 1987, provided for the city's acceptance and assumption of planning, platting and land use regulations as delegated by the Aleutians East Borough.

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Chapter 13.01 -- Comprehensive Plan

Sections:

13.01.010 Comprehensive plan.

13.01.010 Comprehensive plan. The King Cove Comprehensive Plan with Land Use Plan (known as Exhibit "A") is herewith adopted as the plan of the city. The council and planning commission will, in every instance where development, community needs or other considerations are at issue, consult the comprehensive plan. (Ord. 82-06 (part), 1981)

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Chapter 13.02 -- Planning Commission

Sections:

- 13.02.010 **Planning commission--Established; Purpose.**
- 13.02.020 **Membership.**
- 13.02.030 **Officials.**
- 13.02.040 **Vacancies.**
- 13.02.050 **Meetings.**
- 13.02.060 **Order of business.**
- 13.02.070 **Office and staff.**
- 13.02.080 **Formal acts by resolution.**
- 13.02.090 **Funds.**
- 13.02.100 **Planning functions.**
- 13.02.110 **Additional functions.**

13.02.010 Planning commission--Established; Purpose. There is hereby established the planning commission for the city to constitute a department of the city and to perform the area-wide functions of planning, platting and zoning for the city. (Ord. 82-06 (part), 1981)

13.02.020 Membership. A. The planning commission consists of five residents.

B. Members shall be appointed by the mayor for a term of three years subject to confirmation by the council. Members first appointed shall draw lots for one-, two-, and three-year terms. Appointments to fill vacancies are for the unexpired term. The compensation and expenses of the planning commission and its staff are paid as directed by the council. (Ord. 82-06 (part), 1981)

13.02.030 Officials. The commission shall elect a chairman to conduct the affairs of the commission, a vice chairman to serve as chairman in his absence, a clerk to cause the preparation of the journal of the commission's proceedings, and an assistant clerk to serve as clerk in his absence. (Ord. 82-06 (part), 1981)

13.02.040 Vacancies. A. A vacancy shall be declared and filled as above provided under the following conditions:

1. if a person nominated and confirmed to membership fails to qualify and take his office within 30 days;
2. if a member departs from the city with the intent to remain away for a period of 90 days or more, or moves his residence

from the area he was appointed to represent for a period of 90 days or more;

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3. if a member's resignation is submitted and accepted by the council;

4. if a member is physically unable to attend commission meeting for a period of more than 90 days; and

5. if a member misses three or more consecutive regular meetings unless excused by the commission.

B. The clerk shall keep attendance records and notify the chairman when vacancies occur. (Ord. 82-06 (part), 1981)

13.02.050 Meetings. A. Regular meetings shall be held each month. Special meetings may be called by the commission chairman or shall be called by him at the request of two members.

B. The clerk shall cause to be kept minutes and a journal of all meetings which shall be a public record. Minutes and records shall be filed with the municipal clerk.

C. Meetings shall be conducted under Robert's Rules of Order and such modified or amended rules as may be adopted by the commission.

D. All formal action shall require three affirmative votes. (Ord. 82-06 (part), 1981)

13.02.060 Order of business. A. The order of business at regular meetings shall be:

1. approval of minutes of previous meetings as amended or corrected;

2. reading and disposition of correspondence;

3. unfinished business;

4. new business; and

5. miscellaneous business.

B. The order of business at special meetings shall be prescribed by the chairman. (Ord. 82-06 (part), 1981)

13.02.070 Office and staff. A. The commission shall be provided office space suitable for its needs and adequate to file its journals, resolutions, records, reference materials, correspondence and maps, plats and charts, all of which shall constitute public records of the city.

B. The commission may be furnished secretarial assistance at each regular meeting to assist in preparing its journals and resolutions, and as required to prepare its correspondence under the direction of the commission chairman and clerk. (Ord. 82-06 (part), 1981)

13.02.080 Formal acts by resolution. A. All formal actions of the commission shall be by resolution bearing:

1. the heading "City of King Cove Planning Commission";

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2. the space for the serial number to be assigned "Resolution _____";
3. a short and concise title descriptive of its subject and purposes;
4. short premises or whereas clauses descriptive of the reasons for the resolution, if necessary;
5. the resolving clause "Be It Resolved"; and
6. provision for the signature after the text, "Adopted _____ (date) _____", and designated lines for the signatures of the commission chairman and clerk.

B. All resolutions adopted by the commission, whether at the instance of and presented by third parties, or on the motion of and instance of the commission, shall conform to that set forth in subsection A. above. (Ord. 82-06 (part), 1981)

13.02.090 Funds. All funds of the commission received as fees and charges or otherwise shall be deposited in the general fund of the city as receipts of the activities of the commission. (Ord. 82-06 (part), 1981)

13.02.100 Planning functions. The planning functions of the planning commission are to:

1. Prepare from time to time plans for the systematic development of the city as a place of residence and business.
2. Investigate and report upon the location and design of any public building, dock, beach, statue, memorial, park, parkway, boulevard, street or alley, playground, public street, alley or grade thereof before final action is taken by the city or any department, office, or agency.
3. Investigate and prepare, under such directions and conditions as the council may from time-to-time request, the commission's recommendations on a capital improvements program, and to review the same periodically and revise it from time to time but not less frequently than annually. The annual capital improvement programs shall constitute permanent records of the commission which shall be a public record.
4. Investigate and recommend to the council for adoption by ordinance, with such amendments as the commission believes necessary and proper because of local conditions, such published codes of technical regulations as relate to the functions of planning, platting and zoning.
5. Investigate and prepare from time to time and to initiate on its own motion in the absence of direction from the council, reports on the availability of public lands by selection, transfer at less than appraised value, and otherwise, for city purposes. In this regard, special attention shall be given to

acquisition of lands for public recreation.

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6. Investigate and prepare reports on the location and establishment of:

- a. outdoor public recreation;
- b. trap, skeet, rifle and pistol ranges; and
- c. public campgrounds.

(Ord. 82-06 (part), 1981)

13.02.110 Additional functions. A. The planning commission shall also prepare and recommend to the council:

1. a zoning ordinance to implement plans prepared in accordance with § 13.02.100;
2. a subdivision ordinance;
3. the official map of the city; and
4. modifications to the documents specified in 1. through 3. of this subsection.

B. The commission shall publish notice of and hold at least one hearing before submitting its recommendations under subsection A. to the council.

C. The commission shall act:

1. as the platting board;
2. upon requests for land use changes, zone classification changes, design review permits, conditional uses, variances, temporary uses; and
3. upon requests for other actions as required in Chapter 13.06 of this title.

D. No platting request, variance or conditional use may be granted except upon an affirmative vote of the majority of the commission.^{1/} (Ord. 82-06 (part), 1981)

^{1/} Editor's Note: 1990 recodification deleted "Subject to AS 29.33.245"

from beginning of sentence due to statutory repeal of section by 88 ch. 74 SIA
1985.

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Chapter 13.03 -- Platting Administration

Sections:

- 13.03.010 Platting jurisdiction and power.
- 13.03.020 Procedure.
- 13.03.030 Waiver in certain cases.
- 13.03.040 Information required.
- 13.03.050 Penalties.
- 13.03.060 Alteration of replat petition.
- 13.03.070 Notice of hearing.
- 13.03.080 Hearing and determination.
- 13.03.090 Recording.
- 13.03.100 Title to vacated public area.

13.03.010 Platting jurisdiction and power. The planning commission acting as the platting board has jurisdiction over platting and shall adopt and publish rules and regulations to implement this power. Jurisdiction includes, but is not limited to, the control of:

1. form, size and other aspects of subdivision, dedications, and vacations of land;
2. dimensions of lots or tracts;
3. street width, arrangement and right-of-way, including allowance for access to lots and installation of street paving, curbs, gutters, sidewalks, sewers, water lines, drainage, and other public utility facilities and improvements. (Ord. 82-06 (part), 1981)

13.03.020 Procedure. A. The platting board shall, within 60 days of filing, approve or disapprove the plat or shall return it to the applicant for modification or correction. If the board fails to act, the plat is considered approved and a certificate of approval shall be issued by the board on demand. The applicant for plat approval may consent to the extension of the period for action by the board. The board shall state on its record and in writing to the applicant its reason for disapproval of a plat.

B. The platting board shall submit an approved plat to the district recorder in compliance with AS 40.15.010-.020. (Ord. 82-06 (part), 1981)

13.03.030 Waiver in certain cases. A. The platting authority shall, in individual cases, waive the preparation,

submission for approval, and recording of a plat upon satisfactory evidence that:

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1. each tract or parcel of land will have adequate access to a public highway or street;
2. each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels;
3. the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development;
4. no dedication of a street, alley, thoroughfare or other public area is involved or required.

B. In other cases the platting authority may waive the preparation, submission for approval, and recording of a plat if the transaction involved does not fall within the general intent of AS 29.40.070-.160 and AS 40.15 if it is not made for the purpose of, or in connection with, a present or projected development and no dedication of a street, alley, thoroughfare, park or other public area is involved or required. (Ord. 82-06 (part), 1981)

13.03.040 Information required. A plat shall show initial point of survey, original or re-established corners and their descriptions, and actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners, and distances of the plat, as well as other information which may be required by ordinance. (Ord. 82-06 (part), 1981)

13.03.050 Penalties. A. The owner or agent of the owner of land located within a subdivision who transfers, sells, or enters into a contract to sell land in a subdivision before a plat of the subdivision has been prepared, approved and recorded, is guilty of a misdemeanor in accordance with AS 29.40.180, and upon conviction is punishable by a fine of not more than five hundred dollars (\$500.00) for each lot or parcel transferred, sold, or included in a contract to be sold. The platting board may enjoin a transfer, sale or contract to sell, and may recover the penalty by appropriate legal action.

B. No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than five hundred dollars (\$500). (Ord. 82-06 (part), 1981)

13.03.060 Alteration of replat petition. No recorded plat may be altered or replatted except upon petition of the owners of a majority of the land affected by the alteration or replat or by the platting board. No platted street may be vacated, except upon petition of the municipality or owners of the majority of the front feet of the land fronting the part of

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the street sought to be vacated. The petition shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration or replat. (Ord. 82-06 (part), 1981)

13.03.070 Notice of hearing. The platting board shall fix a time for a hearing on the petition which shall not be more than 60 days after the filing. The board shall publish a notice stating when and by whom the petition was filed, its purpose, and the time and place of the hearing. The notice shall generally describe the alteration or replat sought. The notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the area or, if there is no such newspaper, the notice shall be posted within the same time at three public places within the city. The board shall also mail a copy of the notice to each affected property owner not signing the petition. (Ord. 82-06 (part), 1981)

13.03.080 Hearing and determination. At the hearing the platting board shall consider the alteration or replat and make its decision on the merits of the proposal. No vacation of a city street may be made without the consent of the city council. The council shall have 30 days from the decision in which to veto the board decision. If no veto is received by the board within the 30-day period, the consent of the city shall be considered to have been given to the vacation. (Ord. 82-06 (part), 1981)

13.03.090 Recording. If the alteration or replat is approved, the revised plat must be recorded and is thereafter the lawful plat. (Ord. 82-06 (part), 1981)

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

B. If the city acquired the street or other public area

vacated for legal consideration or by express dedication to and

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acceptance by the city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid over to the city on final vacation. (Ord. 82-06 (part), 1981)

Chapter 13.04 -- Board of Adjustment

Sections:

13.04.010 City council as board of adjustment.

13.04.020 Appeal procedure.

13.04.010 City council as board of adjustment.

A. The city council is the board of adjustment for the area within the city boundaries. Meetings of the board are held at the call of the mayor. The presiding officer or mayor may administer oaths and compel attendance of witnesses. Meetings and hearings of the board shall be open to the public and the board shall keep minutes of its proceedings as a public record.

B. The board of adjustment shall hear and decide:

1. appeals regarding alleged errors in enforcement of zoning ordinances and land use permits;

2. appeals from the decisions of the planning commission on requests stated in Chapter 13.02 of this title; and

3. appeals from the decisions of the planning commission on requests for variances from the terms of the zoning ordinance which are not contrary to the public interest, when a literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the same district.

C. A variance shall not be granted because of special conditions caused by actions of the person seeking relief or for reasons of pecuniary hardship or inconvenience. A variance shall not be granted which will permit a land use in a district in which that use is prohibited. (Ord. 82-06 (part), 1981)

13.04.020 Appeal procedure. A. An interested party, including but not limited to a borough or city official, may file with the board of adjustment an appeal specifying his objections. Copies are filed with the administrative officer involved and with the city clerk within the time required by the zoning ordinance. The officer shall provide the board with all pertinent records, including his written decision. An appeal to the board stays enforcement proceedings unless the board or a court issues an enforcement order based on a certificate of imminent peril to life or property made by the enforcement officer.

B. Appeals from decisions of the board of adjustment shall be governed by AS 29.40.060. (Ord. 82-06 (part), 1981)

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Chapter 13.05 -- Subdivision Requirements

Sections:

- 13.05.010 Interpretation.
- 13.05.020 Jurisdiction.
- 13.05.025 Definitions.
- 13.05.030 Preliminary plat--Application procedure and approval process.
- 13.05.040 Final plat--Application procedure and approval process.
- 13.05.050 Improvements required.
- 13.05.060 Monumentation.
- 13.05.070 Resubdivision and vacation of plats.
- 13.05.080 Variances.
- 13.05.090 Appeals.
- 13.05.100 Enforcements, violations and penalties.
- 13.05.110 Conflict and separability.
- 13.05.120 Minor land partition.

13.05.010 Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is designed to guide the future growth and development of the city in accordance with the 1981 City of King Cove Comprehensive Plan; to further the orderly development and use of land; to secure safety from fire, flood, and other dangers; to provide adequate light and air; to prevent pollution of air, land and water; to facilitate the further subdivision of larger tracts into smaller parcels of land, and to ensure proper legal descriptions and monumenting of subdivided land; and to comply with appropriate provisions of Alaska Statutes. (Ord. 81-09 (part), 1981)

13.05.020 Jurisdiction. A. These subdivision regulations shall apply to all subdivisions of land as defined herein, located within the corporate limits of the City of King Cove.

B. No land shall be subdivided within the corporate limits of the city until the subdivider or his agent:

1. has submitted and obtained approval and required signatures on both a preliminary and final plat, and
2. the final plat is recorded with the district recorder.

C. The requirements of subsection B.2. shall not apply to certain land transactions or in certain cases, subject to the following:

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1. The platting board shall waive the submission for approval and recording of a plat when an owner of land submits a final plat to be recorded in accordance with the subsection C.3. waiver request, which shall include a preliminary plat, drawn to a scale of 1" = 500' but in all other respects complying with the requirements of subsection C.3. of this chapter, to the platting board presenting satisfactory evidence that:

a. each tract or parcel of land will have adequate access to a public highway or road; and

b. each parcel created is five acres in size or larger and that the land is divided into four or fewer parcels; and

c. the conveyance is not made for the purpose of, or in connection with, a present or projected subdivision development; and

d. no dedication of a road or other public area is involved or required; or

e. the sale or exchange of parcels of land between owners of adjoining property will not result in additional lots being created and that the lots resulting will not be reduced below the minimum required by this chapter or other applicable laws.

2. The platting board may waive the preparation, submission for approval, and recording of a plat when an owner of land submits a waiver request to the platting board presenting evidence that the transaction involved does not fall within the general intent of AS 29.40.070-.160 and AS 40.15, and that it is not made for the purpose of, or in connection with, a present or projected subdivision development and no dedication of a street, alley, thoroughfare, park or other public area is involved or required.

3. When the platting board is satisfied that conditions stated in subsection C.1.a.-d. or subsection C.1.e. exist, or makes a determination concurring with the petitioner relative to subsection C.2., the platting board chairman shall sign and file with the district recorder a resolution of the platting board so stating the same and waiving the preparation, submission for approval and recording of a final plat.

4. Preparation, submission for approval, and recording of a plat shall not be required in the case of transfers of interest in land pursuant to court order and such order and transaction when satisfied and completed are filed with the district recorder.

5. These subdivision regulations shall not apply to any lot or lots forming a part of a subdivision legally created and recorded with the district recorder prior to the effective date of this chapter, except in the case of further subdivision or resubdivision of existing lots or tracts. (Ord. 81-09 (part),

1981)

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13.05.025 Definitions.

Administrative Officer: means the city administrator or individual designated by the city administrator to administer this chapter.

Block: means a unit of lots, or a tract or group of lots, surrounded by roads or other physical boundary.

Boardwalk: means a pedestrian walkway with permanent surfacing.

Building Line: means a line on a plat indicating the limit beyond which buildings or structures may not be erected.

City Council: means the city council of King Cove, Alaska.

Capital Improvement Program: means a schedule of all future projects requiring public funds listed in order of construction priority together with cost estimates and anticipated means of financing each project.

Community Services and Transportation Plan: means a component of the Comprehensive Plan dealing with policies for transportation and community facilities.

Comprehensive Plan: means the official public document adopted by the city as a policy guide to decisions about the physical development of the community.

Cul-de-Sac or Dead-End Road: means a road having one end open to traffic and being terminated at the other end by a vehicular turn around.

Dedicated: means conveyed for public use.

Easement: means a right that a party may acquire to use another's land for a specific purpose. All easements should include unrestricted rights of ingress and egress for construction and maintenance purposes by utility companies.

Final Plat: means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the platting board for approval and which, when approved, will be submitted to the district recorded for recording.

Flood Hazard Area: means the area within the city subject to the 100-year flood as delineated on the Flood Hazard Boundary Map or the Flood Insurance Rate Map for the city published by the Federal Insurance Administration, including the coastal high hazard area where applicable.

Lot: means a recorded tract, plot or portion of contiguous land in the same ownership.

1. **Corner Lot:** means a lot that abuts the intersection of two or more streets.

2. **Double Frontage Lot:** means a lot that has frontage on two parallel or approximately parallel streets other than the alleys.

Lot Improvement: means any building, structure, water or sewer facility, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

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One-Hundred Year Flood: means a flood of a magnitude which can be expected to occur on the average of once every 100 years.

Ordinance: means any legislative action of the city which has the force of law, including any amendment or repeal of any ordinance.

Out-Lot: means a lot shown on a plat that is not located within a numbered or lettered block.

Owner: means any person, firm, corporation, or any other legal entity who is the owner of record or which has proprietary interest in the land sought to be subdivided under this chapter.

Partition: means either an act of partitioning land or an area or tract of land partitioned as defined in this title.

1. **Major Partition:** means a partition which includes the creation of a road or street.

2. **Minor Partition:** means a partition that is subject to approval by a city or borough under a regulation or ordinance adopted pursuant to AS 29.40.090 and that does not include the creation of a road or street.

3. **Partition Land:** means to divide an area or tract of land into two or three lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include divisions of land resulting from lien foreclosures, the creation of cemetery lots or made pursuant to a court order, including but not limited to court orders in proceedings involving testate or intestate succession; and partition land does not include any adjustment of a lot line by the relocation of a common boundary where an additional lot is not affected and where the existing lot included in size by the adjustment is not reduced below the minimum lot size established by an applicable zoning ordinance.

Pedestrian Way: means a right-of-way for pedestrian traffic.

Plat: means a map or representation on paper of a piece of land subdivided into lots with roads, physical characteristics, etc., drawn to scale.

Plat and Map: "Plat" includes a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision. "Map" means a final diagram, drawing or other writing concerning a major partition.

Platting: means the procedures provided for in this chapter for processing the plat from the time it is submitted for filing with the platting board until it has been approved by the platting board.

Platting Board: means the city council of the City of King

Cove or any other board so designated by the city council of the City of King Cove.

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Preliminary Consultation: means a voluntary meeting between the subdivider and the platting board, at which time the subdivider shall be informed of subdivision procedures and standards as prescribed by this chapter.

Preliminary Plat: means the preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the platting board.

Public Improvement: means any drainage ditch, roadway, parkway, pedestrian way, off-road parking area, lot improvement, or other facility for which the city may ultimately assume the responsibility of maintenance and operation, or which may affect an improvement for which city responsibility is established.

Public Improvements Guarantee: means a performance bond, deposit in escrow, or letter of credit in an amount equal to the estimated cost of the required public improvements. All such forms of security shall be approved by the city council prior to acceptance by the platting board. If the applicant can show financial hardship or inability to obtain a bond or letter of credit, the platting board may, at its discretion, require the recordation of restrictions for lots listed in the subdivision which lists for each lot the estimated dollar amount of the required improvements applicable to that lot, together with interest at 8 percent from the date of recordation, which restrictions of note is a lien upon the lots and a liability which is due and payable no later than six months after the date the city, by ordinance, adopts a program for constructing the subdivision improvements. As an alternative, the platting board may accept a note from the applicant secured by a deed of trust upon one or more of the lots in the final plat sufficient to cover the estimated costs of the city constructing the required subdivision improvements, if the applicant should not construct them within the time prescribed.

Reserve Strip: means land reserved adjacent to a proposed road for the purpose of denying access from adjacent property to such road.

Resubdivision: means a change in the map of an approved or recorded subdivision plat if such change affects any legal boundary or road layout on such map or area reserved thereon for public use.

Right-of-Way: means land dedicated to the city for use in supporting municipal services.

Road: means a way for vehicular traffic that is dedicated to public use.

1. **Major Road:** means a road used to carry high volumes of traffic to and from major traffic generators and/or into or out

of the community.

2. **Collector Road:** means a road carrying traffic from minor roads to major roads, including the principal

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entrance roads of a residential development and roads for circulation within such a development.

3. **Minor Road:** means a road used primarily for access to the abutting properties.

Road Right-of-Way Width: means the distance between property lines measured at right angles to the center line of the road.

Street Plug: means physical barrier blocking access.

Subdivide Land: means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

Subdivider: means any individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.

Subdivision: means the division including resubdivision of any land, vacant or improved, which is divided into lots, parcels, sites, units, plats, or interests for the purpose, whether immediate or future, of sale, lease, or transfer of title, where the act of division creates two or more parcels; the process of subdividing; the land or areas subdivided. (Ord. 81-09 (part), 1981)

13.05.030 Preliminary plat--Application procedure and approval process. A. **Overview.** The application for a subdivision or major partition has two main steps: the preliminary plat and the final plat. The preliminary plat must be approved before the final plat application can be considered. Approval of the preliminary plat shall not constitute final acceptance of the plat or the map of the proposed major partition for recording. Once the preliminary plat is approved, the city may require changes on the plat that are necessary to show compliance with the conditions of approval.

B. **Preliminary consultation.** The subdivider may and is encouraged to at any time prior to submitting a preliminary plat, request a meeting with the platting board for the purpose of a preliminary consultation.

C. **Application procedures.**

1. Prior to submitting a final plat of a subdivision a subdivider shall submit a preliminary plat in order that general agreement may be reached on layout arrangement of roads, public or private utilities and lots before a final plat is prepared.

2. An original and 10 copies of the preliminary plat and all required accompanying data, as specified in C. of this section, including a certificate of ownership indicating the

date(s) the land(s) proposed to be subdivided was(were)

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acquired, together with the book and page of each conveyance to the present owner as recorded in the district recorder's office, a statement that all taxes and special assessments pertaining to the property have been paid or that payment schedule, satisfactory to the city, has been arranged, proof of plan approval by the Alaska Department of Environmental Conservation (DEC) pursuant to 18 ACC 72.300, a copy of soils tests, logs, or borings submitted to DEC and a subdivision fee in the amount of five dollars (\$5.00) per lot, shall be submitted to the city clerk, at least 30 calendar days prior to the platting board meeting at which consideration of the preliminary plat is desired.

3. The administrative officer shall review the plat to determine that all necessary information is provided. Deficient documents shall be returned to the subdivider with a request to correct the deficiency. No preliminary plat shall be considered to be filed and accepted by the city if it does not meet the submittal requirements of this chapter, as determined by the administrative officer. The applicant may appeal any decision of the administrative officer to the platting board.

4. The city clerk shall, within three days after the submittal of the preliminary plat, transmit a copy of the plat and all accompanying materials to the public works director, city fire department, and utility providing electric service for their review and comment. Comments, if any, shall be filed with the city clerk within 14 days.

5. The administrative officer shall provide for a public hearing in accordance with city law, and shall notify all owners of property contiguous to and across a public right-of-way from the proposed subdivision. The notice shall state the time and place of hearing, a brief description of the subdivision and the location of a copy of the preliminary plat for public inspection.

6. The platting board shall approve, conditionally approve, or disapprove the preliminary plat within 60 days from the date the preliminary plat was accepted by the administrative officer.

a. If approved, the platting board chairman shall affix his signature to the plat and attach thereto a notation that it has received preliminary approval and return it to the subdivider for compliance with final approval requirements.

b. If approved with modifications, or disapproved, the platting board chairman shall attach to the plat a statement of the reasons for such action and return it to the subdivider. In any case, a notation of the action taken, and requisite reasons therefor, shall be entered in the records of the platting board.

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7. Approval of the preliminary plat by the platting board shall not constitute final acceptance of the subdivision by the platting board.

8. A preliminary plat shall be considered to have been abandoned by the subdivider if he has not submitted to a final plat for such subdivision within 18 months from the date he submitted the preliminary plat. The subdivider may be granted an extension of time by the platting board for reasons deemed adequate by the platting board. Any plat not submitted for final approval within the period of time set forth herein shall be null and void, and the subdivider shall be required to submit a new preliminary plat.

9. A subdivider may, upon written approval of the platting board, submit a final plat for a portion of the subdivision. Such partial plat and all subsequent plats for the remainder of the subdivision shall conform to the approved preliminary plat. The phasing and scheduling of such partial platting shall be specified in the platting board's written approval.

D. **Contents of the preliminary plat.** Preliminary plats showing the land to be subdivided and the entire tract, plat, parcel, or survey in which the land proposed to be subdivided is located, including all subdivided lands within that tract, plat, parcel or survey, shall be prepared in pen or pencil and drawn to a scale of 1" = 100' if more than 10 lots are created by the proposed subdivision and to a scale of 1" = 50' if 10 lots or less are created by the proposed subdivision. The following information shall be placed on the plat:

1. notation that the plat is preliminary;
2. date, scale, and northpoint;
3. name of the proposed subdivision;
4. location of the property by U.S. Survey, section, township and range;
5. the names and addresses of subdivider(s) and the surveyor or engineer preparing the plat;
6. citation of existing covenants, reservations, deed restrictions, and easements on the property, if any;
7. zoning on and adjacent to the proposed subdivision and the land use designation of this area shown on the Land Use Plan Map of the 1981 City of King Cove Comprehensive Plan;
8. the approximate acreage, dimensions, and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;
9. location and size of existing or proposed utility systems or other improvements including but not limited to water, sewer, and electrical in and within 200 feet of the proposed subdivision;

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10. the general location of streams, lakes, other bodies of water, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within 200 feet of the proposed subdivision;

11. a statement concerning responsibility for construction, operation and maintenance of water supply and sewage treatment and disposal facilities in the proposed subdivision;

12. recommended or proposed type and location of water sources and sewage treatment or disposal systems on a typical lot diagram in relation to water sources and sewage treatment and disposal systems on adjacent lots or in relation to a community system(s) if present;

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

14. contour lines related to some established benchmark or other datum as approved by the administrative officer with intervals at a minimum of two feet for slopes up to 12 percent and five feet for slopes over 12 percent;

15. the location of at least one temporary benchmark within the plat boundaries;

16. the names of proposed and existing roads in and adjacent to the proposed subdivisions;

17. a vicinity map showing streets and other general development of the surrounding area at a scale of no less than 1" = 1500';

18. the administrative officer shall review and approve by signature all Homeowners' Agreement of Contracts, Covenants, Restrictions for each plat. Contracts, covenants, restrictions that run with the land should be clearly shown on the face of the preliminary plat.

E. **Supplemental material.** Any of the following information may be required by the planning director and if it cannot be shown practicably on the preliminary plat, it shall be submitted on separate sheets accompanying the preliminary plat:

1. A vicinity map showing all existing subdivisions, streets and unsubdivided land ownerships adjacent to the proposed subdivisions, and showing how proposed streets may be extended to connect to existing streets. The vicinity map shall be a scale of 1" = 400' and shall show all lands within a radius of one-half mile from the proposed subdivision. The vicinity map shall show the proposed streets within the proposed subdivision and their connection with adjacent streets plus zoning on and adjacent to the tract.

2. Approximate plan and profiles of proposed sanitary

and storm sewers with grades and pipe sizes indicated,

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and plan of the proposed water distribution system showing pipe sizes and the location of valves and fire hydrants. Also the location in the adjacent streets and property of existing sewers, water drains, culverts, and drain pipes, electric conduits of lines proposed to be used on the property to be subdivided and insert elevations of sewers at point of proposed connection.

3. Where the plat to be subdivided contains only part of the tract owned or controlled by the subdivider, the planning director shall require a plan of a tentative layout for streets in the unsubdivided portion.

4. If special building setback lines are to be established in the subdivision, they shall be shown on the subdivision plat or included in the deed restrictions. (Ord. 81-09 (part), 1981)

13.05.040 Final plat--Application procedure and approval process.

A. Application procedures: 1. Following the approval of the preliminary plat, the subdivider shall file with the city clerk, 30 days prior to the platting board meeting at which consideration of the final plat is desired, an original and 10 copies of the final plat and all accompanying data as required in subsection B. of this section.

2. The administrative officer shall review the plat to determine that all necessary information is provided. Deficient documents shall be returned to the subdivider with a request to correct the deficiency. No final plat shall be considered to be filed and accepted by the city if it does not meet the submittal requirements of this chapter, as determined by the administrative officer. The applicant may appeal any decision of the administrative officer to the platting board.

3. The city clerk shall, within three days after the submittal of the final plat, transmit a copy of the plat and all accompanying materials to the public works director, city fire department and utility providing electric service for their review and comment.

4. When substantial modifications to the proposed subdivision occur subsequent to preliminary plat approval, the administrative officer may direct the subdivider to submit a new preliminary plat reflecting the modifications that occurred subsequent to initial preliminary plat approval.

5. a. The platting board shall within 60 days from the date the final plat was accepted by the administrative officer, approve, conditionally approve, or disapprove the final plat.

b. One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon, and the

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reasons therefor accompanying the plat.

c. If approved, the platting board chairman shall sign the original and three copies of the subdivision plat. Signed copies shall be distributed to the subdivider, the district recorder's office and the local utility providing electric service.

d. If conditionally approved, the platting board chairman shall sign the original and three copies of the subdivision plat after it has been revised in accordance with the conditions specified by the platting board as a condition of approval.

e. It shall be the responsibility of the administrative officer to file the plat with the district recorder's office within 20 days of the date of signature.

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

6. a. When a public improvements guarantee in the form of a bond or other type of security is required, the chairman of the platting board shall not endorse the final plat until after the bond, deposit, letter of credit, restrictions (see § 13.05.025), etc., have been approved by the platting board, filed with the city clerk, and/or recorded with the district recorder.

b. A performance bond or other form of security, if required, shall include but not be limited to the performance of all required subdivision and off-site improvements, and shall provide that all improvements and land included in the offer of dedication shall be formally dedicated to the City of King Cove, free and clear of all liens and encumbrances of the premises. In no event shall the period of time stipulated by the platting board for completion of required improvements exceed two years from the date of plat approval.

B. Contents of final plat. 1. The final plat will have incorporated all changes or modifications required by the platting board in the preliminary review of the plat. If none, it shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion conforms with all the requirements of this chapter.

2. The final plat shall be prepared by a registered engineer or surveyor and shall be clearly and legibly drawn in India ink on tracing cloth or reproducible mylar. The plat of a subdivision containing more than 10 lots shall be drawn to a scale of 1" = 100'. A subdivision plat containing 10 lots or less shall be drawn to a scale of 1" = 50'.

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

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- a. Notation the plat is "final".
- b. A title block which shall be placed on the lower right hand corner of each drawing of the set comprising the plat showing, at least, the name of subdivision, sheet number, date, scale, north point, total acreage of the subdivision, and total number of lots in the subdivision.
- c. Location of subdivision by U.S. Survey, township, section and range.
- d. A statement that the subdivision plan has received approval from the Alaska Department of Environmental Conservation pursuant to 18 AAC 72.300.
- e. Surveyor certificate indicating said individual certifies that a land survey has been completed under his direct supervision and that corners and monuments have been located and established and the dimensions shown on the plat are true and correct.
- f. A certificate of ownership and dedication, dedicating to the public all easements necessary for public utilities, roads, alleys, thoroughfares, parks, local government uses and other public areas shown on the plat, such certificate to be signed before the city clerk or a Notary Public.
- g. A statement of the city accepting for public use and purpose all dedicated lands and areas shown on the plat, such statement to be signed by the mayor and city clerk.
- h. Official seals of the attesting officers and of the land surveyor who surveyed the plat.
- i. Locations of all monuments and stakes and a graphic presentation of the designation appearing on the caps of the monuments.
- j. Initial point of survey, basis of coordinates if applicable, by survey tie basis of bearing, original or reestablished corners and their descriptions, and lots, blocks with actual traverse showing area of closure and all distances, angles and calculations required to determine initial point, corners and distances of the plat. Bearings shall be shown to 30 seconds of arc or greater distance to nearest 100th of a foot.
- k. Within the subdivision, the center lines of all rights-of-way, lengths, and radii of all curves, and the total width of each right-of-way with street name.
- l. The exact boundaries of all areas to be dedicated or reserved for public use or for the common use of property owners; the purpose of the dedication or reservation shall also be set forth.
- m. The names of adjacent subdivisions and the lot numbers of adjacent lots. If the adjacent land is not subdivided, it should be so indicated. The existing adjacent land boundaries

must be indicated by broken lines of light weight.

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- n. The group elevations after site preparation.
 - o. All blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions;
 - p. All lots in each block shall be consecutively numbered. Out-lots shall be lettered in alphabetical order.
4. All final plats requiring public improvements shall be accompanied by a public improvements guarantee (see § 13.05.025). (Ord. 81-09 (part), 1981)

13.05.050 Improvements required. A. Respectively:

1. Land which the platting board finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, adverse topography, rock formation, utility easements or other features which are considered harmful to the health, safety and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas or which may prove unreasonably burdensome to the city in the provision of services shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the platting board to solve problems created by the unsuitable land conditions.

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

3. No subdivision shall be approved which is not designed to accommodate the type of land use designated for the area of the proposed subdivision by the 1981 City of King Cove Comprehensive Plan, Land Use Plan Map.

B. Roads: 1. Access by dedicated right-of-way shall be provided to all subdivision and lots within the subdivisions. Access shall be developed to city standards as specified in the 1981 City of King Cove Comprehensive Plan at the subdivider's expense. In addition, boardwalks to provide for pedestrian circulation shall be constructed in locations and in a manner specified by the 1981 City of King Cove Comprehensive Plan and in such additional locations as the platting board shall specify. Blocks shall not be unreasonably long so as to impeded movement of pedestrian traffic.

2. The creation of reserve stripes shall not be permitted (see § 13.05.025).

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- C. **Design criteria - general:** 1. The circulation system shall be designed to:
- a. discourage through traffic in residential subdivisions;
 - b. require the minimum number of roads necessary to provide convenient and safe access to property;
 - c. be arranged so as to maximize the number of building sites at, or above, the grades of the roads;
 - d. avoid a combination of steep grades and curves;
 - e. conform as much as possible to existing topography;
 - f. use land in the most efficient way;
 - g. be properly related to all existing and proposed special traffic generators such as industries, business and shopping districts, schools and churches; to population densities; and to the pattern of existing and proposed land uses;
 - h. complement drainage patterns;
 - i. preserve natural features such as watercourses, geology, etc.;
 - j. allow for the provision and/or extension of public utilities and services.
2. Roads from adjacent existing subdivisions shall be continued wherever possible and cul-de-sacs should be used to a minimum where possible.

- D. **Design criteria - specific:** 1. All roads shall be constructed in accordance with city standards as set forth in the 1981 City of King Cove Comprehensive Plan as recommended by Road Standard in the Comprehensive Plan.
2. Road alignment shall conform to the topography with a maximum allowable grad of 12 percent for major and collector roads and 10 percent for minor roads. Embankments shall not exceed a 2:1 slope.
3. Right-of-way minimum width:
- a. minor roads -- 40' right-of-way
 - b. collector roads -- 50' right-of-way
 - c. major roads -- 60' right-of-way
4. Traffic ways shall be centered within rights-of-way except where the Alaska Department of Transportation and Public Facilities has offset the traffic way, or when unusual physical circumstances dictate otherwise.
5. A permanent turn-around of 50-foot radius shall be provided at the end of each cul-de-sac and dead-end road.
6. Intersections:
- a. number of intersections, especially between roads of different classification, shall be kept to a minimum;

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b. not more than two roads shall intersect at one point;

c. roads shall be laid out so as to intersect as nearly as possible at right angles;

d. no intersection shall be located near the brow of a hill or where an embankment blocks vision;

e. proposed new intersections along one side of an existing road shall, wherever practicable, coincide with any existing intersections on the opposite side of such road;

f. all intersections shall have a grade of plus or minus three percent grade for 100 feet from point of intersection.

7. Utility easements of 10 feet in width shall be provided for all utilities (electrical, telephone, sewer and water) on each side of a lot road frontage and side lot lines. The lines indicating easements must be shown with dashed line markings.

8. Providing for drainage.

a. The platting board shall not approve any plat of subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system.

b. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream there shall be provided a storm easement or drainage right-of-way conforming substantially to the lines of such watercourse. Whenever possible it is desirable that the drainage be maintained by an open channel with adequate width for maximum potential volume of flow. Such area shall not be filled or built upon and a note to this effect shall be placed on the plat.

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

d. Where a watercourse separates the building area of a lot from the road by which it has access, provisions shall be made for installation of a culvert or other structure to provide access across the watercourse.

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

f. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the platting

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board may withhold approval of the subdivision until provision has been made for the improvement of said potential condition.

g. Whenever a plat is submitted for an area which has been designated as a flood-hazard area, the platting board may approve such subdivision only when it has determined that all provisions of the city regulation requiring compliance with requirements of this chapter and Chapter 13.06, § 13.06.130 have been met.

h. When a proposed drainage system will divert water across private land outside the subdivision, appropriate drainage easements shall be secured and submitted with the preliminary plat.

i. Drainage and utility easements shall be independent unless shared easement is agreed to by utilities.

9. Water supply:

a. Where a community water supply system is available within 200 feet of the perimeter boundaries of the proposed subdivision, such subdivision shall be connected to and serviced by that community water supply system. Such system shall be provided in the subdivision by the subdivider to the standards of the Alaska Department of Environmental Conservation and the City of King Cove.

b. Where a community water supply system is not available within 200 feet of the perimeter boundaries of the proposed subdivision, the platting board may require the subdivider to install a water supply system for the common use of the lots within the subdivision, such system to be provided to standards established by the Alaska Department of Environmental Conservation and the City of King Cove.

c. Where a community water supply is not available within 200 feet of the perimeter boundaries of the proposed subdivision, individual wells may be permitted if the subdivider can demonstrate that every lot within the proposed subdivision can be provided an adequate supply of potable water. The subdivider shall not be required to install individual wells.

10. Waste disposal:

a. Where a community sewage disposal system is available within 200 feet of the perimeter boundaries of the proposed subdivision, such subdivision shall be connected to and serviced by that community sewage disposal system. Such system shall be provided in the subdivision by the subdivider to standards of the Alaska Department of Environmental Conservation and the City of King Cove.

b. Where a community sewage disposal system is not available within 200 feet of the perimeter boundaries of the proposed subdivision, certification from the Alaska Department of

Environmental Conservation that the area of all lots within

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the proposed subdivision are adequate to accommodate individual waste disposal devices shall be required, or the subdivider shall be required to install a package treatment system approved by the Alaska Department of Environmental Conservation, prior to final plat approval. The subdivider shall not be required to install individual water disposal devices.

c. All facilities for the supply of water and the disposal of waste, whether individual on-lot or serving more than one lot, including hook-ups to existing community systems, are subject to city ordinances and state standards. All such facilities must receive approval of the city prior to construction, installation, and/or operation. Additionally, plans for a system serving more than one connection must be submitted to, reviewed and approved by the Alaska Department of Environmental Conservation prior to construction and note to that effect shall be placed on the final plat.

11. Street lights shall be installed on all streets (roads) fronting lots at a maximum distance of 200 feet to a standard and light identified in the 1981 Comprehensive Plan or required by the platting board.

12. Blocks and lots:

a. The lengths, widths and shapes of blocks shall be such as are appropriate to the locality, the type of development contemplated and the topography and physical characteristics of the land.

b. Every lot shall front on a dedicated public road.

c. Double front shall not be permitted except when topography and/or ownership patterns dictate otherwise.

d. Lots should be designed with a suitable proportion between width and depth. Neither narrow nor wide shallow lots are desirable. Lots shall be as near to rectangular shape as possible.

e. Lots at right angles to each other should be avoided.

f. Side lot lines shall be substantially at right angles or radial to street lines.

g. Lots shall follow municipal boundary lines rather than cross them.

h. Lots shall be laid out so as to provide drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

i. No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried in any land or left or deposited on any lot or street and removal of the same

shall be required prior to the time of expiration of the

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public improvements guarantee (see § 13.05.025) or dedication of public improvements, whichever is sooner.

j. Final grading must be completed in accordance with the approved final subdivision plat.

k. No more than 25 percent of the minimum required area of a lot may be under water.

l. Lot area shall not be below the minimum size required by the appropriate zone.

m. Minimum lot area shall be 5000 square feet for mobile home subdivisions, 8000 square feet for single family dwelling unit subdivisions, and 6000 square feet for multifamily dwelling unit subdivisions to a maximum of six units per acre, where complete and adequate community sewerage and water systems are provided and maintained by a government agency, local service district, home association, corporation or similar entity.

n. Lots of a minimum area of 20,000 square feet shall be required where either an approved community water system or approved community sewage system is provided.

o. Minimum lot area shall be 40,000 square feet when only on-site water and sewage systems are utilized and all required state or federal regulations have been met.

p. Larger lot areas may be required by the platting board upon determination of the Alaska Department of Environmental Conservation.

q. For the purposes of this section, "width" shall be defined as the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines.

r. The front is considered as the part of the lot facing the road.

s. The minimum frontage on a public right-of-way shall be 60 feet.

t. Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-road service and parking facilities required by the type of use and development contemplated.

E. To guarantee the installation of all public improvements required by this chapter which are not accepted at the time the final plat is filed, the subdivider shall be required to submit a public improvements guarantee at the time the final plat is submitted (see § 13.05.025). (Ord. 81-09 (part), 1981)

13.05.060 Monumentation. A. A monumentation shall consist of a brass cap, not less than one-half inch in diameter, aluminum cap, or other equivalent type monument riveted to the top of a galvanized pipe not less than one-half inch in

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diameter. Monuments shall be driven to refusal or 30 inches, whichever comes first. The monument shall not extend above the surface if located in a roadway and shall not extend more than four inches above the surface in other locations, and shall be platted in such a manner that it shall not be removed by frost.

B. All exterior and interior boundaries of subdivisions shall be monumented at block corners, rights-of-way lines, angles, points of curves and road intersections.

C. Each point of monumentation shall be tied into the subdivision survey, and shall be shown on the plat and located by bearings and distances.

D. Each monument shall have a designation which shall appear on the plat and shall be stamped on the cap of the monument.

E. The boundaries of individual lots shall be identified in accordance with all conditions set forth in subsections A.-D. above, except that rebar or metal may be used in place of brass or aluminum capped pipe.

F. All monuments shall be properly set in the ground and approved by a registered land surveyor prior to the time the final plat is recorded. (Ord. 81-09 (part), 1981)

13.05.070 Resubdivision of vacation of plats. A. No recorded plat may be altered or replatted except upon petition to the platting board by the owners of a majority of the land affected by the alteration or replat or by the platting board.

B. No platted road shall be vacated, except upon petition of the city or owners of the majority of the front feet of the land fronting the part of the road sought to be vacated.

C. The petition for replat, alteration or vacation shall be filed with the platting board. It shall be accompanied by a copy of the existing plat showing the proposed alteration, replat or vacation.

D. The information to be provided in and the procedure for reviewing petitions for replat, alteration or vacation shall be identical to that for plats of new subdivision, except that the public notice describing the alteration or replat petition and the time and place of the public hearing on the petition shall be published for two consecutive weeks, and a copy of the notice shall be mailed to each affected property owner not signing the petition. Both a preliminary and a final plat shall be submitted for review. The final plat, when approved, shall be recorded with the district recorder.

E. The title to the street or other public area vacated on a plat attaches to the lot or lands bordering on the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so

the street area which lies on one side of the

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boundary line shall attach to the abutting property on that side, and the street area which lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street which lies within the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in the city. If the property vacated is a lot or tract, title vests in the rightful owner.

F. If the city acquired the street or other public area vacated for legal consideration or by express dedication and acceptance by the city other than required subdivision platting, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting board to be paid over to the city on final vacation. (Ord. 81-09 (part), 1981)

13.05.080 Variances. A. The platting board may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. For the purposes of this chapter the term "hardship" shall refer to conditions where reasonable development of a tract is rendered impossible because of a physical limitation but shall not include financial hardship.

B. In granting any variance the platting board shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, the platting board shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the platting board finds that there are special physical conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

C. In approving variances, the platting board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.

D. The applicant procedure for filing a variance request and proof of need shall adhere to the following:

1. **Application for exception.** Application for a variance may be made with respect to a proposed subdivision, proposed major or minor partitions, by filing a request for same with the city clerk. Such application shall be supported by a full disclosure of all material facts upon which petitioner proposes to rely in seeking such variance, including a copy of the map or preliminary plat of the proposed partitioning or subdivision.

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2. **Findings required.** A variance from the standards of this title shall not be granted by the planning commission unless the commission finds from the facts presented at the hearing that:

a. There are special circumstances or conditions affecting the property which are unusual and peculiar to the lands or development of the project involved as compared to other lands similarly situated.

b. The variance sought is necessary and the minimum required for the preservation and protection of a substantial property interest of the petitioner to the degree that extraordinary hardship would result from strict compliance to the particular subdivision, major or minor partitioning involved.

c. The granting of the variance will not be detrimental to the public health, safety or welfare, but will be consistent therewith and shall not be injurious to the rights to other property owners in the near vicinity nor constitute a departure from or be in violation of the comprehensive plan of the City of King Cove.

d. That the applicant's proposal for variance in a subdivision or major or minor land partitioning conforms to and is consistent with all other regulatory requirements of this chapter and Chapter 13.06 of this code, that adequate provision is made for traffic circulation, recreation, open spaces and similar factors, and that variance sought has been considered by other public agencies concerned with fire protection, sewer, water and other utilities, as well as environmental factors, and the written comments of such regulatory bodies as applicable is submitted as part of the record. (Ord. 81-09 (part), 1981)

13.05.090 Appeals. Powers and authority to hear and decide appeals to the decisions of the platting board relative to this chapter are vested in the superior court as provided by AS 29.40.060. (Ord. 81-09 (part), 1981)

13.05.100 Enforcement, violations and penalties. A. It shall be the duty of the administrative officer to enforce this chapter and to bring to the attention of the platting board any violations or lack of compliance herewith.

B. No owner or agent of the owner of any parcel of land located in a proposed subdivision shall convey by sale, transfer, or lease, or agree or enter into a contract to sell, transfer, or lease any such parcel, before a plat of such subdivision has been approved and recorded by the platting board in accordance with the provisions of this chapter. A person who knowingly violates this requirement is guilty of a misdemeanor and shall be punishable by a fine of not more than five hundred

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dollars (\$500.00) for each lot or parcel transferred, sold or leased.

C. No person may record a plat or seek to have a plat recorded unless it bears the approval of the platting board. A person who knowingly violates this requirement is punishable upon conviction by a fine of not more than five hundred dollars (\$500.00).

D. Appropriate actions and proceedings may be taken by law to prevent any violation of the provisions of this chapter, to prevent unlawful construction, recover damages, restrain, correct or abate a violation, and those remedies shall be in addition to the penalties described above. (Ord. 81-09 (part), 1981)

13.05.110 Conflict and separability. It is not the intent of this chapter to repeal, alter, or annul or in any way impair or interfere with existing provisions of other laws or ordinances or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants or easements running with the land to which the city is a party. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of the chapter shall control. (Ord. 81-09 (part), 1981)

13.05.120 Minor land partition. Minor land partitioning shall be in accordance with the following:

A. **When to process as a minor land partition.** The proposal must be submitted in accordance with major partition and subdivision provisions if:

1. less than four lots will be created from a tract of land which existed as a contiguous unit of land and has not been partitioned prior to one calendar year; and
2. the proposal nor the planning commission requires that an easement for roads or street be created.

B. **Submission.** The applicant shall submit 10 copies of the sketch map to the administrative officer and pay the fees. If any changes or conditions are necessary to process the minor land partition the applicant shall incorporate the required modifications in a new sketch map and resubmit it to the administrative officer.

C. **Contents of the sketch map.** The sketch map shall be 8 1/2 x 11" or 18 x 24" in size, and it shall contain the following information:

1. the date, northpoint, scale, and sufficient description to define the location and boundaries of the parcel to

be partitioned and its location;

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2. the name and address of the record owner or owners and of the person who prepared the sketch map;

3. the approximate acreage of the parcel under a single ownership or, if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the minor partitioning;

4. for land adjacent to and within the parcel to be partitioned, the locations, names and existing widths of all streets and easements of way; location, width, and purpose of all other existing easements; and location and size of sewer and water lines, drainage ways, and utility poles;

5. the location of existing structures to remain in place;

6. the lot layout, showing size and relationship to existing or proposed streets and utility easements;

7. approximate topography at the same scale as the sketch map;

8. all easements of record; and

9. location of existing wooded areas and trees eight inches or more in diameter, measured four feet above ground level.

E. Notification of affected agencies and departments. The city clerk shall send review sheets and copies of the minor land partition to the adjacent property owners.

F. Planning commission review. The administrative officer shall schedule the review of the minor land partition for public hearing before the planning commission with recommendation for approval, approval with conditions, or denial. (Ord. 81-09 (part), 1981)

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Chapter 13.06 -- Zoning

Sections:

- 13.06.010 Title and purpose.
- 13.06.015 Definitions.
- 13.06.020 General provisions.
- 13.06.030 Administration; Appeals.
- 13.06.040 Hearings--Procedures and requirements.
- 13.06.050 Amendments.
- 13.06.060 Official map.
- 13.06.070 Mobile Home Residential zone (MH-5).
- 13.06.080 Multifamily Residential zone (AU).
- 13.06.090 Single Family Residential zones (R-8, R-10, R-20).
- 13.06.100 General Commercial zone (C-3).
- 13.06.110 Heavy Industrial zone (H-I).
- 13.06.120 Open Space zone.
- 13.06.130 Sensitive lands.
- 13.06.140 Stormwater detention.
- 13.06.150 Design review.
- 13.06.160 Off-street parking and loading.
- 13.06.170 Access and egress.
- 13.06.180 Nonconforming uses.
- 13.06.190 Conditional uses.
- 13.06.200 Variances.
- 13.06.210 Temporary uses.

13.06.010 Title and purpose. A. **Title.** The ordinance codified in Title 13, Chapter 13.06, shall be known as the "City of King Cove Zoning Ordinance of 1981" and may be cited as such.

B. **Purpose.** The intent of this chapter is to provide the following:

1. comply with the city's 1981 Comprehensive Plan;
2. zone the individual properties of lands within the city limits to the 1981 Land Use Plan;
3. encourage the most appropriate use of land;
4. conserve and stabilize the value of property;
5. aid in the rendering of fire and police and health protection;
6. provide adequate open space for light and air;
7. give an orderly growth to the city;
8. facilitate adequate provisions for community

utilities and facilities such as water, sewage, waste disposal, electrical distribution systems, transportation, communication, schools, parks and other public services; and

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9. promote in general the public health, safety, convenience and general welfare. (Ord. 81-09 (part), 1981)

13.06.015 Definitions. As used in this chapter the masculine line includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall have the meanings set forth in this chapter.

Accessory Structure or Use: means a structure or use incidental and subordinate to the main use of the property which is located on the same lot with the main use and contributes to the comfort or convenience of persons occupying the property.

Alley: means a narrow street through or partially through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

Apartment House: see dwelling, multifamily, § 13.06.080.

Attached Single Family Dwelling: means two separate occupied living spaces attached by a common wall with separate lot lines and yards.

Boarding, Lodging or Rooming House: means a building where lodging with or without meals is provided for compensation.

Building: means a structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind but excluding driveways, walks, and similar slab construction not exceeding the surrounding ground level by six inches.

City: means the City of King Cove.

Commission: means the planning and zoning commission of the City of King Cove.

Duplex: means a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

Dwelling Unit: means one or more rooms designed for occupancy by one family and not having more than one cooking facility.

Family: means an individual, or two or more persons related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.

Fence, Sight-Obscuring: means a fence or evergreen planting arranged in such a way as to obstruct vision.

Floor Area: means the area included in surrounding walls of a building or portion thereof, exclusive of vents, shafts and courts.

Garage, Private: means an accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

Garage, Public: means a building other than a private garage

used for the care and repair of motor vehicles or where

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such vehicles are parked or stored for compensation, hire or sale.

Grade (Ground Level): means the average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a boardwalk, the ground level shall be measured at the boardwalk.

Height of Building: means the vertical distance from the "grade" to the highest point of a building.

Home Occupation: means a lawful activity commonly carried on within a dwelling by members of the family occupying the dwelling with no servant, employee or other persons being engaged, provided that:

1. The residence character of the building is maintained;
2. The activity occupies less than one-quarter of the ground floor area of the main building;
3. The activity is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

Hotel and Motel: means a building or buildings in which lodging is provided for guests for compensation and in which provisions are made for cooking in motel rooms only.

Lot: means a recorded parcel or tract of land.

Lot Area: means the total horizontal area within the lot lines of a lot.

Lot, Corner: means a lot abutting on two intersecting streets other than an alley.

Lot Coverage: means that portion of a lot covered by buildings and/or accessory structures.

Lot Depth: means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, Interior: means a lot other than a corner lot.

Lot Line, Front: means the lot line or lines the lot from any street or streets other than an alley.

Lot Line, Rear: means a lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular or other shaped lot line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, Side: means any lot line intersecting or connecting with front or rear lot lines.

Lot Width: means the horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Mezzanine or Mezzanine Floor: means an intermediate floor in any story or room. When the total area of any such "mezzanine

floor" exceeds 33 1/3 percent of the total floor area

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in that room, it constitutes an additional "story". The clear height above or below a "mezzanine floor" construction shall be not less than seven feet.

Mobile Home (Manufactured or Trailer Dwelling): means a dwelling unit on wheels or self sustained means of mobility with cooking and other living space within for continuous occupancy.

Motel or Auto Court: means a building or group of buildings on the same lot containing guest units with separate entrances from the building exterior and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental to transients.

Multifamily Dwelling: means a building containing three or more dwelling units.

Nonconforming Structure or Use: means a lawfully existing structure or use at the time this title or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

Open Space: means a portion of a tract of land or lands identified on the "official map" requiring restricted permitted use as defined in 13.06.120 of this code.

Parking Space: means a space adequate in size to allow safe maneuvering and access for standard American vehicles to park within.

Person: means every natural person, firm, partnership, association or corporation.

Setback or Yard: means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

Setback, Front Yard: means a setback or yard abutting any street other than an alley and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building.

Setback, Rear Yard: means a setback or yard abutting the rear lot line and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.

Setback, Side Yard: means a setback or yard between the front and rear yard measured horizontally and at right angles to the side lot line from the side lot line to the nearest point of the main building.

Sign: means a presentation or representation, other than a house number, by words, letters, figures, designs, pictures or colors publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation or a request for aid, or other type of

advertising. This includes the surface upon which the presentation or representation is displayed. Each display surface for a sign shall be considered to be a sign.

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Single Family Dwelling: means a detached building containing one dwelling unit.

Story: means any portion of a building lying between two floors or between the floor and ceiling of the highest usable level in the building.

Story, Half-: means a story with at least two opposite exterior sides meeting a sloping roof not more than five feet above the floor of such a story and not designed for human habitation.

Street: means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and includes "road", "highway", "lane", "place", "avenue", "alley" or other similar designations.

Structural Alteration: means a change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams, girders or the roof.

Trailer Coach: means a building or vehicle originally designed or presently constructed to be used as a human dwelling or lodging place and to be movable from place to place over streets.

Trailer or Mobile Home Park: means a plot of ground upon which one or more trailer coaches occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodation.

Use: means the purpose for which land or a structure is designed, arranged, or intended or for which it is occupied or maintained.

Vehicular Access: means an improved roadway, either public or private providing automobile entrance and/or exit from a public street approved and accepted for public maintenance into private property.

Vehicular Egress: means an improved roadway, either public or private, providing automobile exit on private property into a public street approved and accepted for public maintenance.

Vision Clearance Area: means a triangular area on a lot at the intersection of two streets or a street and another right-of-way, two sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no planting, wall, structures or temporary or permanent obstructions exceeding three feet in height, except occasional tree trunks or poles. The vision clearance area shall be measured from the grade or from the center line street

grade and extend upward 10 feet.

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Yard: see **setback or yard.** Ord. 81-09 (part), 1981)

13.06.020 General provisions. A. **Compliance of structures or premises required.** No structure or premises shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this title.

B. **Annexations.** Regulations applicable to an area prior to annexation to the city shall continue to apply and shall be enforced by the city until a zone change for the area has been adopted by the city council. The city may, in an ordinance annexing property to the city or ratifying annexation action of the local boundary commission, direct the planning commission to conduct such proceedings as may be necessary to conform the zoning and land use of the property to the requirements of the city's zoning code and Comprehensive Plan.

C. **Authorization of similar uses.** The planning commission may rule that a use, not specifically named in the allowed uses of a zone, shall be included among the allowed uses if the use is of the same general type and is similar to the allowed uses. However, this section does not authorize the inclusion of a use specifically listed in another zone.

D. **Accessory uses.** Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations:

1. Fences and hedges, uncovered patios, and similar landscaping features may be located within yards but shall not conflict with vision clearance requirements;

2. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales;

3. No separate permit shall be issued for the construction of any type of accessory building prior to that of the main dwelling;

4. Detached buildings for garage, tool shop or marine vessel storage with gear;

5. Docks for private use to launch and moor vessels;

6. In residential zones, detached accessory buildings shall not exceed one story in height, shall not occupy more than 50 percent of the area of a buildable rear yard, and shall not be closer than 10 feet to each other or to the main building. Accessory buildings shall comply with the appropriate zoning setbacks for front and side yards, as required for the main building and shall maintain a five foot setback from the rear lot line, except that a detached accessory building can be built to the

side or rear lot building provided a written mutual agreement of the abutting property owners on the property lines affected be filed with city clerk.

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E. **Building projections.** Cornices, eaves, canopies, decks, sunshades, gutters, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two feet into a required yard or into required open space as established by coverage standards.

F. **Reduction of minimum requirements.** No lot area, yard or other open space or required off-street parking or loading area existing on or after July 1, 1981, shall be reduced in area, dimension or size below the minimum required by this chapter, nor shall any lot area, yard or other open space or off-street parking or loading area which is required by this chapter for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use except as provided in §§ 13.06.200 A. and 13.06.210.

G. **Public nuisances prohibited.** No building, structure, or land shall be occupied or used for any purpose which creates or causes to be created any public nuisance, including but not limited to excessive odor, dust, smoke, cinders, fumes, noise, glare, heat or vibration or any hazard to the general health, safety and welfare as defined by city ordinances, state statutes or by the decisions of any court of competent jurisdiction.

H. **Enclosure or screening required.** 1. Except as otherwise permitted under the conditional use provisions of this chapter, all business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building;

2. When permitted under the conditional use provisions of this title, all business, service, repair, processing, storage or merchandise display not conducted within an enclosed building may be required to be screened from the view of all adjacent properties by a fence obscuring the sight of normal adjacent pedestrian and vehicular traffic and/or by landscaping of such a height and density as may be prescribed by the planning commission.

I. **Lot size exceptions.** If, on July 1, 1981, a lot or the aggregate of contiguous lots held in a single ownership has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by a use permitted outright in the zone subject to the other requirements of the zone and providing, if there is an area deficiency, residential use shall be limited to a single family residence.

J. **Yard requirement exceptions.** 1. Except for that portion of the setback which is listed in subsection 2. herein, the following exception to the front yard requirement for a dwelling is authorized for a lot in any zone. If there are dwellings on both abutting lots with front yards of less than

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the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

2. In all zones, vision clearance areas shall be maintained at all intersections of public streets. The vision clearance area shall be not less than twenty feet on a side as defined in § 13.06.015 of this chapter. On all designated major streets (in subsection 3. of this section) the vision clearance area shall not be less than 25 feet on a side. Except for occasional tree trunks and poles, these areas shall be maintained without sight obstruction of any kind for a vertical distance of between three and eight feet above ground.

3. To permit or afford better light, air and vision on more heavily traveled streets and on streets of substandard width, to protect the streets, and to have the location of structures compatible with the need for the eventual widening of streets, a yard shall be provided abutting streets and portions of streets hereinafter named which shall be the number of feet set forth below in the right hand column, measured at right angles to the center line of the street and, unless otherwise described, measured from the fee title or dedicated right-of-way of the public way:

<u>Major Roads</u>	<u>Center Line Setback Required in Feet</u>
State Highway Road (to airport)	30
Boat Harbor Service Road	30
<u>Collector Roads</u>	
Heart Lake Road	25
Rams Creek Road	25
<u>Minor Roads</u>	
All other existing roads within the city	20

K. **Increased or altered street uses.** 1. When the city council, the planning commission, or the design review board has before it any application for a land use decision, the decision-making body shall, before granting any change or permit, consider

whether the application asks for a change or permit for

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the alteration or development of property in such a way as to create any likelihood of increased or altered use of any street adjacent to the property. For the purposes of this section, it shall be presumed that any new development of land upon which no structure had previously been built, any alteration of an existing structure adding 20 percent or more to the floor space of the structure and any change in the commercial use of land to a use the decision-making body finds to generate more traffic presents such a likelihood.

2. Upon making the finding of a likelihood of increased or altered street use, the decision-making body shall consider whether the dedicated street width at the location is adequate at the time to accommodate both the existing traffic and such traffic as the street may be expected to be required to carry in the foreseeable future, and in making this determination the decision-making body shall consider the planned street width as set forth in the Comprehensive Plan, and this code, and shall not regard as satisfactory any width less than that planned width, except upon a showing of extraordinary circumstances making it clear that the planned street width is inappropriate.

3. The decision-making body shall then require that the owner of the land which is subject of the pending application do whichever of the following seems to the decision making body to best meet the needs of the community:

a. dedicate as much land as is required to make up the necessary road width; or

b. improve the amount of road to standard, as the decision making body may deem necessary; or

c. improve to standard one-half the width of the road for as great a distances the decision-making body may deem necessary.

Except in cases in which immediate whole-street improvement is required, the decision-making body shall also require that the applicant enter into an agreement with the city by which the applicant shall agree that he will not remonstrate against a local improvement district street improvement project upon the affected street, and the city shall agree that the applicant shall be given credit against his portion of the costs of the street improvement project for the land dedicated and for the cost of improving any portion of the street actually improved to standard by the applicant.

4. Permits for the construction of single-family dwellings shall be issued only after the city has examined the application for building permit to determine whether the proposed dwelling is to be built upon a street improved to the city standards. The permit shall be given the endorsement of the city,

indicating that the street upon which the dwelling is

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to be built has been so improved. In the event the street upon which the dwelling is to be built has not been improved to city standards, then the endorsement of the city shall be given only upon the applicant's dedicating the land necessary to make up the planned width of the street as set forth in subsection 2. of this section and signing the agreement not to remonstrate, as described in subsection 3. of this section, or if the applicant chooses and the city staff acquiesces, upon the applicant making the appropriate whole-street or half-street improvement.

L. **Building height limit exceptions.** 1. The following types of structures or structural parts are not subject to the building height limitations of this title: chimneys, tanks, church spires, domes, monuments, fire and hose towers, observation towers, masts, aerials, cooling towers, transmission towers, smokestacks, flagpoles, radio and television towers, and other similar projections.

2. Building heights in any zone may be increased as a conditional use to a maximum permitted height of 75 feet provided that the total floor area of the buildings does not exceed the area requirement of the zone (if any) and provided that in residential zones all yards shall have a minimum depth of not less than three-quarters the height of the principal structure. (Ord. 81-09 (part), 1981)

13.06.030 Administration; Appeals. A. **Enforcement.** The city administrative official shall have the power and duty to enforce the provisions of this chapter. An appeal from a ruling of the administrative official shall be made to the planning commission.

B. **Appeal to the city council.** 1. An action or ruling of the planning commission authorized by this chapter may be appealed to the city council within 20 days after the commission has rendered its decision by filing written notice with the city clerk. Notice of appeal shall state the name or names of the petitioner, date, and action of the commission being challenged and the reasons for such an appeal. A fee may be established by the city council to defray the cost of preparing a transcript of the commission hearing(s). If no appeal is taken within the 20-day period, the decision of the commission shall be final. If an appeal is filed, the council shall receive a report and recommendation from the planning commission and transcript(s) of the hearing before the commission and shall hold a hearing on the record with verbal testimony relating to record hearings (no new evidence permitted) established before the planning commission. Notice of the public hearing shall be by posting notices in three standard locations in the city not less than five days and not more than 10 days prior to

the date of the hearing.

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2. The city council shall have the power to call up any action or ruling of the planning commission for hearing and review by the city council exercising its power to call up a legislative matter, the council shall decide at the time it sets the matter for public hearing whether new testimony shall be received or the matter heard on the record as in appeals pursuant to subsection 1. of this section. If new testimony is to be allowed, the notice of public hearing shall be written so as to inform the public of that fact.

C. **Writ of review.** Any person aggrieved by the action of the city council under § 13.06.030 may seek a review of that action as provided by Alaska State statutes.

D. **Forms of petitions, applications and appeals.** Petitions, applications, and appeals provided for in this chapter shall be made on forms provided for the purpose or as otherwise prescribed by the planning commission in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. Applications for a building approval shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine their conformance with the provisions of this title and of the subdivision code.

E. **Temporary permits.** The planning commission shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property.

F. **Interpretation.** The provisions of this chapter shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any other provisions of this chapter or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

G. **Fees.** For the purpose of partially defraying the expenses arising from or incident to investigation, evaluation and processing of application and petitions, and the costs of public notices and hearings incident thereto, fees are prescribed and required to be paid to the city at the time of filing of applicable petitions and applications, as the case may be. Said fees shall be prescribed by resolution of the city council and shall be available to all interested parties in the city office.

H. **Penalty.** Any person violating a provision of this chapter shall, upon conviction thereof, be punished by a fine

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not to exceed five hundred dollars (\$500.00). A person violating a provision of this title is guilty of a separate offense for each day during which the violation continues. (Ord. 81-09 (part), 1981)

13.06.040 Hearings--Procedures and requirements.

A. **Applicability of this section.** The procedures and proceedings for special condition or variance under this chapter and Chapter 13.05, conditional use, other special design zones, zone changes, nonconforming uses and other similar permits and to all contested cases arising under this chapter and in Chapter 13.05.

B. **Definitions.** As used in this chapter, unless the context requires otherwise:

Contested case: means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under the municipal code, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard;

Hearing: means a quasi-judicial hearing, authorized or required by the ordinances and regulations of the city as adopted:

1. to determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or
2. to determine a contested case.

Hearings Board: means a planning and zoning commission appointed or designated by the city mayor;

Permit: means authority or approval of a proposed use of land for which approval is a matter of discretion and is required pursuant to any ordinance, rule or regulation adopted pursuant thereto, and the term includes, but is not limited to, conditional use, special exceptions, variance, special design zone, zone changes and other similar land use proposals.

C. **Filing procedure.** All applications and notices shall be filed with the city clerk including appeals.

D. **Hearing on application.** Within 60 days after the filing of an application for a permit as hereinabove defined, the planning commission shall hold a public hearing thereon pursuant to notice as hereinafter provided before rendering a decision.

E. **Notice of hearing.** Notice of any hearing before the planning commission shall be given not less than 10 days nor more than 20 days prior to the hearing, as follows:

1. Application for conditional use permit, special exception, variance and uses other than zone changes:
 - a. by mail to applicant for permit;

b. by mail to parties to contest involving permit;

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c. by publication in three standard locations within the city limits.

2. Application for zone change, special design zone or amendments to the text or to the zoning map: Notice to be given in accordance with § 13.06.050 C..

Failure of any person to receive a notice shall not invalidate any proceeding in connection with the application.

F. Planning commission.

1. Whenever the planning commission is directed by the city council to conduct a hearing on an application for a permit or with respect to a contested case after notice of hearing as in this chapter provided, the planning commission shall conduct a hearing and make findings:

- a. in favor of or against the application;
- b. recommending approval or denial of application

for permit;

- c. determining contested case.

2. The application shall not be approved unless the proposed use of land would be in compliance with the comprehensive plan for the city. The approval may include such conditions as are authorized by this title and any ordinances, rules or regulations adopted pursuant thereto and necessary to carry out the Comprehensive Plan of the city.

3. If application for permit is denied, the application shall not be submitted again until at least six months after the date of the final action denying the application.

G. Hearing procedures. Pursuant to the laws of Alaska and King Cove, the municipal code shall apply to all hearings on request for permits as herein defined, including zoning, contested cases and other land use matters.

1. General procedure.

a. The presiding officer (chairman of the planning commission, mayor or acting official of the city shall call the hearing to order at the appointed time and place and clearly state the purposes of the hearing, the issues to be heard and the procedures to be followed.

b. A statement of background facts should be given by either the presiding officer or a staff officer.

c. Time limitation and witnesses. To the extent practicable and depending upon the nature of the matter being heard, the presiding officer should declare an equal time limitation applicable to each side of the issue and requiring adherence to such limitations.

d. Each speaker should be required to assume a witness stand or position where all persons in the assembly can hear and observe the witness and participants should be required to

direct all communications to the hearing body and cross-

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examining statements and commentaries between participants or members of the audience should be precluded.

e. Any exhibit intended to become a part of the record, whether offered by a proponent, opponent or the city, should be identified by suitable mark and numbered in the order as presented, and should be available for examination or cross-examination by any of the parties during the hearing. Upon conclusion of the hearing or continuance thereof, all such documents should be delivered to the custody of the secretary of the planning commission or to the city clerk or other clerk of the hearing for preservation as part of the record of the proceedings.

2. Presentation by the applicant or chief proponent of documentary evidence and testimony, or statement of advocacy should be required.

a. Cross-examination of each oral witness or of documented evidence should be permitted at the time such evidence is adduced. All questions should be propounded to the presiding officer of the hearing body who in turn will either direct or relay the question to the witness.

b. Argumentative questions and commentaries by cross examiners should be strictly controlled and all questions and answers should be restricted to the relevant issues.

3. Presentation of opposing evidence, oral and documentary, should be invited.

a. Cross-examination of each oral witness or of documented evidence should be permitted at the time such evidence is adduced. All questions should be propounded to the presiding officer of the hearing body who in turn will either direct or relay the question to the witness.

b. Argumentative questions and commentaries by cross-examiners should be strictly controlled and all questions and answers should be restricted to the relevant issues.

4. Presentation of staff position and recommendations, if any, may be permitted on objective basis.

a. Cross-examination of staff evidence on behalf of proponent and opponent should be permitted at the time such evidence is adduced. All questions should be propounded to the presiding officer of the hearing body who in turn will either direct or relay the question to the witness.

b. Argumentative questions and commentaries by cross-examiners should be strictly controlled and all questions and answers should be restricted to pertinent and relevant matters.

5. Determination of issue.

a. Deliberation by hearing body or hearing officer and/or continuance of deliberations to a later meeting.

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b. Findings may be announced at the conclusion of the hearing or be thereafter prepared and submitted at a later time.

c. Decision of hearing body or hearing officer may be rendered orally but confirmed by ordinance or resolution as may be applicable, with copy of findings and decision thereon made available to applicant or chief proponent. Copy of findings and determination available upon request to others.

6. Record of proceedings.

a. The city clerk, or other designated person, to the planning commission, shall be present at each hearing and shall cause the proceedings to be stenographically or electronically recorded, and the notes or recorded materials together with all exhibits admitted into evidence shall be preserved as part of the permanent records of the city.

b. The recorded testimony shall be available for transcription if required in connection with any appeals to the city council or for judicial review as may be authorized in the circumstances.

The record thus developed shall be available to the public at reasonable times and under proper circumstances and any person may obtain copies thereof or excerpts therefrom upon payment of the cost of preparation of such record.

H. **Recess.** The planning commission, or city council may recess any hearing to a later date or reopen a hearing when necessary in its discretion; provided, that upon recessing, the hearing body shall announce the time and date when the hearing will be resumed, and in the event a hearing is proposed to be reopened, notice thereof shall be given to the applicant and to other parties who appeared and presented evidence in the hearing either for or against the proposal.

I. **Final approval or disapproval.** The hearing body, in connection with allowance of an application for permit, may attach such conditions as may be deemed necessary to protect the interests of the public and to attain the purposes of this title in connection with such proposal.

The final decision of approval, conditional approval or disapproval as determined by the hearing body or hearing officer, if not publicly announced, will be communicated in writing to the applicant, or their designee, if any, by the city clerk as may be applicable.

Any interested party may obtain a copy of the determination from the city upon paying the cost of preparation thereof. (Ord. 81-09 (part), 1981)

13.06.050 Amendments. A. **Initiation.** An amendment to the

text or the zoning map of this chapter may be initiated by the city council, by the planning commission or by application

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of the property owner or his authorized agent. The planning commission shall, within 60 days after acceptance of a zone change application hearing, recommend to the council approval, disapproval, or modification to the proposed amendment.

B. **Application.** An application for amendment by a property owner or his authorized agent shall be filed with the city clerk.

C. **Hearing--notice procedures.** Before taking final action on a proposed amendment, the planning commission shall hold a hearing thereon. Notice of time and place of the public hearing before the planning commission and the purpose of the proposed amendment shall be given by the city clerk in the following manner:

1. If an amendment to the zoning map including an area of less than 10 acres is proposed, the notice shall be by mailing written notice not less than 10 days prior to the date of hearing to owners of property within lines parallel to and 300 feet from the exterior boundaries of the property involved (excluding all public rights-of-way), using for this purpose the names and addresses of the owners as shown upon the current records. Failure to send notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed change;

2. If an amendment to the text of this title or a change in zone of an area of 10 acres or more is proposed, the notice shall be by three posted notices for public viewing in the city 10 days prior to the hearing.

D. **Hearing--recess.** The planning commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose, the planning commission shall announce the time and date when the hearing will be resumed.

E. **Modification.** The boundaries of classification of a proposed amendment (zone change) effecting the zoning map but not effecting the zoning text, may be modified by the applicant or by the planning commission, provided that the change in boundaries or classification effects no new area not previously described in the notice of planning commission hearing, and provided that the change in classification will not result in a more intense land use than previously described in the notice of planning commission hearing.

F. **Hearing--city council.**

1. Following the prescribed hearing before the planning commission, a written report containing the findings and recommendations of the planning commission as embodied in ordinance form shall be forwarded to the city council by the city clerk.

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2. Upon receipt of the planning commission recommendation, the city council shall act to confirm, reverse, modify, or remand the matter back to the planning commission for further testimony, or the city council may set a time for hearing before the city council. If the matter is judicial or quasi-judicial in character, the hearing shall be held on the record; that is, no new testimony shall be taken. If the matter is legislative in character, the council may take additional testimony at the time set for public hearing, or may decline to take new testimony.

G. **Approval.** In granting an amendment to the zoning map, upon application by a property owner or his authorized agent the Council may require the dedication of additional street utility right-of-way where an officially adopted street plan indicates need for increased width or where the nature of the proposed development warrants increased street width, and the council may require permanent landscape screening or other devices to minimize conflict with residential land use.

H. **Notification of city's action.** The city clerk shall notify the applicant in writing of the city's action within 10 working days after the decision has been rendered.

I. **Public record required.** The city clerk shall maintain a record of amendments to the text and map of this title in a form convenient for the use of the public, and in accordance with § 13.06.060 (official map). (Ord. 81-09 (part), 1981)

13.06.060 Official map. A. **Land classification by use zones.** All lands, tracts and area within the city limits are included within one of the following described land use zoning districts. The purposes of use, classifications, and uses of each tract within the city limits shall be limited to those applicable to the zoning classification district within which such tract or lands are situated.

B. **Zone designations.** The zoning classification districts with applicable abbreviated designation, as depicted on the official zoning map forming a part of this title shall be as follows:

1. **Single family residential, R-8 zone:** All lots, tracts, and land shown in medium yellow on the 1981 zoning map, by this reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

2. **Single family residential, R-10 zone:** All lots, tracts and lands shown in light yellow on the 1981 zone map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

3. **Single family residential, R-20 zone:** All lots, tracts and lands shown in yellow on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

4. **Manufactured housing, MH-5 zone:** All lots, tracts and lands shown in yellow vertical shade on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

5. **Multifamily residential, A-U zone:** All lots, tracts and lands shown in yellow hachure on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

6. **General commercial, C-3 zone:** All lots, tracts and lands shown in orange on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

7. **Heavy industrial, H-I zone:** All lots, tracts and lands shown in purple on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon;

8. **Open space zone:** All lots, tracts and lands shown in green on the 1981 zoning map, by reference made a part hereof, and the color legend applicable thereto appears to the right hereon.

C. **Boundary designation.** The distinction between the colors shall serve as the boundaries of each of the zoning classification districts, as color-keyed in section B. and as depicted on the 1981 zoning map.

In every instance where a boundary line between zoning classification districts, or comprising the corporate boundary of the city as depicted on the 1981 zoning map, occurs between street right-of-way line, corporate boundary line or tract boundary line, as may be applicable, with the intent and purpose that except as otherwise expressly shown the entire area of each lot or tract, as depicted on the 1981 zoning map shall be included only within a single zoning classification district.

Each lot, tract, parcel of land or portion thereof within the boundaries of a zoning classification district as designated, depicted and marked on the 1981 zoning map, is classified for use, and limited to the uses applicable to the specific land use classification district with its abbreviated designation, identified by the color legend stated in section B. and is limited to the uses specified and defined for that zone in this title; and no other or different activities or uses may be conducted thereon so long as so classified, except as may be otherwise provided in this title.

D. **On file in the city clerk's office.** The 1981 zoning map by this reference made a part hereof, bearing the signatures of the mayor and city clerk, entitled "1981 Zoning Map of the City of King Cove", dated July 1, 1981, sometimes referred to as the "zoning map", shall be maintained without change on file at all times in the office of the city clerk.

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E. **Revision.** At intervals of approximately three years, or whenever many authorized map changes have accumulated, the planning commission shall prepare a revised zoning map depicting all changes authorized after the original map was adopted. The revised map reflecting the latest zoning pattern for the city, together with a revised text or restatement of the preexisting text of this title shall be recommended by the planning commission to the city council for consideration and adoption as a re-enacted or revised zoning ordinance. Prior to the enactment of a revised or superseded zoning ordinance, including as a part thereof the revised and updated map depicting the then current status of zoning in the city, the city council shall require the planning commission to hold such public hearings as the council may deem necessary and, in any event, the council prior to adoption of such ordinance, shall comply with the provisions of the then currently effective applicable state statutes concerning public hearings on zoning matters. (Ord. 81-09 (part), 1981)

13.06.070 Mobile Home Residential zone (MH-5).

A. **Definition.** Mobile home means a live-in mobile or modular unit not generally fixed to the ground or erected and commonly called a mobile home. The term mobile home shall be deemed to include units constructed for human occupancy and easily transported by vehicle, commonly called trailers.

B. **Mobile homes, trailers and live-in mobile units personal property.** Mobile homes are declared to be personal property.

C. **Permitted uses.** In an MH-5 zone, the following uses and their accessory uses are permitted outright:

1. Mobile home dwelling, each on a separately described lot, as recorded in the District Court records;

2. Fishing equipment and supply, provided no retail or wholesale business sales office is maintained on the premises, and provided that no poultry or livestock, other than normal household pets, are housed or any fenced run is located within one hundred feet of any residence other than the dwelling on the same lot;

3. Home occupations, only as strictly defined in § 13.06.015.

D. **Location established.** Mobile homes are restricted to a location within the city established for mobile homes. That area commonly known as the trailer court or any other area designated by the city as an area established for the location of mobile homes is hereby authorized for the location and placement of mobile homes.

E. **Grandfather rights.** Mobile homes presently existing in a location other than in the trailer court or other

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authorized area and which were in location on and before July 1, 1981, are hereby extended the privilege of remaining in the location established prior to July 1, 1981; however, those mobile homes located outside of the trailer court or other authorized area on and before July 1, 1981, may not be moved to any location other than the trailer court or other authorized area.

F. **Waste disposal.** The sewage disposal system must comply with this chapter and Chapter 13.05, § 13.05.050 D.10. a.b. and c.

G. **Conditional uses.** In an MH-5 zone, the following uses and their accessory uses may be permitted as conditional uses when in accordance with §§ 13.06.190 and 13.06.020:

1. Boat moorage;
2. Churches and accessory uses;
3. Community buildings (public) and (quasi-public);
4. Governmental structure or land use including public park, playground, recreation building, fire station, library or museum;
5. Greenhouse;
6. Hospital, sanitarium, rest home, home for the aged, nursing home or convalescent home;
7. School: Nursery, primary, elementary, junior high or senior high, college or university, private, parochial or public;
8. Utility substation or pumping station with no equipment storage, and lines which are essential to the functioning and servicing of residential neighborhoods;
9. Any service, processing, storage or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building;
10. Children's day care;
11. Home Occupation Use: Following the procedure set forth in § 13.06.190, a conditional home use may be authorized for certain home occupational uses which do not strictly conform to the criteria set forth for home occupation as defined in § 13.06.015.

It is the intent of this provision to provide the means for request for the city's consideration of home occupation type uses when special circumstances are present which the applicant feels deserve this consideration. It is the intent of this title that any commercial or industrial operations which would ordinarily be conducted in a commercial or industrial district continue to be conducted in such district and not at home.

H. **Lot--MH-5 zone.** In an MH-5 zone the lot size shall be as follows:

1. The minimum lot area shall be 5000 square feet;
2. The maximum lot coverage shall be 45 percent of the lot area.

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I. **Setback--MH-5 zone.** Except as may otherwise be provided in § 13.06.020, the setback in an MH-5 zone shall be as follows:

1. The front yard setback shall be a minimum of 15 feet on short side, 10 feet on long side;
2. The side yard setback shall be a minimum of five feet;
3. On corner lots the setback shall be 15 feet on short side and 10 feet on long side;
4. The rear yard setback shall be a minimum of 15 feet for other than corner lots;
5. Corner lot setbacks for rear yards shall be a minimum of 10 feet.

J. **Building height.** Except as provided in § 13.06.020, zone shall not exceed a height of one story or 15 feet whichever is less.

K. Additional requirements applicable to these zones include but are not limited to the following:

1. Off-street parking and loading, see § 13.06.160;
2. Access and egress, see § 13.06.170;
3. Enclosure and screening required, see § 13.06.020;
4. Fire zones, see § 13.06.020;
5. Nuisances prohibited, see § 13.06.020. (Ord. 81-09 (part), 1981)

13.06.080 Multifamily Residential zone (A-U).

A. **Permitted uses.** No building structures or land shall be used and no building or structure shall be hereafter erected, enlarged or altered in the A-U zone except for the following uses:

1. A use permitted outright in an R-8, R-10, R-20, or MH-5 zones;
2. Two attached family dwellings;
3. Apartment dwellings;
4. Boarding house, lodging house and rooming house.

B. **Conditional uses.** In the A-U zone the following uses and their accessory uses are permitted as conditional uses when authorized and in accordance with §§ 13.06.190 and 13.06.020:

1. A conditional use as permitted in R-8, R-10, R-20, or MH-5 zones;
2. Auditorium, exhibition or public assembly room;
3. Medical, dental or other professional office or clinic;
4. Any service, processing, storage or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building.

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C. **Lot requirements.** In the A-U zone the lot requirements shall be as follows:

1. The minimum lot area shall be 8000 square feet. When used for multifamily residential purposes the minimum lot area shall be according to the following table:

<u>Number of Units</u>	<u>Square Feet Per Unit</u>
1	8,000
2	5,000
3 and up to 6 units maximum	3,630

2. The minimum average lot width shall be 60 feet except on a cul-de-sac where minimum width shall be 60 feet at the building line.

3. Buildings shall not occupy more than the following percentage of the lot area:

<u>Number of Dwelling Units</u>	<u>Percent of Lot Coverage</u>
1	35%
2 and 3	40%
4 to 6	45%

E. **Setback requirements.** Except as may otherwise be provided in § 13.06.020, the setbacks for uses in the A-U zone shall be as follows:

1. The front yard setback shall be a minimum of 20 feet for a one story building, and would increase as the building height increases: two stories, 30 feet;

2. The side yard shall be a minimum of five feet for one story, seven feet for one and one-half stories, and 10 feet for two stories;

3. On corner lots the setback shall be 20 feet on any side facing a street other than an alley;

4. The rear yard shall be the same as side yards;

5. Where buildings are grouped as one project on one tract of land, the minimum distance between two buildings at any given point shall not be less than the sum of the required side yards computed separately for each building at that point.

E. **Building height.** Except as otherwise provided in 13.06.020, no building in the A-U zone shall exceed a height of three stories or 40 feet whichever is less.

F. **Additional requirements.** Additional requirements

applicable in the A-U zone include but are not limited to the following:

1. Off-street parking and loading, see § 13.06.160;

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2. access and egress, see § 13.06.170;
3. apartment dwellings, provided that any common boundary between an A-U zone and any other residential zone is not inhibited by noise, sight or vision from air and light. The provision of this shall be the responsibility of the property ownership in the A-U zone. (Ord. 81-09 (part), 1981)

13.06.090 Single Family Residential zones (R-8, R-10, R-20).

A. **Permitted uses.** In an R-8, R-10 or R-20 zone the following uses and their accessory uses are permitted outright:

1. single family dwellings, each on a separately described lot, as recorded in the district court;
2. fishing equipment and supplies, provided no retail or wholesale business sales office is maintained on the premises, and provided, no poultry or livestock, other than normal household pets, are housed or any fenced run is located within 100 feet of any residence other than the dwelling on the same lot;
3. home occupations, only as strictly defined in § 13.06.015.

B. **Conditional uses.** In an R-8, R-10 or R-20 zone, the following uses and their accessory uses may be permitted as conditional uses when in accordance with §§ 13.06.190 and 13.06.020:

1. duplex residential, with a minimum lot of 10,000 square feet, one duplex per lot; or two single family units with a minimum lot area of 5,000 square feet per unit. In the event it appears that it is not practical to divide a legal lot into two lots of 5,000 square feet each, the planning commission may approve the division notwithstanding the fact that one lot is less than 5,000 square feet; provided, however, that no such lot shall be smaller than 4,250 square feet;
2. boat moorage;
3. cemeteries;
4. churches and accessory uses;
5. community buildings (public) and (quasi-public);
6. governmental structure or land use including public park, playground, recreation building, fire station, library or museum;
7. greenhouse;
8. hospital, sanitarium, rest home, home for the aged, nursing home or convalescent home;
9. school: nursery, primary, elementary, junior high or senior high, (private, parochial or public);
10. utility substation or pumping station with no equipment storage, and lines which are essential to the functioning and servicing of residential neighborhoods;
11. any service, processing, storage or display essential or incidental to any permitted use in this zone and not conducted entirely within an enclosed building;

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12. children's day care;

13. home occupation use: Following the procedure set forth in § 13.06.190, a conditional home use may be authorized for certain home occupational uses which do not strictly conform to the criteria set forth for home occupation as defined in § 13.06.015.

14. multi-family residential units (i.e., tri-plexes and four-plexes);

15. public warehouse/building;

16. restaurants in the Mallard Lake Subdivision;

17. bowling alleys in the Mallard Lake Subdivision;

18. commercial smokehouses;

19. ATV repair service;

20. automotive repair service;

21. mobile homes;

22. guest lodging/bed and breakfast in a private residence.

It is the intent of this provision to provide the means for request for the city's consideration of home occupation type uses when special circumstances are present which the applicant feels deserve this consideration. It is the intent of this title that any commercial or industrial operations which would ordinarily be conducted in a commercial or industrial district continue to be conducted in such district and not at home.

C. **Lot--R-8 zone.** In an R-8 zone the lot size shall be as follows:

1. The minimum lot area shall be 8,000 square feet, excepting for duplex use;

2. The minimum lot area for duplex use shall be 10,000 square feet;

3. The maximum lot coverage shall be 35% of the lot area.

D. **Lot--R-10 zone.** In an R-10 zone the lot size shall be as follows:

1. The minimum lot area shall be 10,000 square feet;

2. The maximum lot coverage shall be 40%.

E. **Lot--R-20 zone.** In an R-20 zone the lot requirements shall be as follows:

1. The minimum lot area shall be 20,000 square feet;

2. The maximum lot coverage shall be 45%.

F. **Setback--R-8, R-10 or R-20 zones.** Except as may otherwise be provided in § 13.06.020, the setbacks in an R-8, R-10 or R-20 zone shall be as follows:

1. The front yard setback shall be a minimum of 20 feet;

2. The side yard setback shall be a minimum of five feet for a one-story building, six feet for one and one-half stories and seven feet for a two story building;

3. On corner lots the setback shall be 20 feet on each side facing a street other than an alley;

4. The rear yard setback shall be a minimum of 15 feet.

G. **Building height.** Except as provided in § 13.06.020, no building in an R-8, R-10 or R-20 zone shall exceed a height of two stories or 30 feet, whichever is less.

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H. **Additional requirements.** Additional requirements applicable to these zones include but are not limited to the following:

1. Off-street parking and loading, see § 13.06.160;
 2. Access and egress, see § 13.06.170;
 3. Enclosure and screening required, see § 13.06.020.
- (Ord. 81-09 (part), 1981; Ord. 92-13 § 2, 1992; Ord. 98-16 § 2, 1998; Ord. 99-16 § 1 (part), 1999; Ord. 2000-10, 2000; Ord. 2001-08, 2002; Ord. 2002-03, 2001; Ord. 2002-14, 2002)

13.06.100 General Commercial zone (C-3). A. Permitted uses.

No building structures or land shall be used and no building or structure shall hereafter be erected, or altered in the C-3 zone except for the following uses:

1. appliance store (parts and service);
2. automobile parts, accessory sales and service;
3. bank loan company or other financial institution;
4. furniture store;
5. film distribution center;
6. frozen food locker (family use only);
7. hotels;
8. motels;
9. radio, tv or marine electronic sales and service;
10. real estate office;
11. sporting goods store;
12. variety store;
13. grocery store;
14. hardware store;
15. meat market
16. general dry goods merchandise.

B. **Conditional uses.** In the C-3 zone the following uses and their accessory uses may be permitted as conditional uses when in accordance with §§ 13.06.190 - .020:

1. amusement enterprise, including billiard or pool hall, bowling alley, movie theaters;
2. auditorium, exhibition hall or other public assembly;
3. catering establishment;
4. churches and accessory uses;
5. community buildings (public) and (quasi-public);
6. governmental structures or land use not including schools;
7. medical clinic, convalescent, general home for the aged;
8. libraries;
9. lumberyard;
10. motorcycle and accessory sales and service;
11. parks and playgrounds (public);
12. pet shop;

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13. plumbing, electrical or general contractor and shop;
14. professional or commercial office building;
15. restaurants;
16. secondhand store;
17. taverns, cocktail lounges, bars, clubs and any other activity whose patronage, membership or attendance is restricted as to age, age group or other specific limitation;
18. tire shop;
19. veterinarian's office or animal hospital;
20. any service, processing, storage or display, essential or incidental to any permitted use in the C-3 zone and not conducted entirely within an enclosed building;
21. a use permitted outright in a single family residential zone (R-8, R-10 or R-20 zone);
22. triplex housing.

C. **Lot requirements.** In the C-3 zone the lot requirements shall be as follows (lots created prior to the enactment of this ordinance on July 1, 1981, and being less than the minimum required shall be considered legal and conforming to the requirements of this title):

1. the minimum lot area shall be 30,000 square feet;
- and
2. the maximum lot coverage shall be required.

D. **Setback requirements.** Except as may otherwise be provided in § 13.06.020, the setbacks for non-residential uses in the C-3 zone shall be as follows:

1. the minimum front yard shall be 20 feet, landscaped and maintained (see general provisions, § 13.06.020);
2. side yard setback shall be 10 feet;
3. rear yard setback shall be 10 feet; except, when abutting a residential zone, a rear yard setback of 25 feet shall be required.

E. **Building height.** Except as otherwise provided in § 13.06.020, no building in the C-3 zone shall exceed a height of three stories or 35 feet, whichever is less.

F. **Additional requirements.** Additional requirements applicable to the C-3 zone include but are not limited to the following:

1. off-street parking and loading, see § 13.06.160;
2. access and egress, see § 13.06.170;
3. design review and sign regulations, see § 13.06.150;
4. enclosure and screening required, see § 13.06.020;
5. nuisances prohibited, see § 13.06.020. (Ord. 81-09 (part), 1981; Ord. 87-05 § 4, 1986; Ord. 2002-15, 2002)

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13.06.110 Heavy Industrial zone (H-I). A. **Permitted uses.** No building structures or land shall be used and no building or structure shall hereafter be erected, enlarged or altered in the H-I zone except for the following uses:

1. assembly plants;
2. bottling plant;
3. box or crate factory;
4. cold storage plant;
5. feed and fuel storage;
6. food packing and processing;
7. furniture manufacture;
8. machine shop;
9. stone and granite grinding, dressing and cutting;
10. tool and hardware manufacture;
11. wood yard;
12. warehousing and wharfage operations;
13. boat, buildings, repairs and service;
14. automobile repair, service and painting;
15. fish processing and canneries;
16. marine gear sales, service and manufacturing.

B. **Conditional uses.** In the H-I zone the following uses and their accessory uses are permitted as conditional uses when in accordance with §§ 13.06.020 and 13.06.190:

1. can manufacture;
2. foundry;
3. gravel mining or rock crushing;
4. junk, rags, paper or metal storage, collection or bailing;
5. radio and tv transmitters;
6. slaughterhouse;
7. any business, service, processing, storage or display essential or incidental to any permitted use in the H-I zone and not conducted entirely within an enclosed building;
8. grocery store.

C. **Lot requirements.** In the H-I zone lot requirements shall be as follows:

1. the minimum lot area shall be 30,000 square feet;
2. the minimum lot width shall be 60 feet;
3. no maximum lot coverage shall be required.

D. **Setback requirements.** Except as may otherwise be provided in § 13.06.020, the setbacks for non-residential uses in the H-I zone shall be as follows:

1. the front yard setback shall be 30 feet;
2. the side yard setback shall be 20 feet, except when abutting or across the street from a residential zone, a side yard of 40 feet shall be required;
3. the rear yard setback shall be 20 feet, except when abutting or across the street from a residential zone, a rear yard setback of forty feet shall be required.

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E. **Building height.** Except as otherwise provided in § 13.06.020, no building in the H-I zone shall exceed a height of three stories or 45 feet, whichever is less.

F. **Additional requirements.** Additional requirements applicable to the H-I zone include but are not limited to the following:

1. off-street parking and loading, see § 13.06.160;
2. access and egress, see § 13.06.170;
3. enclosure and screening required, see § 13.06.020;
4. signs, advertising signs and sign structures shall be subject to the conditions, limitations, prohibitions and requirements of § 13.06.150, to which particular reference is made;
5. nuisances prohibited, see § 13.06.020;
6. design review, see § 13.06.150.

(Ord. 81-09 (part), 1981; Ord. 99-16, § 1 (part), 6-3-99)

13.06.120 Open Space zones. A. **Permitted uses.** In an open space zone the following uses are permitted outright:

1. parks, public or private;
2. lawns;
3. conservation areas, public or private;
4. fish hatcheries and wildlife preserves;
5. roads, boardwalks, public easements;
6. air fields with no terminal operations;
7. cemeteries;
8. Cell towers and support structures.

(Ord. 81-09 (part), 1981; Ord. 09-07, 2009)

13.06.130 Sensitive lands. A. **Intent and purpose.** The sensitive lands within the city are superimposed as an overlay with respect to lands classified for various uses and purposes and is intended to give recognition to the need to protect the public health, safety and welfare of the community through regulation and control of the lands within the sensitive lands areas to thereby mitigate potential financial burdens arising from flood damage loss, to preserve natural drainage ways, or on steep slopes from encroaching uses which threaten to adversely affect the property rights of citizens of the community, personal safety and the public health by unnatural conditions arising from upstream or downstream flood levels.

The sensitive lands areas has for its purpose the preservation of natural water storage areas, steep slopes or eroding soils by discouraging or prohibiting incompatible uses except in those instances where a finding may properly be made by the planning commission pursuant to this section.

B. **Definitions.** In this section the following words and phrases shall be construed to have the specific meanings assigned to them as follows:

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Drainageways: means those areas which convey significant seasonal concentrations of water over the surface of the land;

Excavation: means mechanical removal of earth material;

Fill: means any act by which earth, sand gravel, rock or any other similar material is deposited, placed, pulled or transported, and includes the conditions resulting therefrom;

Flood: means a temporary rise in stream flow or stage that results in water overtopping stream banks and inundating land adjacent to the normal flow of water through the stream channel;

Flood hazard: means a danger to property or health as a result of inundation of the floodplain;

Floodplain: means the relatively flat area or lowlands adjoining the channel of a river, stream, water course or other body of water which has been or may be covered by flood waters within the area of applicability defined by the floodplain district;

Grading: means any excavation or filling or combination thereof;

Obstruction: means any dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, bridge, conduit, culvert, building, gravel, refuse, fill, structure, matter or things of a similar nature in, along, or across or projecting into any channel, watercourse, or floodplain drainageway areas which may impede, retard or change the direction of the flow of water, either by itself or that is placed where the flow of water might carry the same downstream to the damage of health or property;

Regulatory flood: means the flood used to define the outer boundary lines of the floodplain area. The maximum flood predicted to occur within 100 years;

Steeply sloping lands: means portions of the ground surface which have a slope of 13 percent or greater;

Structure: means constructed edifice, barrier or building of any kind, or any artificial build-up or composition of physical parts adjoined together.

C. **Permitted uses.** The following uses by their nature do not threaten substantial obstruction of water flow in the floodplain and do not impair the water storage capacity of the floodplain and shall be permitted within the sensitive lands areas subject to the limitations in this section stated:

1. Off-street parking and maneuvering areas, access ways and service drives located on the ground surface. Excavation, grading and paving may occur to construct said facilities; however, no fill shall be allowed for construction of said facilities other than gravel for a paving base and only an amount of gravel commensurate with city construction standards for said facilities shall be allowed;

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2. Accessory residential uses such as lawns, gardens or planting areas not causing substantial obstructions to flood waters and including fences designed to minimize the obstruction of flood waters and flood-carried debris;

3. Roadways, bridges or utility structures designed to not significantly impede the flow of flood waters;

4. Agricultural uses conducted without locating a structure in the sensitive lands including a boundary fence designed to minimize the obstruction of flood waters and flood-carried debris;

5. Recreational uses such as bicycle and pedestrian paths, archery range, athletic field or parks. The recreational use shall not include any permanent structures causing a significant obstruction to the flow of flood waters;

6. Public and private conservation areas for the conservation of water, soil, open space, or wildlife resources.

D. **Prohibited uses and activities.** The following uses and activities are prohibited within the sensitive lands except pursuant to special permit granted by the planning commission based on findings as by this section:

1. filling;

2. permanent structures permitted in other zoned areas of the city;

3. any temporary structure which by its nature cannot be readily removed from the floodplain area during periods of flooding and which would significantly impede or interfere with the flow of flood waters within the district;

4. Any change in the topography or terrain which would have a substantial tendency to change the flow of waters during flooding period or which would increase flood hazard or alter the direction or velocity of the flood water flow or would be subject to destruction due to seismic activity or land slides;

5. Subsurface sewerage disposal septic tanks and drain fields.

E. **Nonconforming uses.** Any pre-existing condition or structure within the sensitive lands area is subject to the provisions of this code.

F. **Special permits or exceptions.** In accordance with the procedures and requirements set forth in § 13.06.180 of this code, an application for a special use permit filed as by said section stated may be considered or denied by the planning commission based on written findings in conformity with the requirements of this zone ordinance.

An application for special permit in form prescribed by the planning department of the city shall be supported by the following additional data or information to enable the planning commission to adequately determine whether the proposed use is

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located in the sensitive lands area and if so, whether the proposal, if granted, will conform to the purposes and guidelines as set forth in this section.

1. Plans drawn to scale, submitted in triplicate as prepared by a registered professional engineer with experience in hydraulic and hydrologic principles and processes showing the nature, location, dimensions, elevations and topography of the site; the location of existing and proposed structures located upon the site, existing and proposed fill areas, and the relationship of these to the location of the stream channel;

2. Any documentation, photographs, water marks, and similar evidence offered in support of the claim that the site or area in question lies above high water as defined by the regulatory flood;

3. If it is determined by the planning commission that the proposed use is within the sensitive lands area as herein defined, the applicant shall furnish such further information, data and evidence as may be reasonably available to support the granting of the petition in accordance with the following guidelines, in the absence of which said petition shall be denied by the planning commission:

a. Proposed improvements will not have a serious tendency to change the terrain during future use such as to cause a compounding of flood hazards or destruction of property to thereby seriously interfere with the intent and purposes of the regulations.

b. No structure, fill, storage or other uses shall be permitted which alone or in combination with existing or future uses would materially reduce the capacity of the flood-plain area or sensitive land areas to create a present or foreseeable hazard to the public health, safety and general welfare.

The city shall reserve the right to retain a registered professional engineer with experience in hydraulic principles and processes for the purpose of reviewing evidence submitted in support of any application for special use permits pursuant to this section.

G. Standards for permitted structures. Any structure or additions to existing structures permitted within the sensitive lands area pursuant to this section shall comply with the following standards:

1. Permitted structures, such as electrical and service equipment, etc., shall be constructed at or above the regulatory flood protection elevation. Utility openings shall be sealed and locked.

2. The lowest floor elevation of a structure designed for human occupancy shall be at least one and one-half feet above the flood surface elevation.

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3. The lower portions of any structure shall be flood-proofed or otherwise protected from significant damage by inundation to a minimum flood surface elevation one and one-half feet above the surface elevation of the regulatory flood.

4. The design of substructures and structural members of all buildings shall be designed to withstand expected water pressures and velocities as well as minimize flood risk conditions.

H. **Appeal to city council.** An appeal from any decision of the planning commission may be filed with the city clerk for hearing by the city council as provided by § 13.06.030.

I. **Construction time period, extension.** If substantial construction or development has not taken place within one year from the date of approval of the general development plan and program, the planning commission shall review the district at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be, shall recommend to the city council that the permit of approval on the property be removed. The city council, at the request of the applicant, may grant an extension of time if justifiable. (Ord. 81-09 (part), 1981)

13.06.140 Stormwater detention. A. **Purpose.** The purpose of this section is to reduce the harmful effects of stormwater runoff on stream beds, banks, park lands, private properties and other areas in the city by requiring the installation of on-site stormwater detention facilities as properties are developed within the city.

B. **Applicability.** The provisions of this section shall apply to any work for which a subdivision plat, a site development plan and/or building permit is required and shall apply to any work requiring a permit for which other changes in the land use are made which change the runoff characteristics. The provisions of this section shall apply in all uses under the zoning and subdivision ordinances of the city.

C. **Manual of operation.** The planning commission shall prepare and set forth, in the form of a manual, guidelines for compliance with the standards of this section. The manual will assist those persons who are required to comply with the provisions of the stormwater detention ordinance and may be secured from the city and shall be followed unless otherwise specified. The planning commission shall act as the agent for control and final approval of submitted plats and site development plans, subject to appeal to the city council.

D. **Plan submittal and modification of requirements.** Site, subdivision, and building plans submitted to the planning commission will include plans and design calculations for each detention facility proposed. Detention facilities shall be

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designed so that they do not become health or safety hazards. In the case that exact compliance with the ordinance would result in the inability to use the land as it is permitted to be used by zoning and subdivision classifications, changes may be allowed to justify the interpretation and administration of the ordinance as long as that interpretation and administration remains within the parameters of the intent of the ordinance and the adverse effect of the stormwater storage is insubstantial. In the event the applicant disagrees with planning commission interpretation, he (she) may appeal to the city council for a determination. Upon determination, the city council may modify or vary the requirements of the ordinance to the extent necessary to allow some degree of permitted land use to exist in such a way as to maintain the maximum stormwater detention system.

E. Improvements on developed or undeveloped areas.

1. Whenever any work for which a subdivision plat, site development plan or a building permit is required is undertaken on a developed site or previously undeveloped site, then the person or persons undertaking the work shall provide stormwater storage sufficient to store the difference between the runoff from a 25 year storm on the site as fully developed and the runoff produced by a five-year storm from the site in its undeveloped state until such time as the required storage has been fully utilized. "Work" as used herein shall not include remodeling which has no impact on stormwater runoff.

2. Whenever any work is undertaken on a site which is located within the 100-year floodplain, the person or persons undertaking the work shall comply with the requirements of the city's sensitive lands ordinance; and in no case shall anything in this stormwater detention section be so construed or permitted as to allow a negative impact upon or impairment of the intended effectiveness of the city's sensitive lands ordinance. The city council is vested with the authority to interpret and rule therein.

F. Maintenance of system required. All plans submitted for stormwater detention systems shall describe adequate procedures of normal maintenance for the detention system. Any failure of the stormwater system, due to inadequate maintenance, shall be the responsibility of the owner of the property on which the detention system is located. Where a stormwater system is part of a subdivision, normal procedures shall be utilized for city council acceptance for operation and maintenance of the system. It shall also be the property owner's responsibility to remedy any inadequate maintenance that results in the failure of the system. Periodic inspection by the administrative official will be made to determine conformity with the ordinance. The submittal of plans for such a system or

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the purchase of property on which such a system is located shall be deemed an acceptance of responsibility for maintenance of the system.

G. **Violation, penalty.** 1. If an applicant is required to build and maintain a stormwater detention system and fails to do so or does so improperly or in violation of this section, the development shall be considered an unlawful use of land and the applicant shall be deemed in violation of this section;

2. If any person is guilty of a violation of the provisions of this section, the city will proceed to remedy the violation and assess a lien against this person and against any property within jurisdiction owned by this person in the amount sufficient to cover the costs of the repair. (Ord. 81-09 (part), 1981)

13.06.150 Design review. A. **Purpose of provisions.** The intent and purpose of design review is to promote the general welfare by encouraging attention to site planning and giving regard to the natural environment, creative project design and the character of the neighborhood or area in which apartments, commercial or industrial development takes place.

B. **Administration.** 1. Action. Within 60 days of receipt of design plans in conformance with all aspects of this code, the planning commission shall approve, disapprove or approve with conditions all design review plans required by this section.

2. Findings. Action by the planning commission shall be based upon written findings pursuant to the criteria of this section.

3. Appeal. Action of the planning commission may be appealed to the city council by the applicant or adjacent property owner provided:

a. the appellant delivers to the city clerk within 20 days after the decision of the hearing body, a written notice of appeal, stating his reasons for appeal based upon the criteria of this section;

b. at the time of the filing of the application for approval of a design review plan, the applicant shall pay a fee to be determined by resolution of the city council.

C. **Applicability.** Except for single-family or mobile home dwellings, no building permit or approval for construction shall be issued except in conformance with this section.

All new buildings, structures and physical improvements and relocation, addition, extension and exterior changes of or to existing buildings, structures and physical improvements shall be subject to design review including preparation of a design plan.

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"Physical improvement", as used in this section includes, but is not limited to, parking lot areas in excess of three spaces and loading areas, retaining walls, signs, and cut and fill or grading action.

D. Design review procedure. 1. Conformity to site plan.

a. no building permit, grading permit, parking permit or sign permit shall be issued, nor any use commence or be enlarged, changed or altered until a design review plan, as required under this chapter is approved by the planning commission, or as may be prescribed pursuant to this section.

b. As may be determined by the planning commission or, a grading permit, parking permit or sign permit may be approved after preliminary consultation with an applicant, provided adequate evidence and findings indicate compliance with the intent and purpose of this section.

c. The planning commission may approve changes in approved design plans when he determines the changes will not significantly alter the character, density, intensity or otherwise significantly change the plan. Significant changes must be approved anew as required by this section.

2. Application for design review. The applicant for approval of a design review plan shall consider the intent and purpose and the standards of this section in preparing a design plan as herewith required. As a minimum, the design plan must contain the following:

a. site plan, showing topography, and vicinity map;
b. architectural drawings, preferably prepared by a licensed architect.

The application and design plan and support documentation shall be submitted to the city clerk for distribution to the planning commission.

3. Standards and criteria. The review, and approval of design plans and proposals as set forth herein, based on the following criteria, shall assure that a development or physical improvement is designed and located in a manner which will best satisfy the purpose and intent of this section.

a. Relationship to neighborhood and areas.

1) It will not impair or interfere with either the development use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood or area as a whole, or the design functions of public lands and rights-of-way.

2) It will not directly, or in a cumulative fashion, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way.

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b. Project development.

1) It will properly and adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with regard to its locale and surroundings.

2) It will provide a safe, pleasing and livable environment for those people utilizing the development, and immediate neighbors or community as a whole.

3) It shall reasonably conform to the natural contours of the site, incorporating special designs, where appropriate, to accommodate unique topographic features.

E. **Design criteria.** It will minimize or eliminate adverse visual effects which might otherwise result from unplanned or inappropriate development design. Such adverse effects may include, but are not limited to those produced by the design and location characteristics of:

1. the scale, mass, height, area and materials of buildings and structures;

2. surface and subsurface drainage and appurtenant structures;

3. cut and fill or the reforming of the natural terrain and structures appurtenant thereto such as retaining walls;

4. areas, paths, and rights-of-way for the containment, movement or general circulation of persons, animals, vehicles, conveyances and watercraft;

5. Other developments or improvements such as, but not limited to, utility lines, storage or service areas and advertising features, which may result in a diminution or elimination of sun and light exposure, views, vistas, privacy, and general aesthetic value of the neighborhood or area.

F. **Bonding and assurances.** The planning commission shall require a bond or other adequate assurance as a condition of the design plan that conformance to the approved design plan is completed. The planning commission may approve and release bonds up to fifty thousand dollars (\$50,000.00). The bond or other assurance shall be released when conformance to the design plans is certified by the administrative official.

G. **Validity period.** Design plans approved by the administrative official shall remain valid for a period of one year following the date of its approval. If at the end of that time construction has not begun, then the site plan approval shall lapse and shall be in effect only if resubmitted to the planning commission and again approved. All construction and development under any construction permit shall be in accordance with the approved design plans. Any departure from such plan other than provided for in this section shall be a cause for revocation of a construction permit. Any proposed changes in an

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approved plan shall be submitted to the planning commission in accordance with this section for review and approval.

H. **Offsite improvement and right-of-way.** Right-of-way necessary to conform to the comprehensive development plan and offsite improvements including but not limited to street improvements, pedestrian ways, lighting and signalization may be required upon the planning commission finding that a likelihood of an increased need for such improvements is created by the proposed development. (Ord. 81-09 (part), 1981)

13.06.160 Off-street parking and loading.

A. **Definitions.** 1. Except as otherwise defined in this code, "aisle" means a minimum area available for ingress, egress access between parking spaces 24 feet wide. No area may be considered as an aisle way unless accessible and usable for that purpose.

2. Except as otherwise defined in this code, "one space" means a minimum area available for parking nine feet six inches wide and 19 feet long. No area may be considered as a parking space unless accessible and usable for that purpose.

3. "Employees" means all persons (including proprietor, executives, professional people, production, sales and distribution employees) working on the premises during the largest shift.

B. **Obligation of property owner.** The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No approval for adding buildings to the site shall be issued until plans are presented that show property has adequate off-street parking and loading space. The subsequent use of property for which the construction permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it is unlawful and a violation of this title to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

C. **Joint use.** Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces, provided that satisfactory legal evidence is presented to the building official in the form of deeds, leases, or contracts to establish the joint use and that adequate spaces do exist during peak hours of operation.

D. **Plan, building permit prerequisite.** A plan drawn to scale, indicating how the off-street parking and loading requirement is to be fulfilled, shall accompany the request for

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a design review. The plan shall show all those elements necessary to indicate that these requirements are being fulfilled and shall include but not be limited to:

1. delineation of individual parking spaces;
2. circulation area necessary to serve spaces;
3. access to streets, alleys and properties to be served;
4. curb cuts;
5. dimensions, continuity and substance of screening;
6. grading, drainage, surfacing and subgrading details;
7. delineations of all structures or other obstacles to parking and circulation on the site;
8. specifications as to signs and bumper guards.

E. **Restrictions.** Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use, and shall not be rented, leased or assigned to any other person or organization.

F. **Public street, alley parking spaces.** Parking spaces in public streets or alleys shall not be eligible as fulfilling any part of the parking requirements.

G. **Minimum space requirements.** Off-street parking shall be provided according to the following standards, regardless of the zone in which the use, building, establishment or development is located. Any building, establishment or development may elect to define separate use areas which together total the gross floor area as defined in this code and apply these standards separately to those uses.

Type of Use

Parking Spaces Required

Residential

1 or 2 family dwelling	2 spaces per dwelling unit (may be tandem)
multifamily dwelling	1.5 spaces per dwelling unit
rooming house or boarding house	1 space for each guest room plus 1 space for the owner
hotels, motels, etc.	1 space for each guest room plus one space for the owner

Type of Use

Parking Spaces Required

Institutional

medical clinic

1 1/2 spaces per 200 square feet

Public and Semi-Public Buildings

churches, clubs, lodges

1 space for every 6 fixed seats for every 12 feet of bench length and/or every 100 square feet of gross floor area where no permanent seats are maintained

libraries

1 space for each 400 square feet of gross floor area

preschool, day nursery, kindergarten

5 spaces plus 1 space per classroom

elementary, junior high school or equivalent

10 spaces plus 2 space per 4 seats or 8 feet of bench length in the auditorium, whichever is greater

private or parochial school

senior high and equivalent private or parochial school

15 spaces plus 5 spaces per classroom or 1 space per 4 seats or 8 feet of bench length in main auditoriu,, whichever is greater

Commercial

retail establishments except as otherwise specified herein

1 space for each 400 square feet of gross floor area, bt not less than 4 spaces for each establishment

service or repair shop

1 space for each 500 square feet of gross floor area, but not less than 3 spaces for each establishment

retail stores handling bulky merchandise such as furniture, automobiles, appliances

1 space for each 1000 square feet of gross floor area but not less than 10 spaces for each establishment

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Type of Use

Parking Spaces Required

Commercial (continued)

barber and beauty shops	1 space for each 100 square feet of gross floor area
office buildings, business and professional offices	1 space for each 350 square feet of gross floor area
eating and drinking establishment	1 space for each 100 square feet of gross floor space

Commercial Recreation

billiard or pool hall	1 space for each 300 square feet of gross floor area
bowling alley	5 spaces for each bowling lane
dance hall, skating rink, gymnasium	1 space for each 300 square feet of gross floor area
indoor arena, theater	1 space for each 6 seats or 12 feet of bench length

Industrial

except as specifically mentioned herein, industrial uses listed as permitted in H-I and L-I	1 space for each employee on the largest shift or 1 space for each 1000 square feet, whichever is larger
storage operation, trucking freight terminal	1 space for each employee on the largest shift or 1 space for each 1500 square feet, whichever is larger
wholesale or retail (industrial) sales and service	1 space for each 1000 square feet of gross floor area, but not less than 10 spaces for each establishment

Other uses: Requirements for types of buildings and establishments not specifically listed in this section shall be determined by the planning commission, based on the requirements of comparable uses listed.

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H. **Loading berths.** Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

I. **Service drives.** 1. Groups of more than two parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street other than an alley will be required.

2. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site, and shall have a minimum vision clearance area as prescribed in § 13.06.020.

J. **Access.** 1. Each parking and/or loading space shall be accessible from a street or other right-of-way and the access shall be of a width and location as described by § 13.06.170.

2. Minimum standards for parking stall length and width, aisle width and maneuvering space shall be determined from the following table and diagram.

<u>Angle From Curb</u>	<u>Stall Width</u>	<u>Overall Channel Width (B)</u>	<u>Aisle Width (C)</u>	<u>Curb Length Per Stall (X)</u>
45°	9'-6"	20'-2"	14'-0"	13'-5"
	10'-0"	20'-6"	14'-0"	14'-1"
60°	9'-6"	21'-3"	18'-0"	11'-0"
	10'-0"	21'-6"	18'-0"	11'-6"
90°	9'-6"	19'-0"	24'-0"	9'-6"
	10'-0"	19'-0"	24'-0"	10'-0"

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(Ord. 81-09 (part), 1981)

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13.06.170 Access and egress. A. **General provisions.** The following requirements and standards shall not apply in any instance where subdivision rules or standards of the city are applicable. The following provisions and standards are intended to apply where no present or discernible purpose exists to partition one or more parcels of land in contravention or violation of the subdivision laws of the State of Alaska and city ordinances:

1. The provisions and maintenance of access and egress stipulated in this title are continuing requirements for the use of any structure or parcel of real property in the city. No development approval shall be issued until scale plans are presented that show how access and egress requirement is to be fulfilled. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing access and egress requirements, it is unlawful and a violation of this title to begin or maintain such altered use until the required increase in access and egress is provided;

2. Unless the required access and egress is dedicated to public use by permanent easement or deed, the planning commission shall not issue a permit approval until the city has been presented with satisfactory legal evidence in the form of deeds, easements, leases, or contracts to establish access and egress for the duration of the occupancy or use for which access and egress are required. Copies of the deeds, easements, leases or contracts shall be placed on permanent file with the city clerk;

3. The standards set forth in this title are minimum standards for access and egress, and may be increased by the planning commission in any particular instance where the standards provided herein are deemed insufficient.

B. **Minimum requirements--residential uses.**

1. Vehicular access and egress for single family, duplex and mobile home residential uses shall not be less than the following:

<u>Dwelling Units</u>	<u>Minimum Number Required</u>	<u>Minimum Width</u>	<u>Minimum Pavement Boardwalks, Etc.</u>
1	1	10 ft.	None
2	2	10 ft.	None

2. Vehicular access and egress for multifamily residential uses shall not be less than the following:

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<u>Dwelling Units</u>	<u>Minimum Number Required</u>	<u>Minimum Width</u>	<u>Minimum Pavement Boardwalks, Etc.</u>
3-6 (per set)	1	30 ft.	Hard surface with 3.5 foot wide boardwalk to public street or road

C. **Minimum requirements; commercial and industrial uses.** Vehicular access and egress for commercial and industrial uses shall not be less than the following:

<u>Required Parking Spaces</u>	<u>Minimum Number Required</u>	<u>Minimum Width</u>	<u>Minimum Pavement Sidewalks, Etc.</u>
1-99	1	30 ft.	Hard surface with boardwalk to city standard connecting to public street or road

(Ord. 81-09 (part), 1981)

13.06.180 Nonconforming uses. A. **Continuation.** Subject to the provisions of this section, a nonconforming structure or use may be continued but shall not be altered or extended, except as provided herein.

B. **Reinstatement.** Following the procedure set forth in this section, the planning commission may authorize the reinstatement or resumption of a discontinued nonconforming use subject to the following limitations:

1. If a nonconforming use is discontinued from active use for six months, it shall not be reinstated or resumed unless specifically approved by the planning commission;

2. If a nonconforming use is changed, it shall be changed only to a use conforming with the zoning regulations and once changed it shall not be changed back again to the original nonconforming use;

3. If a nonconforming structure or a structure containing a nonconforming use is destroyed or damaged by any cause to the extent requiring the discontinuance of the use while effecting repairs, a future structure or use on the property shall conform to the provisions of this title unless reinstatement or resumption of the original structure is specifically approved by the planning commission.

C. **Alteration.** Following the procedure set forth in this section, the planning commission may authorize the alteration of

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a nonconforming use or structure subject to the following limitations:

1. A nonconforming use may be permitted to decrease or enlarge up to 20 percent in gross floor area or, in those cases not involving structures, up to 10 percent of land area as existing on July 1, 1981;

2. A structure conforming as to use but nonconforming as to setback or yard may be altered or extended providing the alteration or extension does not result in a violation of this title.

E. **Completion of building.** Nothing contained in this title shall require any change in the plans, alteration, construction or designated use of a building for which a building (land use) permit has been issued and construction work has commenced prior to July 1, 1981, except that if the designated use will be nonconforming it shall, for the purpose of this section, be a discontinued use if not operation within one year of the date of issuance of the building (land use) permit.

E. **Unoccupied building.** If a building is nonconforming by the standards of this title and is unoccupied on July 1, 1981, it shall be classified as a discontinued use and a nonconforming use and can be reinstated or resumed under the requirements of this section.

F. **Application for reinstatement or alteration.** A request for reinstatement or enlargement of a nonconforming use may be initiated by a property owner or his authorized agent by filing an application with the city clerk. (Ord. 81-09 (part), 1981)

13.06.190 Conditional uses. A. Approval; procedure; conditions.

Following the procedures set forth in § 13.06.040 of this code, uses designated in this chapter as "conditional uses permitted" may be permitted or enlarged or altered upon authorization of, after hearing by the planning commission as provided in § 13.06.020. In granting approval of a conditional use the planning commission may require, in addition to the regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the city as a whole. The conditions may include requirements increasing the required lot size or yard dimensions, controlling the location and number of vehicular access points to the property, increasing street width, increasing the number of off-street parking or loading spaces required, limiting the number of signs, limiting the coverage or height of buildings because of obstruction to view or reduction of light or air to adjacent property, requiring sight-obscuring fencing and landscaping

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where necessary to reduce noise or glare or maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargement or alteration of the use shall be reviewed by the planning commission and new conditions imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional existing prior to the effective date of the ordinance codified herein, shall conform to the regulations pertaining to conditional uses. If the site is inappropriate for the use requested, the planning commission may deny approval of the conditional use.

B. **Application.** A request for a conditional use or modification of an existing conditional use may be initiated by the property owner or his authorized agent by filing an application with the city clerk. The applicant shall submit a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.

C. **Expiration when unexercised.** If a conditional use is approved by the planning commission and then is not exercised, it shall expire in one year from the date of approval if the use has not begun and continual progress toward its full operation is not in evidence.

D. **Change in use; effect.** When a use is once established in such a way as to be a permitted use, and not a conditional use and not a nonconforming use, and thereafter a change in the zoning classification of the land, or a change in the city's zoning ordinance of 1981, renders the formerly permitted use a conditional use, the owner of such land shall have all of the rights he would have had, had the use remained a permitted use, including, but not limited to the right to expand or contract the use of the property, or alter and structures. (Ord. 81-09 (part), 1981)

13.06.200 Variances. A. **Granting; planning commission action.** Following the procedures set forth in § 13.06.040 of this code, the planning commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of the property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the planning commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this chapter.

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B. **Granting; conditions.** No variance shall be granted by the planning commission unless it can be shown that all of the following conditions exist:

1. Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control;

2. The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity;

3. The authorization of the variance shall not be materially detrimental to the purposes of this chapter, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy;

4. The variance requested is the minimum variance from the provisions and standards of this title which will alleviate the hardship.

C. **Application.** A request for a variance may be initiated by a property owner or his authorized agent by filing an application with the city clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.

D. **Expiration when unexercised.** When the planning commission (or in the case of an appeal, the city council) approves a variance the rights thereby given to the applicant shall continue to exist and to belong to the applicant or any other owner of the land for a period of one year from the date of final approval. If, at the expiration of one year from the date of approval, construction of the structure or initiation of the use giving rise to the need for the variance has not begun, the rights given by the variance approval shall terminate without further action by the city, the planning commission, or the city council. Such rights shall also terminate at or after the expiration of one year from approval if, though commenced within one year, construction ceases and is not resumed within 60 days. (Ord. 81-09 (part), 1981)

13.06.210 Temporary uses. A. **Authorization.** Following the procedure for variances as set forth in § 13.06.200, the planning commission, either directly or by delegation to the mayor, may authorize temporary uses of property or the use of temporary structures on a property.

The planning commission shall attach such conditions to the temporary or emergency use of the property as is necessary to

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assure discontinuance thereof in accordance with the terms of the authorization, to protect the interests of the surrounding property and neighborhood, and to assure substantial compliance with the purposes of this title.

B. **Issuance authorities.** The levels of authority for issuance of temporary use permits shall be as follows:

1. **Planning commission and/or mayor.** The planning commission, either directly or by delegation of authority to the city administrator, may issue temporary permits which shall terminate within 60 days from the date of issuance;

2. **Planning commission.** The planning commission may issue temporary permits to terminate within six months from the date of issuance. The planning commission is empowered, either directly or by delegation of authority to the city administrator, in circumstances of emergency and where consistent with the public interest, to grant a permit for immediate temporary occupancy or use of the premises, if consistent with the conditions hereinafter set forth, to continue during the time a petition may be pending before the planning commission as herein provided;

3. **City council.** Applications for temporary use permits to continue in effect for a longer period than six months from date of issuance may be granted only by the city council, following the procedure for conditional uses as set forth in § 13.06.190.

C. **Required conditions.** Applicants for temporary use permits shall submit such evidence as may be required to enable the planning commission or the city administrator to make a finding that one or more of the following conditions exists:

1. That the need for the temporary use or occupancy permit is the direct result of a casualty loss, such as fire, windstorm, flood or other severe damage by the elements to a preexisting structure or facility previously occupied by the applicant on the premises for which the permit is sought;

2. That the applicant has been evicted within 60 days of the date of his application from a pre-existing occupancy of the premises for which the permit is sought as a result of condemnation proceedings by a public authority, or eviction by abatement of nuisance proceedings, or by determination of a public body or court having jurisdiction that the continued occupancy of the facilities previously occupied constitutes a nuisance or is unsafe for continued use;

3. Loss of leasehold occupancy rights by the applicant due to unforeseeable circumstances or other hardship beyond the foresight and control of the applicant;

4. That the purpose for which the temporary use or occupancy permit is sought is compatible with or incident to the completion of the basic purpose for which the land is being

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developed, and the duration of such use is limited by the period of development, such as temporary construction trailer on site. (Ord. 81-09 (part), 1981; Ord. 07-06 § 3, 2007)

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Chapter 13.07 -- Building (Land Use) Permit

Sections:

- 13.07.010 **Required--Exception.**
- 13.07.020 **Application.**
- 13.07.030 **Certificate of approval.**
- 13.07.040 **Enforcement.**
- 13.07.050 **Stop order--Issuance.**
- 13.07.060 **Stop order--Violation; Revocation.**

13.07.010 Required--Exception. A building permit shall be required for all construction greater than 100 square feet in size, or is permanently emplaced. (Ord. 82-15 (part), 1982)

13.07.020 Application. Application for a building permit shall be made in writing to the planning department upon forms furnished by the department. Such application shall contain; and

1. legal description or recorded survey plat of subject site;
 2. proposed use of the building or structure; and
 3. dimensions of the proposed building structure on the properties and dimensions of the proposed building or structure;
 4. name, signature, and address of the land owner.
- (Ord. 82-15 (part), 1982)

13.07.030 Certificate of approval. The administrative official shall require the filing of a scaled site plan, application and other pertinent information as may be necessary to assure compliance with the regulations of this chapter. The administrative official shall not issue a building permit unless the proposed use, building or structure and its location are in compliance with the provisions of this chapter. No permit issued hereunder may be assigned or transferred. A building permit shall expire in one year if actual construction has not commenced on the site or if within a two-year period, substantial progress toward completion does not occur after construction begins. (Ord. 82-15 (part), 1982)

13.07.040 Enforcement. The administrative official shall have the power and duty to enforce the provisions of this chapter and all fees provided herein shall be paid to the city treasury. (Ord. 82-15 (part), 1982)

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13.07.050 Stop order--Issuance. Whenever any work is being done in violation of the provisions of this chapter, or in variance with the terms of any permit issued for such work, the administrative official may order all work on the job stopped until such violation or variance is eliminated and any work or installation made in violation of this chapter, corrected. Such stop order, if oral, shall be followed by a written stop order within 24 hours (excluding Saturday, Sunday, or holidays). (Ord. 82-15 (part), 1982)

13.07.060 Stop order--Violation; Revocation. It is unlawful to do or perform any work in violation of such stop order, except as may be necessary to prevent injury or damage to persons or property. Such stop order may be revoked by the administrative official, mayor, or the city council. (Ord. 82-15 (part), 1982; Ord. 07-06 § 3, 2007)

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Chapter 13.08 -- Mobile Home Courts

Sections:

- 13.08.010 Mobile home defined.**
- 13.08.020 Mobile home court defined.**
- 13.08.030 Construction, operation and maintenance.**
- 13.08.040 Standards; Rules and regulations.**

13.08.010 Mobile home defined. "Mobile home" means 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 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. (Ord. 93-11, § 3, 1993)

13.08.020 Mobile home court defined. "Mobile home court" means a parcel of land which has been planned and improved for the placement of two or more mobile homes for nontransient use. The term does not include tourist facilities for travel trailers, campers, motor homes, or other facilities. (Ord. 93-11, § 3, 1993)

13.08.030 Construction, operation and maintenance. Mobile home court locations must be consistent with zoning rules, regulations and conditional uses, and shall be constructed, operated and maintained in accordance with the standards set forth in this chapter and in Chapter 13.06. Any person owning or operating a mobile home park which does not meet these standards is in violation of this Code. Building permits for mobile home courts must be applied for through the planning commission and include site plans for review. (Ord. 93-11, § 3, 1993)

13.08.040 Standards; Rules and regulations.

A. No mobile home space shall contain more than one mobile home and no other dwelling unit shall occupy a mobile home space. Tenants shall use the premises for single family dwellings only.

B. All single family mobile home lots shall have a minimum of 3,000 square feet of land area. Maximum lot coverage by the mobile home on the space shall not exceed 40 percent.

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C. No part of any mobile home, accessory building or its addition shall be placed nearer than 20 feet to any other mobile home or its addition. Tenants shall not make alterations to the premises without prior consent of the landlord.

D. Additions or other accessory buildings or structures, including wannigans and decks, must be constructed in compliance with any applicable building safety regulation for temporary structures. Structures and additions must meet spacing and setback requirements for mobile homes. Tenants are required to maintain their space in a clean, neat and sanitary manner at all time, and their personal belongings not actually in use shall be kept stored within the mobile home, wannigan, accessory building or within a skirted area.

E. Each mobile home space shall have direct access to an internal street. Each mobile home space shall have at least two parking spaces. Trailer park tenants and their guest parking shall be restricted to the area rented to the tenant. Tenants and their guests shall not park on the trailer court rights-of-way or on other tenants' rented pads, or in common open spaces not so designated.

F. Mobile home parks shall have access roads that are properly drained and surfaced with all-weather materials including asphalt and gravel, and be a minimum width of 34 feet with cul-de-sacs having a minimum turning radius of 50 feet. Streets need not be dedicated as public rights-of-way. The speed limit for all vehicles in the mobile home court is five (5) miles per hour.

G. All mobile homes, wannigans and porches or decks are required to be skirted from the ground up to the floors and around the entire circumference of the structures. Tenants are responsible for painting and maintenance of skirting and constructed structures.

H. Mobile home court tenants shall not conduct any hazardous activities on the premises. Tenants shall be responsible for the removal of garbage, rubbish and other waste incidental to tenants' occupancy of the premises.

I. Mobile home court tenants shall comply with all laws, ordinances, rules and regulations of every public authority

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whether now in force or hereinafter enacted, including complaints about:

1. noise disturbances, i.e., loud parties, intoxication, fighting or immoral conduct;
2. children going onto the premises of other tenants without the permission of the other tenants;
3. pets running free--it is the tenant's responsibility to ensure that pets are not a nuisance to neighboring tenants keeping them indoors or on leashes, or under the control of persons competent to control the pet and quiet excessive barking. (Ord. 93-11, § 3, 1993)